

**MAUI PLANNING COMMISSION  
REGULAR MINUTES  
JANUARY 12, 2016**

**A. CALL TO ORDER**

The regular meeting of the Maui Planning Commission was called to order by Chairperson Keone Ball at approximately 9:05 a.m., Tuesday, January 12, 2016, 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.)

Chair Ball: Welcome to the January 12<sup>th</sup> meeting of the Planning Commission. Happy New Year to all the Commissioners and the public.

**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.

Chair Ball: Let's get right to business and we will start on Item B, Public Testimony. Anyone that wishes to testify at this time may do so, you have three minutes, please identify yourself when you do.

The following individuals testified at the beginning of the meeting:

Linda Berry - Item D-1, Walgreens, EA Determination  
Robert Riebling - Item C-1, Maui Demolition and Construction Landfill, SUP2 Time Extension  
Mike Moran - Item D-1, Walgreens, EA Determination  
Ilich Kato - Item D-1, Walgreens, EA Determination

Their testimony can be found under the item on which they testified on.

Chair Ball: Would anyone else like to testify at this time? Seeing none, yes come forward?

Unidentified Speaker: Actually I would like to testify later but I have written testimony and a petition that I would like to turn in.

Chair Ball: Okay, you can turn them in right there. Would anyone else like to testify at this time? Seeing none, public testimony is now closed. We will go onto Item C, Public Hearings, Number one, Director?

Mr. Spence: Happy New Year Commissioners.

Chair Ball: Happy New Year.

Mr. Spence: And Happy New Year to the members of the public and everyone who is attending this morning. Our first public hearing item is Maui Demolition & Construction Landfill, Inc. at Puuhele requesting a two-year time extension for their Special Use Permit to continue to operate the Maui Demolition & Construction landfill at Maalaea. Our Staff Planner this morning is Mr. Kurt Wollenhaupt.

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

- 1. MAUI DEMOLITION & CONSTRUCTION LANDFILL, INC. AT PUUHELE requesting a two (2)-year time extension on the State Land Use Commission Special Use Permit in order to continue to operate the Maui Demolition & Construction Landfill on approximately 14.8 acres of land zoned Agriculture located at TMK: 3-8-005: 002 (por.), Puuhele, Maalaea, Island of Maui. (SUP2 1998/0005) (K. Wollenhaupt)**

Mr. Kurt Wollenhaupt: Good morning Members of the Maui Planning Commission. The item before you today is a public hearing for a time extension. Now the first question would be, well why is this a public hearing? So that would beg the question just talk about a little bit about the history of this matter which is arises for a State Land Use Commission Special Permit. This special permit is necessary because this land is under 15 acres making the Planning Commission the deliberative and decisive body for this time extension.

The reason, however, that it's a public hearing today is that if we go back in history the original State Land Use Commission Special Permit was approved by the Commission in '95. On March 13 of '98 a correction notice was served that there was a expiration, a violation of expiration. Consequently, the applicant had to file a new application. And on April 27 of 1998 the Maalaea Community Association on behalf of its members filed a petition to intervene to contest the granting of the Special Permit and the Planning Commission granted intervention and there was a contested case hearing. So the rules state that if there was a contested case hearing in the past then we have to have a public hearing on the time extension. So that brings us up to today. The proposal by the Maui Demolition & Construction Landfill is relatively straightforward. That's to have a two-year time extension for the landfill. That would be proposed Condition No. 1 would read, the Land Use Commission Special Use Permit shall be valid until February 1, 2018. That being a two-year extension from the current expiration of 2016 subject to further extensions by the Commission upon timely request for an extension filed within 90 days prior to expiration.

Just to give you a little bit more history. Mr. Rory Frampton will be doing a Powerpoint presentation to bring the members up to date. However, the applicant did ask originally for a three-year time extension and after speaking with the applicant, and finding some of their possible expiration date we felt that a two-year permit would be more appropriate. The reasoning behind that was that they've estimated the date, the last day that the landfill gates would be open to the public, and this is an estimation based on filling rates would be May 18, 2016. So indeed, it's not long from now. However, then there are a lot of efforts that have to be put forth in order to close the landfill with regards to complying with the Department of Health Permit.

And that's another important thing that there's two permits functioning here in tandem. One is the Department of Health Permit that goes into great and excruciating detail on operations of the

landfill. The other is the permit today which is the State Land Use Commission Permit that's allowing this operation to be an unusual but a reasonable operation in an agricultural zone.

Some of the members may wonder, well why are we back again because didn't we see this relatively recently on in fact, March 10, 2015? Indeed we did, at that point of time, the Commission considered a relatively rare kind of a permit called a Declaratory Ruling. The record for the Declaratory Ruling was given to the two members who weren't here and the docket contained in this volume. And what the Declaratory Ruling essentially did is it had to deal with the issue of the landfill heights. There were concerns from the members of the community about what exactly were the final corrected landfill heights for this project. A Declaratory Ruling is a process by which this planning commission looked at the record, and then they determined what the planning commission at the time approval was indeed approving. So the final ruling for the Declaratory Ruling was that the planning commission on March 10, 2015 conducted a hearing and declared that the final elevation heights for the landfill were set forth in the closure plan dated December 2014 attached to the Decision and Order. So there is indeed a very specific outlined closure plan that is in Exhibit 8 of your package which is the Findings of Fact, Conclusion of Law and Decision and Order signed by the members and by the Planning Director.

So if we look at Exhibit A of Exhibit 8 that shows that the final closure height would have a finished closure height of 176 feet above mean sea level which was the intention when the Planning Commission issued the SUP2 98/0005. So the issue of the final closure heights have been settled. The landfill was reopened, continued operations, and so now we are dealing with the request for a time extension. That essentially brings us up to date. The State Department of Health offered no comments other than the time frames presented by the applicant do seem appropriate. The Maui County Department of Environmental Management comments are found in the staff report. They are aware that this is probably going to close some time in the first half of 2016 and indeed that offers a big challenge to the County but of course, that's not what we're here today to look at. That will be a issue for the future, but they are aware that it will be critical to coordinate where the C&D landfill is going to go somewhere else on the island. So that agency review is deemed appropriate as the other conditions of approval are not deemed to be changing. It's just this time extension.

This is not a request for a height increase. This is not a request for an increase in the size of the landfill. This is a request for a two-year extension to finish it up, close it according to the requirements of the Department of Health and then to leave that matter behind us as part of history. So Rory Frampton has a Powerpoint presentation to give to the members. And also, just to let you know the Maalaea Association did have a letter that was handed out and emailed to all the members.

Mr. Rory Frampton. Thank you, Commissioners. I'm Rory Frampton. I'm a land use planning consultant for Maui Demolition & Construction Landfill. With me today, we have Richard DeCoite, owner and operator of the landfill as well as Joe Hernandez, the environmental planning consultant or environmental consultant from Latte Consulting.

Thank you Kurt for a very concise summary of this project that has a very long history. The facility has been in operation since 1996, and it's nearing completion. The last time extension was in 2006. This body gave a 10-year time period for the landfill and it was pretty darn close to

estimating when the facility would be filled. We're estimating the facility will be filled to capacity sometime in the middle of this year. The Planning Department has informed us that not only does the accepting of waste need to be under the Special Use Permit but the actual closure when you come in and you do the final closure plan, establish the final drainage which will take...could take anywhere from six to eight months, that closure activities they need to be covered under the Special Use Permit as well, and so we asked for two years to allow for a little cushion not knowing the variations of the construction industry which are cyclical and that's the main reason actually.

So this is just a summary. Again, we're requesting a two-year time extension to fill to capacity and then to complete the closure activities and I could summarize of what I just said, as Kurt said no change to the final closure plan that was reviewed by the Commission back in March. This just gives the background of the actual permit request that we're...we submitted. We originally asked for three years but based on the latest estimate we've shortened that up to two years. We're comfortable requesting just two years. And then for the Commissioners that weren't here back in March, I do...I have some of the selected slides just to give a little background about the facility. This is the location of the facility. It's at Puuhele. As the name implies it used to be a puu. This is a 1924 USGS map. I like these maps they're hand drawn, they're really cool, but they were based on surveys that turned out to be pretty accurate from, you know, still from 1924. But what this shows here, these various contours it shows a puu rising about up to 70 feet above the surrounding terrain, a final elevation of 217 feet. So you would have seen a natural puu there. In the past, during World War II the military came in, took that puu, mined it, created the Puunene airstrip and it became a big hole in the ground. This is what the hole in the ground looked like from the World War II era till the early '90s when Mr. DeCoite saw that there was a need for handling construction and demolition waste.

You know at the time the EPA promulgating rules for landfills, a lot of the landfills up to that point in time didn't have liners in them, they weren't really regulated as much but there was, became a big push federally to control landfills and just the whole waste stream. In Hawaii they adopted procedures for construction and demolition landfill permits about four or five months before Mr. DeCoite came up with this idea, both independently by the way. Anyway so the State of Hawaii adopted these rules for C&D landfills. Mr. DeCoite went through the process and established this through the Department of Health as well as coming to this body, the planning commission for the Special Use Permit.

This shows the facility when they were in construction. So let me just go back. So that's looking like in the Kihei direction. You can see the liner and sump that was constructed at the bottom to contain any leachate that may percolate through the waste material. And I know...I wanted to just mention, construction and demolition landfill as the name implies takes just a segment of the waste stream. It doesn't take all of the municipal waste. It takes mostly inert materials, the drywall, lumber, concrete, it's from construction sites. So it's a segment of the waste stream that the landfill guys, DEM, they don't like taking it in their landfill. It's a different compaction. It's different stuff. They just...they would much prefer the construction and demolition waste go somewhere else. So here was a opportunity that a private company, Chick DeCoite as he's known as. He owned DeCoite Trucking. So he started this with his wife. Not a dime of County money was spent in terms of starting this up and handling this, but it serves a very important function for the community in terms of handling waste. So again, it was the first landfill on Maui that had a liner.

It was all designed by engineers. This shows looking back up mauka. The machine's down there at the bottom, you know rolling out the material that was a cushion over the plastic liner. That's showing more of the early shots of the construction phase, installing a liner.

And then, I'll just fast forward to last year in March. This was the revised plan, the updated closure plan that was approved. Mr. Riebling from Maalaea mentioned that he'd like to see a very defined plan, very defined limited in terms of what the final shape of this thing is gonna be. This is it. These lines are 10-foot contours. It shows the perimeter of the landfill as well as the fill, and that top line is 176 feet. So you are gonna have slopes up to a relatively flat top. In terms of a profile, this is what if you took a cross section through the pit and just looked at the elevations, this is just one portion of it. They're gonna basically just fill the pit, have slopes on the side, and slopes on the bottom and they'll be closed up. They think they'll reach that final closure plan. They'll reach the capacity to that final closure place by the middle of the year as we mentioned.

These are just some photos. This was taken last year in March looking over the facility towards the Kihei that's the facility right there. Most of the facility is buffered by vegetation so you can't see it. So I took this photo at where you have like a window to see over the facility. So that was in March last year. That's a zoom-in of the facility. You can see the smoke stacks, Maui Land & Pine. This was yesterday. It's essentially the same elevation. There's the smoke stacks looking towards Kihei. On the northern portion of the facility, they basically brought all the waste that they can fit and they're gonna have some additional closure material on it. This is just looking down the highway. Here's the facility that you can...it's kinda poorly lit here, but once you are adjacent to the facility you have wonderful views of the Pacific Ocean and the Kihei shoreline for another mile all the way to Maalaea.

This is taken yesterday looking towards Wailuku right before you would take the turnoff to Kihei, here's that parking lot for commuter parking lot. So you can just see the top of the landfill there, that's at its highest point minus a couple feet of fill that will come in when they're all done with everything.

The gentleman from Maalaea mentioned the neat and orderly appearance that's really because they've finished active fill in this area and they have to have an intermediate layer of cover to keep things down and they will be completely filling this. It will be grassed over. And it will look like a mound on the side of the road basically. Oh, the...there was a mention about having accurate elevation control points. This was a 2013 aerial survey. They've recently taken one in 2015. I think they might have taken one in...they did take one in 2014. So they are taking flyover surveys to get accurate data of the facility so that they can comply with this closure plan. And they also use handheld GPS devices to get the accurate measurements of where they are right now. So we're fairly confident that they can construct this as...that they will construct as shown on this plan. These are just shots of other landfills showing...this is the Central Maui Landfill, although it's 40 acres, and it's about 80 feet high. Just showing the shape of the slopes with the flat tops. That's a lot like what we're doing. There's old Olowalu Landfill, and here's the Waikapu Landfill. All of these much bigger than what, what they have down in Maalaea. I'll leave it at that. Thank you. Do you have any questions?

Chair Ball: Thank you. At this time, we'll open it up for public testimony on this agenda item.

**a) Public Hearing**

Chair Ball: Anyone would like to testify at this time, please come forward? Chubby?

Mr. Mercer Vicens: Good morning Mr. Chairman.

Chair Ball: Good morning.

Mr. Vicens: Planning Director and Members of the Committee. My name is Mercer "Chubby" Vicens. Back in the start of this project I was the gentleman that worked with Mr. DeCoite on behalf of Alexander and Baldwin. A little bit of history behind why. I ran a quarry over in Honolulu for about 10 years mining about a million and a half tons of rock annually for the construction industry, and we were governed by the Bureau of Mines. Now the Bureau of Mines came out, took a look at this facility that was left unmanned and the sides were caving in because it's a cinderous product and we were notified over at Alexander and Baldwin that we had to do something to fill this otherwise there'd be substantial fines because people were getting in there doing target practice and it was collapsing behind them. And at one point, I understand a guy did get buried down under it, but he had friends there, dug him out and they no longer went back. So we were faced with a dilemma. I reached out to Goodfellow Brothers and Goodfellow Brothers estimated it would cost Alexander and Baldwin at that time in 1994 dollars, \$850,000 to fill it. So we looked for alternative and Mr. DeCoite was the alternative.

It did two things. It took over the last 20 years it's taken out over a million, million and a half tons that would have gone to the landfill, and the landfill would have had to have sorted out all of the materials that were extraneous to what they could use and create a...create a real problem for them. The second item that of note is that there was about 30 or \$40 differential between the DeCoite's charge and the charge at the City and County dump. So therefore, the Contracting Association were the beneficiaries of tremendous savings in the millions over the last 20 years. I think the DeCoites have been very, very responsible in doing their job.

A real challenge today is where do you put another C&D landfill? There are no properties. Over the last seven or eight months as an independent consultant, I have been trying to find land working with the County, working with Alexander and Baldwin to see if we could find something near the current landfill. Unfortunately they have entered into some agreements with mainland people to handle their product and shrink down the amount of land they need to use. So therefore, so lands were not available. I don't think that I'm gonna let that drop. I'm gonna continue to look around. There are people concerned now. The County is very, very concerned. What do we do with C&D material when they close? It will cause a significant problem.

So the DeCoites are asking you to let them complete a job started in 1996. They're great community people. They've been good for this community and they've done their job. So I'm here today in support of them. I'm here today to tell you that they if land becomes available they wanna continue serving the public which is what they've been doing for 20 years. So with that in mind, I'll leave my comments. If you have any questions, I've received reports over the last 20 years. They are...their last phase of it will be the responsibility of watching the facility per Board of Health regulations until a specified...for a period of time which is gonna cost them about \$20,000 a year.

So you know, they've been willing to work with us, work for us, and I think that we should take that into consideration when we talk about closing and follow the recommendation of the Planning Director. Thank you very much for your time.

Chair Ball: Any questions for the testifier? Seeing none, thank you.

Mr. Vicens: Thank you very much.

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

Mr. Robert Riebling: Good morning Commissioners. I'm Rob Riebling, Vice-President of the Maalaea Community Association. I'm gonna highlight written testimony that we submitted to this Commission earlier as well as to the State Department of Health regarding the Maui Demolition and Construction Landfill. And I'll be talking about what we actually have in the permit, a copy of the permit that we have.

Our community has urging the closure of this landfill for more than 10 years now for a variety of reasons including its noxious odors, blowing dust, rubber tire fires and the visual blight it imposes on otherwise scenic transportation corridor to West Maui. We also oppose the recent adjustment or reinterpretation of final height levels upward to their present value of 176 feet above mean sea level. Therefore we were quite pleased yesterday to hear from Rory Frampton that the landfill will stop accepting C&D waste by the end of this year possibly as soon as May. This morning, however, I'm not here to discuss what Mr. Frampton is saying, but what the legally binding words in the proposed permit extension are saying.

The proposed renewal of the permit as written would allow the landfill to continue operating for up to another two years and it would even enable further...(inaudible)... upward height adjustments. According we are urging this Commission as we've already urged the Department of Health to impose the following conditions on it. Regardless of whatever might have been discussed elsewhere and may be discussed here this morning the final height of 176 feet above mean sea level should be clearly defined in the permit. Does it refer to a single point, a contour line or the uniform height of a flat table land? We think it ought to be specified in the permit.

Asbestos in any form should not be accepted at the landfill. It's inconceivable that accepting asbestos in any form should even be considered in this the 21<sup>st</sup> century and yet right there in the permit are the words, "we will accept asbestos". The landfill must maintain a neat and orderly appearance and must be screened and buffered to minimize its environmental impacts on neighboring properties including the proposed Maalaea Plantation affordable housing project directly across the highway from the facility. Currently the landfill is generally tidy in appearance only when the operators are requesting permit renewals or other concessions from County or State officials as they are now. Sure was beautiful this morning let's see what it looks like a week from now.

Finally, elevation control points have to be surveyed at least annually and not every two years as currently proposed. Keep in mind that satellite imagery and other technologies now afford a means for the independent remote monitoring of these elevations.

Ms. Takayama-Corden: Three minutes.

Mr. Riebling: Thank you, I'll conclude. Ground water monitoring results must also be furnished and leachate reports have been especially difficult to obtain. So in conclusion, landfill operators and County officials have now had more than 10 years to locate and secure an alternative site. If we're incorrect in supposition please enlighten us. Where will this waste be disposed of after the landfill closes? Surely it's not gonna go into the Central Maui Landfill. So we shouldn't be penalized nor Maui-at-large for the failure of these people to act in a responsible and timely manner. Therefore please consider these requested conditions which I just mentioned and also in our written testimony. Thank you.

Chair Ball: Thank you. Any questions for the testifier? Seeing none, thank you.

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

Chair Ball: Any further testimony from the public? Seeing none, public testimony is now closed. Can we get the recommendation from the Staff?

**b) Action**

Mr. Wollenhaupt: The County of Maui Planning Commission is acting as the authority for this State Special Use Permit and may indeed impose protective covenants and conditions as it deems necessary. In the green pages of the staff report you find the 23 conditions that continue from the last time extension. The change to the conditions would be Condition No. 1 that the date of validity for this permit would be until February 1, 2018. That being the case, the Maui County Planning Department does recommend approval of this State Land Use Commission Special Permit subject to the 23 conditions and in consideration of the forgoing, the recommendation is that the Commission adopt the Department's report and recommendation for the January 12, 2016 meeting and authority the Director to transmit the said findings of fact, conclusions of law and decision and order on behalf of the Maui Planning Commission. Thank you.

Chair Ball: Okay, at this time we'll open it up for questions from the Commission. Commissioner Robinson?

Mr. Robinson: Kurt, please? Kurt, you mentioned that there's excruciating DOH regulations that they have to follow. Do you have any of those with you or do you...

Mr. Wollenhaupt: I do. They're in the process right now and Rory probably will be able to explain, so I'm not sure whether we had anyone from DOH here. In the process of getting their extension from the State Department of Health this is the proposed extension permit. So I didn't make copies for everyone, but I can certainly give this to you if you'd like to look at it now?

Mr. Robinson: Can you point to one that you think we'd be interested in as far as...

Mr. Wollenhaupt: Oh, this just goes into detail about...well, the permittee shall place at least six inches of earthen material as interim cover on the active workspace when the active workspace is 1,500 feet. It goes into saying that the permittee may receive, segregate, store clean concrete,



uncontaminated ferrous, and non ferrous metals. So it goes into the...well, just from a paragraph highlighting construction and maintenance of the facility, how it's...how the leachate is to be collected, where the sump base measurements are, and it then goes into acceptance criteria, what could be accepted there. The operation of the landfill, odor control, litter control, vector control, waste disposal, concrete and metal recycling, surface water management, leachate management, ground water monitoring, closure and post closure requirements which of course would be applicable to this about when the applicant has to have their intent to close. What they have to do with different types of soil, closure construction engineering documents, record keeping and reporting after it closes. So these are the kinds of details that the DOH is going to be requiring.

Mr. Robinson: Thank you.

Mr. Wollenhaupt: Sure.

Chair Ball: Further questions? Commissioner Duvauchelle?

Ms. Duvauchelle: For Rory please? Hi.

Mr. Frampton: Good morning.

Ms. Duvauchelle: Good morning. Say that the last load goes in in May, what happens between May and who accepts the closure plan? Is there a long lag? Who maintains it during that time? Do they grass it?

Mr. Frampton: As one of the items that Kurt mentioned was the requirement for the immediate cover. You know the six inches of daily fill. Once it's closed, they'll go through the steps...well, they'll follow the steps that Department of Health outlines but they'll start fairly soon after they've taken the last load, they'll start coming in. They have a lot of stockpile material there on site right now, and they'll start coming in and implementing the closure plan.

Ms. Duvauchelle: So they'll cap it and then...

Mr. Frampton: They'll cap it, and it will be some light landscaping just like grasses and stuff, but very light because you can't-

Ms. Duvauchelle: For dust control and...

Mr. Frampton: For dust control 'cause you don't want big trees or bushes with roots going down.

Ms. Duvauchelle: Right. So there won't be a long lag of time where it's stands in limbo?

Mr. Frampton: Correct.

Ms. Duvauchelle: All right, thank you.

Chair Ball: Further questions? I have a question on...you know, the photos that we saw is that a representation of what it's...I mean, there'll be grasses on top of that. Like you said, there might

be another foot or two?

Mr. Frampton: Yeah.

Chair Ball: So that's basically the view that we'll see at the end?

Mr. Frampton: Yeah, although these were 40-acre footprints and 35-acre footprints and 70 or 80 feet of fill, you know, we got the majority of the northern perimeter 15 feet of fill and it's only...the actual pit itself is about 10 acres. So it's much smaller in size and scale, but yes, that's what you'll be looking at.

Chair Ball: Director?

Mr. Spence: So Rory, just for clarity, the photograph you're showing it's not gonna be that high? It's gonna be much lower than that.

Mr. Frampton: That's the Central Maui Landfill which is you can see almost anywhere on the island it's a rather significant feature. Some people call it puu opala.

Chair Ball: The middle one too.

Unidentified Speaker: One more, one more.

Mr. Frampton: There you go. So this is the Central Maui facility. This is looking from Pulehu Road towards Paia and yeah, I'm guessing that's at least 80 feet high.

Chair Ball: Yeah, but I'm more concerned about our...the project we're--

Mr. Frampton: Yeah, so we're at much smaller than that. Let me just go to where we are.

Chair Ball: The question was is the representation of those photos final?

Mr. Frampton: That picture right there is what you're gonna see with just a little bit more fill. And it will look, the cover, the surface cover will look like the surface of the other facilities. So this is the, I'm sorry wrong...(inaudible)... That's looking towards Wailuku. That's what it was like looking at it yesterday. And so you'll have a little bit of dirt on that and some grass.

Chair Ball: Any further questions for the applicant? Commissioner Robinson?

Mr. Robinson: I apologize, but can you please clarify where are we today with the height an estimate? You said six inches away from?

Mr. Frampton: No, we're about three feet away. I believe that what they've been...taking the trash up to about 173 feet above sea level and the final closure height is 176. So they've allowed themselves about three feet of closure material along this portion of the facility and that portion of the facility. Where they're currently active right now...so this is the highway that goes to Wailuku and to Maalaea that's Honoapiilani Highway. Here's the road going down to Kihei Road. The shots

I was showing you, the visual shots was one was from here looking over this part of the facility and that's at 173 right now. And the other shot was from by this parking lot here looking that way and most of that is all at 173 right now. And where they're filling back here. There's some remaining space on the backside of the property. So that's where the active fill is going in now in this general vicinity and they'll take it up to the 173 level that the rest of the facilities at now that I showed you the pictures of, and then they'll bring in the cover material to finish it off at no higher than 176.

Mr. Robinson: From ground level what is the, what is the height difference from the 176? I know it's from sea level.

Mr. Frampton: Yeah, so it varies because the ground is sloping. So at the top up here it's about the adjoining grade is about 160 feet, so it's about 16-foot height difference, and down at the lower section there's a bank here that's around 150 so it's about 25 feet and then the sides of the pit go actually pretty low so at the lowest point of the pit right down here it's about 40-foot height from here to here. But the remainder of the...these are 10-foot contours and the blue line—

Mr. Robinson: So, so in the middle of that C where the...right there on the inside on the Kahului side—

Mr. Frampton: Yeah.

Mr. Robinson: What is the height from the top to the bottom there?

Mr. Frampton: That looks like about 20, 20 feet.

Mr. Robinson: My question for you is, if we don't have another landfill what's stopping us for asking for a permit to fill it up to make that a full place instead of it being a C?

Mr. Frampton: Yeah. So the C...it's a good question. The C follows the shape of the original pit, and that's what the military created and we basically got the permit to fill that pit. They were considering an expansion in this area. The Planning Department has determined that one of the things you'd need to do is a Environmental Impact State because the State law has changed since then and landfills now require compliance with Chapter 343. The Department's opinion was that would be a significant expansion and you would have to comply with the new rules. That's one of the items. And there's a number of other factors I think that has made it unrealistic for them to expand at that property.

Mr. Robinson: So the County who doesn't have a landfill wasn't willing to work with you guys on trying to get an EI and we're gonna...

Mr. Frampton: I wouldn't say that. I would defer to the Planning Director. It's matter of interpretation of law.

Chair Ball: Let's stick to relevancy, we're gonna stick to the item.

Mr. Robinson: What's not relevant it's the landfill and—

Chair Ball: We're talking about covering the landfill not the future of the County.

Mr. Robinson: No why stopping the landfill is what I'm saying.

Chair Ball: Is there a further question?

Mr. Robinson: Yeah, that's the question.

Chair Ball: What's the question?

Mr. Robinson: The question is what's stopping us because they wanna open up some more and they wanna operate some more.

Chair Ball: They don't wanna open up some here. They wanna close this. That's what the applicant is coming in for is closure.

Mr. Robinson: It's an extension of a permit, correct?

Chair Ball: To close the--

Mr. Robinson: It's an extension...well, it's to finish.

Chair Ball: Yeah, finish to close it not to take more...any material. They're at capacity and then they're gonna close it off, but they have to have the permit going if you will until they close it off. Right now they only have until September you say?

Mr. Frampton: Approximately May or June.

Chair Ball: When the permit ends.

Mr. Frampton: No, the permit ends in February.

Chair Ball: February okay.

Mr. Robinson: And they're asking for a two-year extension. So my question is which was gonna be finished was in that two years would there be time to research to where that could actually stay open and how long that--

Chair Ball: That's not what they're coming for. They're coming in for--

Mr. Robinson: So, so I, I can't ask the question?

Chair Ball: No, we have to stick to the agenda item that says this is for closure.

Mr. Robinson: Well, that's part of me granting a two-year extension 'cause I don't think they need two years so...All right, I've been hushed.

Chair Ball: Commissioner Hudson?

Mr. Hudson: I have a very quick question. What are the odds of you coming before this committee again and asking for another extension?

Mr. Frampton: Another time extension that we wouldn't finished filling and completing it would be very low. There would have to be some swing in the construction industry where waste would stop coming in, you know, at the rates that have been...they've been coming in at. So that's the only thing that I could see realistically is if for some reason everything came to a halt and there were no more construction and demolition waste. And it is cyclical, but I can't imagine that the estimated six months would end up being a whole other year at the rate that we're going at now. But I mean...so I'd like to say 100 percent no, but I can't because I can't promise that the construction industry won't stop in the next six months. What are the odds of that? Very, very low. So sorry for not giving you a quick answer.

Mr. Hudson: The community I think has been patience. Everybody's being patient and I understand the need for this and I understand the future need for another place like this, but I wanna be at least somewhat assured that this particular item won't come back again. But you're saying that that's...you can't do that?

Mr. Frampton: I can give you a 99.8 percent assurance.

Mr. Hudson: Thank you.

Chair Ball: I have a question. This is obviously not the first one in the country so what happens in the future? What does this become in the future? Is it just...

Mr. Frampton: Just stays as open space. Yeah, I don't know...Dave do you wanna comment on that? What are the typical uses of land...are you asking what the typical uses of landfill sites are?

Chair Ball: Just you know—

Mr. Frampton: They generally stay in open space. You can't put buildings on them.

Chair Ball: Right.

Mr. Frampton: You know, there might be settling. The owner has to or the operator has to monitor the facility to make sure that there's no like erosion. If for some reason the drainage patterns starts eating away at the facility they gotta come in and patch it up and fix the runoff. So it's really low-key passive open space. I think some of them have been used for recreational, passive recreational type things maybe golf courses and that type of stuff, but—

Chair Ball: Too small for anything.

Mr. Frampton: Yeah.

Chair Ball: So the plan for the future is just to leave it natural?

Mr. Frampton: And would defer to the landowner. It's on leased property and they're the ones that would dictate what type of uses would be there. And what I...all the things I just said are speculation.

Chair Ball: Do they care to comment on that, the future of it?

Mr. Frampton: Mr. Vicens can comment.

Mr. Robinson: Wait future? We're talking about the future? I thought we can't talk about the future?

Chair Ball: Calm down.

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

Mr. Vicens: Chairman, let me answer in two different ways. One, there are no plans for the future. Originally if you look at the master planned community that was in Maalaea, planned for Maalaea, that was part of, gonna be part of a golf course. We've taken that out in working with the Maalaea Community Association. So that plan no longer exists. The question to your things that you wanted to find out this permit that had only dealt with 14.9 acres. It was hole that had to be covered. We had to stay...the permit was only for that particular ...(inaudible)... The three acres that you're speaking of is adjacent to it and actually my personal opinion, this is my personal opinion is that we should be allowed to continue to fill it up so you have...you don't have this cavity. But to point out why you can't speak about it is because the original site is only 14.9 acres and the three acres is outside of the original Board of Health Permit and all of the permits issued up to this point. We would be glad to work with the County of Maui if the...if the process were not so onerous. Because when you start doing, starting to get into the EIS process it's a very expensive one, it's time consuming too, and you're gonna have a gap, you could have a gap between finish and no place to go, and that is what the...I think the County is concerned about. So that's the comments from the landowner.

Chair Ball: Okay.

Mr. Vicens: Any questions further there?

Chair Ball: Nope.

Mr. Vicens: Thank you.

Chair Ball: Further questions from the Commission? No?

Mr. Robinson: I have one for the Planning Director?

Chair Ball: Commissioner Robinson?

Mr. Robinson: The future of this site and other sites with landfills are we looking for landfills, are...to where we're looking for another place to find this once this stops when they fill up on the 176 or it's

like the testifier said that we're gonna be outsourcing it to a different location?

Mr. Spence: I can't-- Mr. Chairman?

Chair Ball: Director?

Mr. Spence: I can't speak for Department of Environmental Management, but I know that they are always looking for, you know, to preserve the capacity for landfills. You know, the Central Maui Landfill, I'm not sure how much additional capacity they have. But as Ameron keeps pouring they're developing bigger and bigger holes in the ground and I know that they're considering places around there that will take this kind of place as well. That's my understanding. Again, I'm not speaking for DEM.

Mr. Robinson: And I understand that the quarrying is kind of what happened here with the military is in your estimation is that a easier EIS than going through a straight flat land?

Mr. Spence: There's no such thing as an easy EIS.

Mr. Robinson: So would they have to follow the same, same excruciating thing as the flat land?

Mr. Spence: Yes, because landfills are...well, the EIS process, EA/EIS process is dictated under State law. So anybody triggering some action that required an EA has to follow that State law and the requirements they're under. As far as landfills themselves they probably get a Special Use Permit because they're going to be on agricultural land and landfills are not a permitted use in the Ag District. But as far as the massive details like Kurt was talking about that's under Department of Health. They regulate the actual operation of landfills. That's why there's so much details from all of that. And so any landfill operator has to observe those as well as requirements from the EPA. It's a very...it's not an easy kind of operation to do.

Mr. Robinson: Thank you.

Chair Ball: Any further questions? Commissioner Hedani?

Mr. Hedani: It's not a question, but I'm ready to make a motion. Move to approve the time extension as recommended by Staff.

Ms. Duvauchelle: Second.

Chair Ball: Moved by Commissioner Hedani, seconded by Commissioner Duvauchelle. Any discussion? Commissioner Hedani?

Mr. Hedani: At this point, I'd like to basically say thank you to the DeCoites for operating this facility over the last 20 years. I think it's done a tremendous service to the community in terms of diverting material that would otherwise go to the landfill. I think they were ahead of their time in terms of trying to address the environmental concerns for a landfill before the rules were even invented and that's a credit to the way that they operated. I know there's controversy over the height and I know that there's concerns about views, but I think it's been done in a manner that's least impactive to

the community and has provided a genuine service to the community. In six months when it's full we essentially will be up the creek without a paddle and construction demolition material at that point is gonna go heading toward the Central Maui Landfill so someone needs to start thinking about alternatives for the future. And if that alternative includes this site, you know, if additional area can be excavated fill material so additional space created in the pocket that we were talking about I think that that would be a possibility, still capped at 176 feet. I don't know whether the landowner is willing to pursue that, but I, for one, would be open to something like that you know, if it were to be considered. But I just wanted to express appreciation for what they've done and in taking the time to plan for the fill cover materials so they would not exceed 176 feet and for the timing that it takes in order to properly close the landfill.

Chair Ball: Any further comments? Commissioner Robinson?

Mr. Robinson: It concerns me that we're gonna run out of a landfill soon, and two years, I don't know why we brought the three down to two. I mean, I could give them five years to close it doesn't matter once they fill up they have to follow the regulations. Sort of an idea of maybe extend it another year to help them, encourage them to maybe go through the hard EIS process and doing it. We're trying to increase our housing industry and there's not gonna be any disposal for the cutoffs, for the waste, for the sheet metal, for the other products. The cost is gonna go up because Central landfill charges more like the person says. I think that the inside of that C configuration would not obstruct any view because the top and the bottom's there and I actually think we should give them a least another year to a three-year permit which just gives them more time to close and more time to think about it. Thank you.

Chair Ball: Any other comments? Commissioner Hudson?

Mr. Hudson: Thank you, Mr. Chair. I'm not sure about how many people get copies of the actual recommendation from the Department, but this one has an awful lot of conditions and I think these conditions are good and I think that if everybody were aware of all of the conditions that are placed upon this permit it would be a little bit amiable to it. One of the conditions, Item 18 is both the operators of the landfill and the owners of the parcel shall be responsible financially and physically for any cleanup of debris or materials that negatively impact this community above the ground or below the surface. My guess is if everybody had this type of information that I think it would be easier to make good decisions. Thank you.

Chair Ball: Any comments? No? All in favor of the motion, say "aye" and raise your hand?

Commission Members: Aye.

Chair Ball: Any opposed?

Mr. Spence: Four ayes. There's one nay. Motion does not carry.

Chair Ball: Is there something?

Mr. Wollenhaupt: I'm going to give some history here. Perhaps it might elucidate Mr. Robinson's concerns.



Mr. Robinson: Please.

Mr. Wollenhaupt: Okay there was a...the application that came in for an expansion, and if you look at the current planning law which is vastly different from the time of the original permit for this landfill, it has become much more onerous, in fact I believe it requires an Environmental Impact Statement. You move right to the full EIS a process that can take...well, for something like this two years. There's also some cases, our Corporation Counsel at that time was reviewing that when you go up in height on a landfill from that which was originally approved, does that trigger the EIS process? I believe in Honolulu in a couple cases that it would appear that that would be an issue that we would have to look into. So the applicant and the Planning Department had a lotta discussions about the process. In fact Mr. Frampton remembered in fact that that was the change in the State law to have to go through an Environmental Impact Statement. So in consideration of the totality of this project, and also in consideration that we're bucking against the 15-acre maximum for this body to review, if we expanded out, now we go to the State Land Use Commission it moves outside of this body, you'll be reviewing it but then the State Land Use Commission is they're going to be the final authority. Again, a legal process that is much more complex. There are the concerns that have been in the history with a contested case hearing. There's a concern that we did the Petition for the Declaratory Ruling.

So there are some big problematic issues with this site and simply saying well expand it, raise it, that perhaps aren't as evident from just our brief discussion today. So that's why the Department with the review of the...with the applicant felt that the two years was appropriate and getting this landfill, this project concluded in a way that would take the concern of the neighbors at Maalaea into consideration, take the applicant's past...their history in operating a landfill that provided important landfill for the County. The Department of Environmental Management is very concerned. I've talked with them about what's going to happen. It will be delivered to the Central Maui Landfill. That's the only solution. But that's where we are with this project and we need to have something to get it approved from February 2016 because that's the deadline that it's gonna shut down.

Chair Ball: Commissioner Robinson?

Mr. Robinson: If the applicant was to reevaluate his options in say six months and he would want to apply and go through this arduous process would that be available to him currently if this motion passes? It's just a application and the process.

Mr. Wollenhaupt: An application is always available to someone to come in. We would then have to evaluate it on the merits of its case. They could apply for it and then the process would roll out depending on the legal requirements for the application. They could submit it. It would most likely need the full EIS that would start the process going. I believe you have an EA that's gonna be coming up here in just a few minutes. EIS is much more rigorous process that...(inaudible)...A process that's used for like Waiale or master planned community that is going to have impacts. It just automatically makes the assumption there will be impacts to the environment so we go to EIS.

Mr. Robinson: Okay, thank you.

Mr. Wollenhaupt: Sure.

Chair Ball: Director?

Mr. Spence: Thank you, Commissioners. And I share a lot of Commissioner Robinson's concerns about available space, et cetera. I don't think denying this time extension is the way to address that. If this permit isn't extended technically in just over two weeks this permits expires. That means technically they will be in violation of their permit, et cetera and they would have to stop taking any waste at all and then you know there's enforcement issues and all kinds of things. I don't think that's in the County's interest, I don't think that's in the interest of the construction industry or et cetera. So my recommendation is that it should not be an option. If the, if the Commission still does not desire to pass it today it could be deferred to the I believe the next meeting is on the 26<sup>th</sup> where another vote could be taken.

Mr. Robinson: Would that be expired by the 26<sup>th</sup>?

Mr. Spence: Another option if, particularly if Commissioner Robinson was concerned about two years...three years versus two years, there could be a motion made for a three-year extension. I don't think that provides any impetus, any stimulation for the applicant to go through the process of doing the Environmental Assessment or the EIS or expanding or let alone going to the Land Use Commission just the EIS is well over a \$100,000. Going to the Land Use Commission is gonna approach that for not much additional gain in capacity. So it would be probably be better to find another location. With that said, to me the options you could let it...vote for it today, you could defer to the next meeting or you could just let the permit expire and that to me is really problematic.

Mr. Robinson: I'd like to make a motion please?

Chair Ball: Commissioner Robinson?

Mr. Robinson: I'd like to make a motion to extend this permit for 25 months.

Mr. Spence: Twenty-five months?

Mr. Robinson: Can't do two years 'cause we already voted no on it.

Chair Ball: No you can.

Mr. Murai: No, no, no wait a minute, if I may?

Chair Ball: Corporation Counsel?

Mr. Murai: The vote was taken, the result hasn't been announced yet. Commissioner Robinson if you are thinking of changing your...if you are considering changing your vote, the rules allow you to do so as long as the result hasn't been announced yet. So in other words, if you're saying you know what, based on what I heard I've reconsidered and I'll change my vote, you may do so.

Mr. Robinson: I can do that, yeah. I've reconsidered and I'd like to change my vote please.

Mr. Spence: Commissioners with that, I see five ayes and the motion is carried.

Chair Ball: Okay, motioned carried. We'll take a five-minute recess.

**It was moved by Mr. Hedani, seconded by Ms. Duvauchelle, then**

**VOTED: To Approve a Two-Year Time Extension on the State Land Use Commission Special Use Permit as Recommended by the Department. (Assenting - W. Hedani, S. Duvauchelle, L. Hudson, K. Ball, K. Robinson) (Excused - R. Higashi, I. Lay, J. Medeiros, M. Tsai)**

A recess was called at 10:11 a.m., and the meeting was reconvened at 10:24 a.m.

Chair Ball: We're on Item C-2, Director?

Mr. Spence: Commissioners, this is Item C-2, Public Hearing item for Todd and Debra Preseault requesting a Land Use Commission Special Use Permit and a Short-Term Rental Home Permit to operate Kula Villa, a one-bedroom short-term rental home in Ag District in Kula. And Commissioners, by way of disclosure the Preseaults were, are former clients of mine. I have not...gosh I haven't even seen them in about six years. So...any financial tie is long, long gone. The...our Staff Planner this morning is Ms. Tara Furukawa.

**2. TODD and DEBRA PRESEALT requesting a State Land Use Commission Special Use Permit and a Short-Term Rental Home Permit in order to operate the Kula Villa, a one (1)-bedroom short-term rental home located in the State Agricultural District at 444 Calasa Road, TMK: 2-2-014: 005-0002 (por.), Kula, Island of Maui. (SUP2 2015/0011) (STMP T2015/0002) (T. Furukawa)**

Ms. Tara Furukawa: Good morning, Commissioners.

Chair Ball: Good morning.

Ms. Furukawa: As stated by the Director this item is under your review because the applicant is requesting a Land Use Commission Special Use Permit for Todd and Debra Preseault to operate a short-term rental home at their one-bedroom farm dwelling that sits on .5 acres of agricultural land in Kula. The proposed Kula Villa STRH is located in Kula at 444 Calasa Road. The owners, Todd and Debra Preseault have owned the .5 acre portion of a lot for nine years. The dwelling has a kitchen, a dining room that opens into the living room, a study, half bathroom, master bedroom with bathroom, laundry room and covered lanais. There's a corridor that connects to the garage/storage area that will not be guest use. Guests would be able to park on the paved driveway leading up to the enclosed garage.

Operation of a STRH will be compatible with the agricultural character of the area. The dwelling is surrounded by agriculture, and I have some photos. Most of the property consists of pasture land for grazing by farm animals consisting of a horse, goats and pigs. The goats and pigs are raised and sold for meat. Crops on site consists of ohia, avocado, and papaya. In addition, there's active beekeeping on site and the applicant has been working with a company to eventually sell honey and other medicinal byproducts. The undeveloped pastureland makes it difficult to see and/or hear

anything from neighboring properties. To the south, east, and west there's agricultural land. To the north there's a dwelling owned by the Rosenstocks, who own the other condominiumized property and approve of the proposed STRH. The dwelling's gated and separated by undeveloped pastureland. There are no letters from neighbors submitted after notice was provided. Neighbor notice was provided twice. Once for the short-term rental home application and more recently for the SUP2 application public hearing. The Department sought comments from the LUC and State Office of Planning and received no comments. As you can see there are no approved STRHs and B&Bs within 500 feet of the proposed Kula Villa STRH location. Now the applicant, Todd Preseault will discuss the agriculture on the property.

Mr. Todd Preseault: Thank you. Todd Preseault. The agriculture that we have on the property presently is the best way to describe it is diversified. Diversified because that's what we need to do in order to maintain any type of financial credibility to the agricultural operation. It's a difficult game out there. When we were first getting into it, I had a old Japanese fella describe to me, he was 85-years-old at the time and born and raised here, tell me Todd it's a tough business because I was talking to him about it. And I'm like what are we gonna do, what we gonna do? This was just when we were getting into buying it. And he's like do anything and everything it takes, and that's exactly what we've been doing. The goats definitely is a good viable business and it's been profitable and easy to maintain. Tried and failed and on a couple of different crops of growing avocado, papayas have been nominal. I mean with the amount of deer infestation that we have there and the inability...well, you know, just the financial commitment to putting up deer fences is too great to really do that. We've only been able to do a limited area which I keep close to the my workshop so that we can kinda keep an eye on it. Have had good luck recently because it's been so wet the deer have been away and over the last couple of years we've been growing more, landscape products. I've been growing ohia and koa trees and we've been able to sell those to landscapers for installation in the area. I like growing the native plants. It seems like the right thing to do for that area and they do well there. Ohia is a little bit slow. I'd love it if we could find some faster growing ones, but it's getting there. You start this height and two years later you're about here. Okay, yeah, that's...but they're going so it's been working out. Really that's the gist of it. Debra really handles all the livestock operation of it. I just kinda keep my eye on the ball as far as keep the plants going, keep things cooking on that side of it, and because I'm a contractor as well, I have connections within the landscape community where I'm able to sell those pretty easily.

Chair Ball: Okay, Debra?

Ms. Debra Preseault: Hi, my name is Debra Preseault. And we do have, we have four paddocks, four, two-acre paddocks that have goats, it's kind of rotating. We have one that we call the nursery, and that's a really easy place to access for when the nannies have their babies, and they're...you know, goat meat is very popular and I work with couple other farmers that actually sell the goat meat. You usually can sell each baby goat after about six months to a year from between \$185 to \$225. And then sometimes if you have a really good billy that can be way more profitable. We usually feed them and there's a lot to eat especially since there's been lotta grass. So that's the main thing. We also have about six bee hives. We've had a lot of honey in the past, and some of those have died, but we're getting more. We're learning how to do that better and they're really booming right now. That kinda helps the other things with the just the other things that we wanna farm, the bees are always helpful, whether we can sell the honey or we just help them with our other trees and stuff. And we've tried pigs. We've had pigs, and not as much luck with the pigs,

but mostly the goats. And we have a couple horses, so the horses are more, you know, they kinda intermingle. The animals all like each other. They kinda all hang out with each other. So that's kinda mostly, for financial it's the goats and mostly the trees right now.

Chair Ball: No pet spider Charlotte?

Ms. Preseault: Well, there is a cat that we kind of adopted. There's a couple cats around there.

Chair Ball: Okay, Tara, do you have anything further?

Ms. Furukawa: No. That's it.

Chair Ball: Okay, we might ask you guys questions later on.

Mr. Preseault: One more quick thing? One other item is, and Tara went over it real briefly. When I built the ohana originally it was built, I built it for my parents to come and live here. Since then my dad had passed away, oh six years ago now. So my mom only comes out here and she stays out here six months a year. That makes it near impossible to do any type of long term rental with the ohana unit. So we just have decided to use it a short-term rental because we can't get anyone to commit for six months and then leave for six months and come back for six months. It just doesn't work out. So it seems like a natural use for it as using it as for a short-term thing.

Chair Ball: Thank you.

Mr. Preseault: Thank you.

Chair Ball: Does that conclude your presentation, Tara?

Ms. Furukawa: Yeah.

**a) Public Hearing**

Chair Ball: Okay, at this time we'll open it up for public testimony. Anyone that would like to testify at this time may do so. Seeing none, public testimony is now closed. Can I get the Staff's recommendation?

**b) Action**

Ms. Furukawa: Sure. The application complies with the applicable standards for a State Land Use Commission Special Use Permit and as such, the Department recommends approval of the permit subject to 23 standard conditions and recommends that the Maui Planning Commission adopt the Planning Department's report and recommendation prepared for the January 12, 2016 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 the behalf of the Planning Commission.

Chair Ball: Okay, thank you. At this time we'll open it up for questions from the commission. Commissioner Hudson?

Mr. Hudson: I have a question regarding the beekeeping.

Chair Ball: Debra, identify yourself again, please?

Ms. Preseault: My name is Debra Preseault.

Mr. Hudson: Because I'm allergic to bee stings. They like to smell flowers and kill people, I would like to ask you how far is the bee hives from the proposed dwelling?

Ms. Preseault: Oh it's, let's see. I'm very bad with dimensions. Todd how far is that? If you have to say, let's see 160 yards.

Mr. Hudson: Okay, thank you.

Chair Ball: Further questions? Commissioner Robinson.

Mr. Robinson: Just one. On Exhibit 2, that's the one. On Exhibit 2 I see where the red dot is, and then I see where there's a large manicured property, next one.

Ms. Furukawa: Okay.

Mr. Robinson: Which is the residence that we're talking about? Got a red pointer or something?

Mr. Preseault: This is the ohana.

Mr. Robinson: Okay. All right, thank you.

Chair Ball: Chair Ball: Further questions from the Commission? Commissioner Hedani?

Mr. Hedani: Tara, can you explain to me the condominium property regime? How is the property condominiumized?

Ms. Furukawa: This is a portion of the property of the larger TMK.

Mr. Hedani: Maybe I should direct it to the owners?

Ms. Furukawa: Okay.

Mr. Preseault: Todd Preseault. Yes?

Mr. Hedani: The question is it's part of a condominium property regime, you know CPR.

Mr. Preseault: That's correct.

Mr. Hedani: How does that work?

Mr. Preseault: The CPR that's set up is the overall property is 40 acres and we condominiumized

off seven acre, broke that off and sold that.

Mr. Hedani: I see.

Mr. Preseault: To another individual. That just made it possible for us to manage our mortgage for the rest of it. Ultimately that was the decision that was made to.

Mr. Hedani: And the owner of that condominium...or the condominiumized property is supportive of the application?

Mr. Preseault: Yes, that be Don Rosenstock and he is...he's become a good friend as well as neighbor.

Mr. Hedani: Thank you.

Chair Ball: Further questions? I have a question, Todd. How do you...do you have a plan for integrating the farm and the visitors and that sort of thing?

Mr. Preseault: As much as they like to visit, but I haven't really set up a formal plan for it per se. But the visitors that like horses and like baby goats actively become involved naturally. You know, going out ... I mean, Debra's really easy with the horses as far as if they wanted to take a little ride around or what have you. But most of the time they usually just go and play with the baby goats.

Chair Ball: Thank you. Further questions? Commissioner Robinson?

Mr. Robinson: Have you ever had any relatives or somebody from not here stay at that home for free or whatever?

Mr. Preseault: Oh sure. Well, my mom stays there for six months a year for free.

Mr. Robinson: Well, my question is how would somebody find this house. If they did the GPS would it take them to your driveway or would it take them down this shared grass gravel road and loop all the way down?

Mr. Preseault: No, you drive down Calasa Road.

Mr. Robinson: On the GPS, if they have a GPS, you ever GPS your house and get directions?

Mr. Preseault: I've never done that, but –

Ms. Preseault: Yes, all the time. My name is Debra Preseault.

Mr. Robinson: Hi Debra. So does it take you to the street or does it take you all the way around.

Ms. Preseault: It takes you to the street.

Mr. Robinson: Keep going left 50 feet, 25 feet or just to the...

Ms. Preseault: It takes you to the Kula Fire Station which is it goes down on Calasa Road and it takes you right to the corner of the street, Calasa Road and then you...it takes you right down Calasa Road to the entrance of the property.

Mr. Robinson: It says you are here at the Calasa Road and your turn in?

Ms. Preseault: It will take you to the gate, yes.

Mr. Robinson: Okay. Oh there's a gate there?

Ms. Preseault: There's a gate.

Mr. Robinson: Okay, thank you.

Chair Ball: Further questions? Further questions? Do we have a motion? Commissioner Hedani?

Mr. Hedani: Move to approve as recommended by Staff.

Chair Ball: Motion to approve.

Mr. Hudson: Second.

Chair Ball: Second by Commissioner Hudson. Any discussion? Seeing none, Commissioner Hedani?

Mr. Hedani: I think this is one of the easier STRHs that I've seen. I have no problem with a one-bedroom. It's on 39 acres, 40 acres essentially. The impacts to surrounding properties are minimal and I think it be kinda quaint and neat to be able to rent an ohana like that. So I'm supportive of it.

Chair Ball: Any further comments or...seeing none, all in favor of the motion raise your hand and say, "aye".

Commission Members: Aye.

Mr. Spence: That's three ayes.

Chair Ball: Chair will vote in favor.

Mr. Spence: Four ayes.

Chair Ball: All opposed? An abstention is in the affirmative so motion passes.

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

**VOTED: To Approve the State Land Use Commission Special Use Permit as Recommended by the Department.**



**(Assenting - W. Hedani, L. Hudson, S. Duvauchelle, K. Ball,  
K. Robinson-Abstained)  
(Excused - R. Higashi, I. Lay, J. Medeiros, M. Tsai)**

Chair Ball: So moving on. Item D-1.

Mr. Spence: Item D-1, Mr. Lawrence Adler of Walgreen of Maui Inc., requesting an Environmental Assessment Determination for the Walgreens Kihei Store. Our Staff Planner this morning, it is still morning, is Ms. Candace Thackerson.

**D. NEW BUSINESS**

- 1. MR. LAWRENCE ADLER of WALGREEN OF MAUI INC. requesting an Environmental Assessment Determination on the Final Environmental Assessment prepared in support of the land use entitlements for the Walgreen's Kihei Store, a 14,550 sf building and related improvements located at the southeast corner of South Kihei Road and Nohokai Street, TMK: 3-9-007: 037 to 040 and 3-9-008: 016, Kihei, Island of Maui. (EA 2015/0005) (CIZ 2015/0003) (SM1 2015/0005) (C. Thackerson) (Draft Environmental Assessment was reviewed by the Commission at its June 10, 2015 meeting.)**

**The EA trigger is anticipated work within the South Kihei Road and Nohokai Street rights-of-way. The Commission is the accepting authority of the Final EA.**

**The applicant has also applied for a Change in Zoning and Special Management Area Use Permit. The public hearing on these applications will be scheduled after the Chapter 343, HRS process has been completed.**

Ms. Candace Thackerson: Hi.

Chair Ball: Good morning.

Ms. Thackerson: Good morning, it's still morning I guess. So the item is before you review because the EA trigger is the anticipated work within the South Kihei Road and Nohokai right of way and the Commission is the accepting authority of the Final EA. This body had reviewed the draft EA previously so we're just here to seek your acceptance of the FONSI that the Department is recommending. The applicant has also applied for a Change in Zoning and Special Management Area Use Permit and the public hearing on these applications will be scheduled after the Chapter 343 HRS process has been completed. The applicant has a presentation for you to go over the changes that were made to the Final EA and then we'll go ahead and take comments after that.

Mr. Tom Schnell: Good morning Commission Members.

Chair Ball: Good morning.

Mr. Schnell: Good morning, Commission Members. My name is Tom Schnell. I'm with

PBR Hawaii. PBR Hawaii is a land planning and landscape architecture firm based in Honolulu, but over my career I've done a lot of work on Maui maybe not as recently as previously but I'm very familiar with Maui and thank you for the opportunity to present the Final EA. We do have a Powerpoint presentation so I'll go through that. And if I miss anything please ask me questions at the appropriate time.

With me is the project team. We do have representatives from Walgreens here that will be Lawrence Adler and Heidi Mulmoons. Heidi is the District Manager for Hawaii. We also have a store manager here from Lahaina. The architect is here to talk about some design changes that we've made as a result from comments from the Urban Design Review Board and the Planning Commission as well as the community. Myself is listed as PRB Hawaii and Associates. Darren Unemori is here. He's the project engineer from Warren S. Unemori Engineering. Our traffic consultant, Phil Rowell unfortunately is not able to attend due to illness. His doctor did not allow him to fly from Honolulu. So if we do have traffic related questions he is standing by and I can call him or email with him and get back to you today with your questions. And then also we have our Cultural Impact Assessment consultant and that's Kimokeao Kapuhualehua.

I wanted to just give you a little background about what I'm gonna talk about and I wanna go briefly so we have time for question and answers, but we'll talk about Walgreen's background, Walgreens on Maui, Walgreens specifically in Kihei, the proposed location and the project, and then I'll get into the Final EA and the changes that have been made as a result of comments and then we'll conclude.

So Walgreens on Maui has three stores now. They also operate two Healthcare Systems Pharmacies which is a small pharmacy operations. They're an employer on Maui. They employ 113 people on Maui. Statewide Walgreens has 20 stores, over 700 employees employed statewide. Walgreen does buy many goods from local vendors and listed here are some of the more specific Maui vendors that they buy goods from and provide shelf space for. Walgreens is an active participant in the community sending volunteers to many Maui events and also making many charitable contributions to primarily health related type of charities and organizations.

The location, and I have a better aerial picture that this later, but this is South Kihei Road. The road going this way makai is Nohokai Street. McDonalds is right here. This is the Kihei Center where the CVS Longs Store is and there are five parcels that we're considering for the site. Currently on the site a craft fair is being operated. So McDonalds is over here. This is the craft fair that's on one of the parcels. And this is the corner of South Kihei Road and Nohokai Street this way, and the craft fair is back over here and McDonalds over here. There's a large gravel parking lot here and those are the Residential zoned parcels that are not being used for business uses it's just for parking. This is another look at the gravel parking lot with the craft fair operation over here. This is a view of our neighbor. If you look up here, this is the residential property directly adjacent to the west, and I took this picture just peering through the fence looking this way. We have tried to contact the neighbor. The neighbor also owns the adjacent parcel so he owns two adjacent parcels. He lives on the mainland. We sent him letters. We've tried to contact him. We written email addresses and the phone numbers and he has not responded back to us, but we did want to talk to him specifically about Walgreens next to his property. We also have talked to several of the other neighbors along Nohokai Street and community residents too.

We're in the State Land Use District, Urban District. The Kihei Community Plan designates all of the five parcels as B, Commercial. However, as I mentioned before the zoning, this one parcel is zoned for B-2 Commercial uses, these other parcels are zoned Residential. We're in the Special Management Area so we will be back in front of you if the EA goes forward to talk about a Special Management Area Use Permit. Major approvals necessary for this project are the Environmental Assessment which we're here for today, Special Management Area Use Permit, Change in Zoning for the Residential parcels, and a Special Flood Hazard Area Development Permit which Darren could talk about a little bit more when we talk about drainage.

So I just wanted to summarize some of the main points about the process and then talk about some of the main changes that have taken place since the Draft to the Final EA. The public comment period on the Draft EA was from May 23 to June 22, 2015. During that review period we did go to the neighbor...so the Urban Design Review Board. We've received comments from them which you guys have also received. We received...we were here on the Draft EA on June 9, and we received many comments at that time that we've responded to. The Final EA does incorporate all the letters and all of our responses to the letter. We've made some extensive changes to the EA as a result of the comments and also extensive changes to the design of the project.

The Planning Commission hearing we're here today June 12, and the Planning Department recommendation to you is to grant a FONSI...accept the EA and grant a FONSI, Finding of No Significant Impact for the EA so we can move onto the next step which would be the SMA hearing.

Technical studies included in the EA include an Archaeological Assessment which has been reviewed and accepted by Historic Preservation Division. And Historic Preservation has determined last even in our comments that there are no historic properties or no historic properties will be affected by the project. An Archaeological Monitoring Plan has been prepared and will be implemented if construction goes forward. A Cultural Impact Assessment has been prepared. Flora and Fauna Survey has been prepared. There's no endangered or threatened species. We've also received a determination from the Corp of Engineers that there are no wetlands on the property. Traffic Analysis Report shows that traffic impacts can be mitigated and we have some proposals for widening the road, South Kihei Road particularly, and Darren can address drainage and preliminary engineering issues.

So to summarize the changes, there are three main topic areas we've had major comments on and these are not only from the Urban Design Review and the Planning Commission but also from the community as well. These are the comments we received from the Planning Commission. If you recall from that last hearing we did have a lot of public testimony and I believe that the Planning Commission took a lot of the public comments to heart and incorporated those comments in the Planning Commission letter. So by summarizing the Planning Commission comments and changes they embody many of the community concerns so I'm kind of hitting on both topics at one time.

So a major concern that the community had and that the Planning Commission incorporated in was to eliminate access from Nohokai Street and I'll show you a graphic of that. We're agreeable to that. A wall and landscaping on the sides, on the residential sides of the property. We can talk about that. We did have a consideration of moving the loading dock closer to McDonalds and consider moving the building location closer to South Kihei Road. But I think graphically it's easier to understand these. We can move onto the next slide.

So this is the previous plan and on this plan we proposed widening South Kihei Road. We also proposed widening Nohokai Street to provide a left-turn and right-turn lane out. Currently Nohokai Street's two lanes only, one in each direction and we had a driveway entrance on this side. It was proposed for right out only, but we did hear concerns from the community that they were concerned about people exiting left or people driving through their neighborhood. So happy to report, go ahead on the next one, we're able to eliminate that access so the only access point would be from South Kihei Road. But in addition we have a thru connection with McDonalds on this side. Let's stay on this one for a minute.

There were questions about perhaps moving the building closer to South Kihei and you know, a prime consideration for Walgreens here is the feeling of safety and security for their customers. What I understand is that the average customer for a Walgreens is a middle-aged woman, somebody that wants to be able to park their car and know that there's parking available and know that there's eyes on the street to see them as they enter and exit the building. If we move the parking in the back, we actually thought that number one it doesn't provide this secure environment that most customers are looking for. Number two, there could actually be more disruption to, especially adjacent neighboring property with more cars coming and going. Right now there's a drive thru proposed right here, and the activity of the drive thru would be far less than you know, customers coming and going all the time.

Another or another question that the Planning Commission had and also the community was could we flip the building? Right now the entrance is right here on this corner. There's a loading dock area proposed back here. We did consider flipping the building so that the entrance would be here, the loading dock would be closer to McDonalds. We could show that. So this would be the plan with the entrance over here. And so we've moved the building down a little bit farther and we would have parking in this area...more parking in this area than we have now and the loading dock area would be here. We actually did a lot of...I did a lot of coordination with the current operations here on the Maui. There's three stores on Maui and what I learned is that on the loading dock there's one container truck delivery per week. So the large container truck are very minimal. They do not idle their cars when they unload the container. They do not store the containers on the site. And then also there's about maybe five to six smaller deliveries per day and this would be the chip guy, the beverage guy, and these are smaller kind of probably gasoline powered vehicles that are not large container trucks. I guess if you could go back to the other slide?

Jeff our architect will talk more about the design changes. What I wanted to point out on this slide, if you go back one more? On this side we were talking about more of a square boxy building. When you go to the next slide. What we've done is we've put a Dickey style roof around the entire perimeter of the building and what this does is it lowers the scale of the building. It's more in tune with other buildings and commercial developments along South Kihei Road. For example, Azekas has a similar type of roof, but it has a shake shingle, it's not a green roof. It's also we believe more in scale with the residential character of the neighborhood. The total height now we're talking about is 25 feet 6 inches. Before we had some design features that were up about 38 feet on the entry feature. So we have lowered the scale of the building dramatically. At 25'6" we're less than what could be built in the Residential District. The Residential District, the height limit is 30 feet. And just for an example, this is Longs in this area here. This is the Kihei Center, but this is actually the Longs. Longs has a quite a big roof. They're about 36 feet tall. So they're a larger building and just for comparison purposes too, our store is proposed to be 14,550 square feet and that is the

total footprint of the building. For comparison purposes, Long is about 29,000 square feet. So Long's is about twice as big as what we're proposing. Long's does have about 24,000 square feet retail area on the ground floor, and they have about 5,000 square feet in a loft area for their offices on the second floor.

So with that, I'd like to bring up Jeff Benner who's our project architect that is able to talk about design changes that besides the roof that we've gone through since hearing comments.

Mr. Jeff Benner: Good morning, Commissioners. My name is Jeff Benner, Benner Stange Associates Architects. I'm gonna kinda give you a brief overview of we've presented back in June of this past year and where we are today. And Tom has already elaborated a bit on some of the design changes. But back in June we presented this particular option to you. It was more of a vertical design concept. It had an entry feature at the southeast corner of the building. The height of that point there down to what we'll call the proposed finished grades for the parking areas is about 38 feet, possibly 37 just depending on the variation on the site grading. These particular elements here, here, here, et cetera, those are up at elevations 25 feet, 27 feet. It had virtually no roof, but we were incorporating awnings over the storefront areas and kind of a specific tower like elements which kinda added a design feature or character along South Kihei Road. I'm gonna help you flip to the next one.

Now what you see today is a much lower profile store. This particular height here is at about 25 feet there again that's about a 13-foot drop in the original proposed design. The base building height is at 25'6". The fact that...(inaudible)...use that double sloping kind of Territorial Dickey roof it does create the illusion of a roof element that's much lower in scale and certainly much more consistent with the adjoining neighborhood homes and residential designs.

A lot of the materials are the same. Okay, so this was the previous design very kinda two dimensional, very vertical. Now as you see it today, you'll see that it's significantly has a lot of kinda that architectural look element, very consistent again with neighborhood design standards. We've actually added a little bit more storefront right in here. We've created a much more simplified and much lower entry element. It's not as dominating as it once was. We kinda matched that element in this particular case on the northeast corner of the building. Kinda brings some of that design flavor across and along South Kihei Road. We have a smaller element here, similar character. We've added a dormer elements here, likewise here. We've incorporated the previous materials, for split face CMU, we had plaster, we had veneer bases. We've actually now in this particular scheme incorporated some architectural siding there again bringing some of that architectural and the neighborhood character into the project. We stayed consistent with the architectural motifs that we proposed prior. This is the previous, the loading zone side of the building, the north facing side. Now you can see the scale is just simply much different today with those sloping roof elements here and much more kinda reduced tower type element here. This is the previous west elevation. This is the side of the building that has the drive thru pharmacy on it, very vertical. There was character in terms of pilasters, colors, with material changes, et cetera. Today there again it's much, much more residential like. Very simple dormer over the drive thru pharmacy area. Similar material, veneer bases, the veneer...the stone veneer at the pilasters, split face CMU along here. We've incorporated architectural siding here and here. This is the south facing elevation or the entry so you see that kind of dominant tower element we had prior and now it's much more subdued and much more residential like in character that being the entry right there to the store. And once again,

we've incorporated even in this particular case, you can't see it here but we have siding elements up here and of course some siding elements over here as well.

So when you look at this particular elevation here I think it becomes kind of more evident that we listen to you, we listen to the UDRB board members, and we listened to the community and you know there was that feeling that it simply just from a character standpoint didn't fit in with the neighborhood and we've made some clearly dramatic changes trying to bring that residential kinda design theme into the building and something that will really blend in well with the adjacent properties. Having said that, I think we'll move onto drainage.

Mr. Darren Unemori: Good morning Members of the Commission. I'm Darren Unemori. I'm the civil engineer on the project with Warren Unemori Engineering. So the last time we presented before the Planning Commission it was pointed out by both testimony from the public as well as the project people itself that one of the challenging problems of this particular site that Walgreens has selected is the fact that there is a preexisting flooding condition. And lot of the questions or the principle focus of the questions that came from the Planning Commission were really about how can we deal with this specific problem in a way that, in a way that could possibly improve the situation.

So to begin with let me just kinda recap the situation that we're dealing with and I'll walk you through kind of what our further exploration of drainage options on the site were and discuss again what the final drainage plan will be for this project or the proposed drainage plan. So the essential problem with this particular area in Kihei is it...there's a very flat plain along the coast which receives runoff from the side of Haleakala basically. The area that is Walgreens you can see is that little yellow blob down at the bottom there, a little two-acre site. Up above you see extending upward to the top of Haleakala the Keokea Gulch watershed. That is roughly about a mile wide and about nine miles long running up to the top of the ridge that separates the Makawao District from Hana so it's a very large tract of land up there and it sends water down towards the Kihei coast. The runoff that comes down the hill hits that coastal plain much like as if you were to take a bucket of water and dump it on your kitchen table. It doesn't go straight, it spreads out and it basically floods the, floods the surrounding area where you drop your...where the water hit the table. So the Kihei coastal plain is much like that kitchen table. The water from the nine square miles is basically being dumped onto the coastal plain and creating that flood area. The background there is the FEMA map and that light blue shading is basically all the areas FEMA has identified as being subject to flooding because of the upland runoff coming down the hill. So what we've got is a site where the water that's flooding it is really coming down the side of the mountain and creating this flooding situation.

So if we zoom in on the Walgreen site effectively what we have here is a...this site plan is turned 90 degrees from the previous one you saw. South Kihei Road is running left and right now instead of up and down like on Tom's plan. We've got a low point in South Kihei Road near the Nohokai Street intersection. That water coming down from the side of Haleakala makes its way down to South Kihei Road, crosses the street, cuts diagonally across the Walgreen site and out the other side on its way to the ocean. So that's the existing condition. The existing parking lot contributes a little bit to it, but it's you know, gravel parking lot, it creates some runoff but not a lot. Most of the water that's creating this flooding situation is of course, coming down from the side of Haleakala so the site itself is subject a lot of offsite flow. In fact, in terms of sheer magnitude it's hundreds of

times what the site itself generates.

So the Walgreen's proposed drainage plan consisted really of I guess to kind of split the problem in two, the water that is gonna be generated by the development itself will be captured and held on site by a large retention basin that will be put down in the lower end there. The pavements, the widening along South Kihei Road, the additional runoff from that will be put in these green tree type storm water planters that we create along the side of the roadway. So in and of itself, the runoff that Walgreens generates, Walgreens and its associated improvements is really held on site. There's really no...none of the water from the developed site really goes onto the neighbors.

Unfortunately the magnitude of the off site runoff that's coming down the side of Haleakala is so great we can't hold it on site. We have no chance of holding it on site. Again, it's hundreds of times what we're able to do. So the best we can do in this particular case is continue to pass it through. So it continues to come in the direction it currently does from South Kihei Road, crossing the site at a diagonal and exits on the lower side of the site beyond the storm water retention basin that we're proposing.

Now I mentioned that the Planning Commission at its last meeting with us had asked us to look at possible options as to what might be done. What...how could we...how might we do things...how might we further improve the situation? So in doing so, we looked at several things. We looked at scaling down, possibly scaling down the project, possibly eliminating parking spaces in order to further enlarge the retention basin, installing permeable pavement throughout the main parking lot. We looked at providing...increasing the onsite storage capacity under the parking lot by going subsurface, basically putting something permeable under the parking lot pavement and possibly installing some kind of flood barrier down at the lower edge there to help contain the runoff.

Unfortunately, all of these options either proved unworkable, unaffordable or in the case of something like the flood barriers created other unacceptable drainage impacts and so could not be employed. So effectively what that means is we've come full circle back to the original drainage concept which remains largely the current proposal. So we're talking about a storm water retention basin on site which is fairly large. It actually handles three times the County standard storm for what we're required to...what's required to mitigate the drainage impact of Walgreen. So we're holding our own runoff plus a little bit more. But at the same time, the regional problem is so large that whatever we looked at had no real hope of making a dent in it. And so, you know, although we were able to mitigate our impact as required, we are not able to solve the larger drainage problem.

Mr. Schnell: Okay, I do wanna respect everybody's time and wrap it up quickly so I didn't wanna have a long presentation. But just in conclusion, a Draft and Final EA have been prepared in compliance with all rules and requirements. A Draft EA public process did allow for public comments and also agency comments, Planning Commission comments, Urban Design Review Board comments. The Final EA includes all comments received and all of our written responses. We did write back to everybody that wrote a letter. The Final EA meets the criteria that OEQC sets forth for a Finding of No Significant Impact. Just a reminder, we have many more steps to go. This Final EA is not an approval of the project. Actually I would say that this Final EA probably represents lets say the worst case scenario and that if anything was changed or made smaller not larger or there would be less impacts than what's talked about in this Final EA.

The Planning Department has recommended a FONSI. Obviously we agree with this recommendation. Just...next steps we're at the Final EA stage right now. If this Final EA is granted a FONSI we will be back to the Commission to talk about the SMA Use Permit. I think at that time it would be appropriate to talk about various conditions that may be imposed on the project. The project also has to go to the County Council for a zone change which you would provide recommendations to the County Council which could include conditions also. And then we're back at the Planning Commission for the final approval of the SMA Use Permit after the zone change would be approved.

And if you could go to just to the next slide, I do wanna bring up something that I didn't bring up about Nohokai Street. So this is the current site plan and Nohokai Street is proposed to be left as it is which is one lane, one lane out. We've proposed eliminating the driveway here, but we also did talk to Public Works and typically Public Works requires certain site improvements when you do a project especially a project such as this which would could include widening the street, dedicating areas and that's why we originally went with the wider street 'cause we wanted to satisfy Public Work's concerns. Also, curbs, gutters, sidewalks. What we heard was that the community like the rural character of Nohokai Street so currently on this site plan we do not propose widening, increasing pavement width, we could just grass that area. We could set it aside for future dedication if the County wanted to improve it later. And we could put a sidewalk, we didn't include a sidewalk here, but if that's that Commission's desire we could do that. But we do not propose the full range of improvements that Public Works would normally require and we're looking for direction from this Commission and from the Council on what would be appropriate in that area. With that, I'll conclude and I'm open for questions and thank you very much for listening to our presentation.

Chair Ball: At this time we'll take a five-minute recess.

A recess was called at 11:17 a.m., and the meeting was reconvened at 11:22 a.m.

Chair Ball: We are on Agenda Item D-1, Walgreens application. At this time we'll open it up for public testimony. Anyone that would like to testify at this time may do so. Please identify yourself and you have three minutes.

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

Ms. Linda Berry: Good morning, I'm Linda Berry. I'm testifying on the Walgreens proposed project in Kihei. My neighbors will tell you why we don't want the proposed Walgreens in that location. I'd like to talk to you about suggesting other places in Kihei where this Walgreens might be compatible. One place is the Kukui Mall with the old movie theater. There's lots of vacant space there that would be appropriate. Another place is the new Krausz Kihei Town Center which is designed specifically with buildings this size in it.

When we talked to Walgreens about this they told us they weren't interested in other sites. They wanna be across the street from Longs so they can take the business away from them. This is what they've done on other places on the island and we've seen it on the mainland as well.

Their marketing model is to move next to existing drug stores and take their business. Let me leave you with just one question and that is, do we wanna let the marketing policy of a large mainland



company determine what our towns look and feel like or do we want to use the direction of our community plan to determine the future of our towns? Thank you.

Chair Ball: Any questions for the testifier? Seeing none, thank you. I will go down the list. Okay, Mary Jo would you like to testify at this time? I will...is she back there? At the item, okay, right. Cory, Robert?

Chair Ball: Mike Moran?

Mr. Mike Moran: Good morning, Mike Moran. Aloha Commissioners. Happy New Year, mahalo for your continued diligent service to the Maui community at this vital commission. I'm speaking for the Kihei Community Association on Item D-1.

As we testified previously we find the proposed land use changes at this location for Walgreens retail establishment to be unacceptable. This location is nowhere akin to the new Maui Lani one nor the more seasoned one on Puunene in Kahului. We ask you to recall the numerous submissions of testimony previously from a variety of Kihei residents as not all individuals are able to repeatedly testify.

We remind you that this body as well as the Department said no to prior request for change from Residential to Commercial for lots immediately north of these just on the other side of Nohokai previously. However, if you are persuaded to accept it in spite of the KCA and the immediate neighbor's opposition, we have prepared a list of 13 required conditions which we ask you to consider to at least have a more reasonable and palatable business located here.

The same list was offered to Walgreens representatives in 2015. Now we had submitted the list, the email and I realize now that everyone doesn't have a list so I think it would be inappropriate for me to read a whole bunch of things that you don't have reference to. However, another testifier will be when they testify at the time of the item will hand out that list and then I think it would be more appropriate to discuss them at that time. For me to try and rip them through, I don't think it would be conducive for anyone. So thank you for your time this morning. Aloha.

Chair Ball: Aloha. Any questions for the testifier? I have a question. What list? What is the list you were talking about, sorry I missed that part of it?

Mr. Moran: Okay, it's a list of conditions. The way we put it, Kihei is opposed to the proposed Walgreens as presented in November of '15. Required conditions for Kihei to support the Walgreens so what we're saying, please don't allow this thing to be built here but if that's your decision, please consider our proposed conditions and we have 13 of them. And again, I misconstrued, I thought you would have them in your hand when we submitted them last Friday, but I'll know for the future to bring copies any time...

Chair Ball: Are the copies here because you might wanna hand those out now so that if we have a break then the Commissioners can review those. Candace is copying them. When they come then we'll—

Mr. Moran: Yeah, I'm not quite sure why, but I know as I said, another testifier does have them, but

she's gonna testify at the time the item comes up.

Chair Ball: Okay, no problem.

Mr. Moran: Okay, is that clear.

Chair Ball: Okay.

Mr. Moran: Thank you.

Chair Ball: Thanks Mike. Ilich Kato?

Mr. Ilich Kato: Hello my name is Ilich Kato, and we own the property directly across Nohokai Street from the proposed Kihei Walgreens site, TMK: 3-9-007:41, 42, and 43. We support the efforts for a zone change to put Walgreens there. We support the project because it would be very useful for Kihei's residents to have access to a pharmacy and store on the makai side of South Kihei Road. A pharmacy with a drive thru is also a nice feature. We like the thought of a building at the location to curtail the amount of dust swirling into my property and surrounding area. At night the back of the property is dark and sometimes serves as a spot for homeless people to set up camp. We feel a building in the area with security will curtail this presence and make the neighborhood a nicer place.

Chair Ball: Any questions for the testifier? Seeing none, thank you.

Mr. Kato: Thank you.

Chair Ball: Andrew Harriman? Charlene Schulenburg?

Ms. Schulenburg: I'll wait.

Chair Ball: Okay, and Randy Wagner?

Ms. Wagner: I'll wait.

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

Ms. Randy Wagner: Hello.

Chair Ball: Hi.

Ms. Wagner: I'm Randy Wagner and I'm an architect and a resident who lives within 500 feet of the proposed Walgreen, and I also am a board member of the Kihei Community Association and on their Design Review and Planning Committee. So I passed out a document that I'd like you all to pull up right now. And basically I've been involved in this project since the very first day when Walgreens came to see the Design Review Committee at KCA. At which time they said, if you don't like us we'll go away. And we were very naive at that time and we said, no we'll listen. But now we wish they would go away personally because we are opposed for two reasons.

The first is that as a neighbor and just a resident I live with the flooding. And if you turn to the second page, you'll see the picture of the way the neighborhood has looked twice in the last five years. And you'll see on the lower photograph, the site after a little rain in August. So it clearly is...has been a holding area. It was previously a wetland that was illegally filled. So the Army Corp has found that it was not a wetland now but it was a wetland previously since I lived there it was filled and I saw it be filled and that land was mitigated by a lot, a wetland somewhere else that's not in the region, it's not adjacent so it doesn't....the wetland that they mitigated it with doesn't help our flooding. So we opposed it for that reason.

But also, the Kihei Community Plan states which we've had since I've lived in that neighborhood for almost 20 years that limit commercial services to neighborhood business uses or other low key business activities with a residential scale on those properties which abut single family residences...residential areas. And that's on the second page. That's an excerpt from the Kihei-Makena Community Plan.

Walgreens has responded in many ways trying to do that. However, the size of the building is critical. A 14,550 or whatever, 14, 450 square foot building is not residential scale. And since 1998, there have been no buildings built adjacent to residential areas in Kihei that are of that scale. We've had the vet clinic, we had Kihana Nursery, we've had the Aloha Market Place, we've had Shaka Pizza. There are a lot of examples of businesses that have been built adjacent to residential, but they are not of this scale.

So what we propose, we've written to Walgreens and shown them a plan which is on the last page, oh no not the last page because the last few pages are the petition of neighbors, but-

Ms. Takayama-Corden: Three minutes.

Ms. Wagner: Oh, shoot. Does anyone wanna ask me any questions?

Chair Ball: You can conclude your testimony and then I'll ask right after.

Ms. Wagner: Okay, so we made a list conditions and the primary one is that the store be smaller, 10,800 square foot which is a format that Walgreens uses. And we've also redrawn the site plan to show the building if you'll look at that page you'll see the building close to the street because we'd like to have a street neighborhood, you know a street front kind of an environment and with a much greater retention area shown. So because they are in a position to contribute to greater retention even though is above and beyond the requirements and we know it won't solve the problem. If many solutions work together this would be one component that would be effective.

Chair Ball: Thank you.

Ms. Wagner: And one last thing is we do want sidewalks on Nohokai Street.

Chair Ball: Any questions for the testifier? Seeing none, thank you.

Ms. Wagner: Oh, and also in that packet is a petition of 106 people.

Chair Ball: Ma'am you're out of order. Any other...would anybody else like to testify at this time?

Mr. Tom Croly: I'm Tom Croly testifying on my own behalf. I've watched the presentation and I know this board considers many things. The one thing I would like you to consider very carefully would be the traffic in that area. Obviously a Walgreens is a high volume store just as the McDonalds is next door, and it's the left turns. You know, it's the left turn into McDonalds, it's the left turn out of McDonalds. I go there quite often. It's a mess today, okay. I just hope that comprehensively when this project goes forward that not just the Walgreens is considered but the McDonalds is considered and the Longs across the street is considered, in all those different ways I just think that this is an opportunity to improve the traffic there instead of just making it worse. So I ask the Commission to take that into account. Thanks.

Chair Ball: Thank you. Any questions for the testifier? Seeing none, would anyone else like to testify?

Mr. Andrew Harriman: Good morning, Commission.

Chair Ball: Good morning.

Mr. Harriman: My name is Andrew Harriman. I am a sales manager for the wholesaler called the Islander Group. I'm here to speak in favor of the proposed new Walgreen store that is planned to be opened up in Kihei. The Islander Group is a locally owned and operated distribution company in Hawaii. We are one of the largest provider of products of and about the people of Hawaii. Our corporate office is located in Honolulu and we currently have seven warehouses throughout the state. The Islander Group employs over 100 local residents. Walgreens is one of our larger customers. They're good to work with and they support many of the product lines that we carry some which are made in Hawaii. I believe the opening of an additional location in Kihei will be a positive for our company and the island of Maui. It will help ensure that our Maui team continues to have good paying jobs and possibly might be the catalyst for us to hire another full or part-time person. On behalf of the Islander Group and myself we are in support of the new Walgreen store. Thank you.

Chair Ball: Any questions for the testifier? Seeing none, thank you. Mary Joe?

Ms. Mary Joe Ceon: Aloha everyone.

Chair Ball: Aloha.

Ms. Ceon: My name is Mary Joe and I am an employee of Walgreens Lahaina. I support the Kihei project because Walgreens offers employee opportunities for advancement. I started as a cashier but I had an interest in pharmacy tech. Although I did not have any pharmacy background Walgreens was willing to train me and even offered to send me to classes so that I could take the Pharmacy Technician Board. At that moment I knew that I was in the company. I then saw other opportunities this time to become one of the store leadership. I didn't hesitate. I applied as a shift lead and got it. Almost three years with the company I am not an assistant store manager. Walgreens has given me so much opportunity to grow which lead me to my career path whether it was the pharmacy or becoming a store leadership member. Having this Kihei store open will give

more locals like myself a stable job and a career. Thank you.

Chair Ball: Any questions for the testifier? That's an awesome story. Cory Lehano?

Mr. Cory Lehano: Good morning, my name is Cory Lehano. I'm also a current employee at Walgreens. I am currently employed as a pharmacist there, a flow pharmacist. I here also to voice my support for the Walgreen Kihei project not only because it will add sustainable employment to this County but also because it...Walgreens itself provides excellent benefits. Personally for me one of the benefits was my ability to come home and work. As you guys may know many local students go to the mainland to seek higher education and you know, come back, you know, with hopes to return the favor to the community that raised them and reared them, and with only a...only to find minimal if any job vacancies. I was lucky because of the seven other Hawaii students who I graduated with in Colorado I was the only able to find a position here at home to work. Walgreens Kihei will provide that, that opportunity for another student, another recent graduate to go and to work at home with their families. So I ask that you please approve the EA. Thank you.

Chair Ball: Any questions for the testifier? Thank you. Charlene Schulenburg?

Ms. Charlene Schulenburg: Hello, everybody. Charlene Schulenburg. I'm here as a community member of Kihei as a resident and also I am now a member of the board on the Kihei Community Association. It is not that we are against business or trying to, you know, shut things down completely. What the concept here is, I think is wrapped up into one word or can be wrapped up into one word and that is residential, residential, residential. The size of this project is just not reasonable for our small Kihei community in that particular area. You know the zoning changes are going to be huge. It is going to impact the community.

So we did some research and we did find that Walgreens is capable of doing smaller stores and they have been known to do smaller stores. So we've been providing this information and going back and forth and talking with Tom Schnell and Leilani of Tetratex and we're encouraged that we could meet with them and understand what they were trying to do but we wanted them to understand our concerns and needs as well. So again we were encouraged and I think that they've addressed some of the aspects that we were concerned about and that the Planning Department was concerned about, but size matters. So I really think that we need to consider this on a smaller scale and provide conditions.

And I know that this is about FONSI but we don't get a lot of opportunities to express what we need to. So we found...we find it important to come today and give you guys the heads up that size is the issue and that we are going to be requesting conditions. We have submitted the conditions to you through Mike Moran, I believe. You all received them. I don't need to go into them in great detail right now, but these are the issues. And again, I just, I would end with size matters and this needs to be a smaller project in order for us to support this and for the community to support it. There's a lot of resistance to this and if the size isn't addressed it's not gonna be, it's not gonna be supported by the community. Thank you very much. Any questions?

Chair Ball: Thank you. Any questions for the testifier? Would anyone else—

Mr. Robinson: I have a question.

Chair Ball: Yes, Commissioner Robinson?

Mr. Robinson: You mentioned you did some research about the size of stores. Were any of those researched in the State of Hawaii or were they in the mainland?

Ms. Schulenburg: No, the ones that came up there wasn't any that...let me start over, sorry about that. There wasn't any information that I could find specifically about Hawaii during the period of time that I was using to research this. The information I found was for just in general smaller communities nationwide. So...and I'm happy to do more research on just the Hawaii stores, but I do know that they have been targeting the Longs Drugs and you know, specifically looking to go directly in a location across from Longs Drugs. So that's part of their plan, we understand it. Again, we're not anti-business, it's just business. We would just like it to be in scale with the residential community plan that that is available to everybody. That information's available.

Chair Ball: Any other questions for the testifier? Seeing none, thank you.

Ms. Schulenburg: Thank you.

Chair Ball: Would anyone else like to testify at this time? Come forward, please identify yourself and you have three minutes.

Mr. Donovan Domingo: Aloha everyone. My name is Don Domingo or Donovan Domingo. I'm fascinated by this building and I'm not against business either at all, but the runoff that they keep on saying that they're gonna make this hole in the ground to runoff to. I went over there with a shovel onto the proposed area that they're gonna do and they did bring in a lotta gravel. They're making a parking lot back there right now. But even then I dug a few holes and the shallowest one, 11 inches for free standing water. The deepest one was 16 inches free standing water. How you know that is because the color of the ground changes, the smell from the stagnant water that is continuously there appears. So it is stained solid. So them digging a seven-foot hole or however big is gonna completely fill up except for the last foot which only give a couple hundred square or a couple hundred cubic feet of water displacement. Other than that there's nothing. So that's all I was, and then to bring up I just do not understand where this is going with everybody when all you have to do is go out there and dig a hole. That's what they did on my property in order to find out if I could build a home on it or not. They did find a small portion at 16 inches on the back corner of my property. I can't build there. These is from 11 to 16 inches it's all water there so I don't understand that at all. So that's my...

Chair Ball: Thank you. Any questions for the testifier? Commissioner Robinson?

Mr. Robinson: Hey Don, we actually did notice that on the last meeting. But the question I have for you is, do you know what if it was high tide or low tide at that time?

Mr. Domingo: There it doesn't matter high tide or low tide. It doesn't change and that's...and you can tell that by the ground because it's fresh water sitting on top of the sea water. That's what we have there not sea water, we have fresh water. We have it and some of the neighborhood takes advantage of that. The State or the County has taken advantage of that by having wells all through there and feeding off that fresh water and watering everything around, but it is continuous fresh

water. That's the retention...sorry that's the retention of the land. It doesn't go up and down.

Mr. Robinson: Thank you.

Chair Ball: Any further questions? Seeing none, thank you. Would anyone else like to testify at this time? Seeing none, the public testimony is closed. Candace can we get the recommendation from the Staff please?

Ms. Thackerson: Staff recommends that the Commission accept the Planning Department's recommendation of a Finding of Significant Impact.

Chair Ball: Okay, at this time we'll open it up for the Commissioners questions. Usually we have a few. Who would like to start? Commissioner Hudson?

Mr. Hudson: These questions are gonna be for the consultant.

Mr. Schnell: Hello.

Mr. Hudson: Okay, first a comment before a question. Section 4.8.2 change effective 2/5/2013. It should be noted in that. So first question, I'm allow two right? First question, Mr. Jacob Freeman, did anybody contact him?

Mr. Schnell: Mr. Jacob Freeman?

Mr. Hudson: Yes.

Mr. Schnell: Do you know what property he owns?

Mr. Hudson: He owns the property that runoff is gonna go through.

Mr. Schnell: We notified everybody within 500 feet of the application. We did not talk to him specifically.

Mr. Hudson: I think as a good neighbor you should might wanna talk to him 'cause that's gonna directly impact his life. Next item, next question.

Chair Ball: Continue.

Mr. Hudson: When you say in your report that you're going to be using the lao aquifer is that correct?

Mr. Schnell: Water generally for Kihei comes from the lao aquifer, yes.

Mr. Hudson: You mentioned that it makes 20 million gallons per day of which 18.4 are already accounted for. So your usage is not gonna be that much because you're coming in at a good time, right because we still have a million gallons to play with?

Mr. Schnell: Right. Well, Walgreens typically doesn't...a store doesn't use a lot of water, yeah.

Mr. Hudson: Have you done anything besides just referring to existing data to arrive at that? Did you guys look for an alternate water source?

Mr. Schnell: I could ask Darren. I don't believe so, but Darren could you respond? And we have provided a copy of the EA to the Department of Water Supply also.

Mr. Unemori: Darren Unemori, so no, we have not looked for another water source. The property actually has existing water meters on site. And so the only ready source of supply that could meet all potable water and fire protection requirements really is the Department of Water Supply system.

Mr. Hudson: 'Cause I'm limited to on the questions I can ask I'm gonna make this a little broad question.

Chair Ball: You could ask as many as you want, we just have to take turns.

Mr. Hudson: Oh. You're gonna use potable water for landscaping is that correct?

Mr. Unemori: Yes.

Mr. Hudson: What kind of study did you do towards bringing R-1 water in?

Mr. Unemori: We did not do a study on R-1 water. Currently the County's R-1 line is still too far away to reach.

Mr. Hudson: What type of...what have you done to stub out for R-1 water when it comes out? Are there any plans for that?

Mr. Unemori: Actually at this point we're doing the planning very conceptually. I mean, we haven't gotten to the point where we're actually sizing piping or anything for landscaping. But sensibly the landscape irrigation system can be set up so that it can be connected to an R-1 main in the future when it becomes...it is extended in the proximity of the site. We've done that on a number of other projects where there has actually been a requirement to set up for conversion to R-1 when available.

Mr. Hudson: During construction you guys are gonna be R-1 to keep down dust?

Mr. Unemori: I think it will probably be whatever water can be made available. More than likely potable water if that's permitted at the time, if not truck in water from some other nonpotable source.

Chair Ball: Commissioner Duvauchelle?

Ms. Duvauchelle: Darren while you're up there?

Mr. Unemori: Certainly.



Ms. Duvauchelle: Okay, so are you raising this...I notice that the building's actually raised seven feetish, right for flood?

Mr. Unemori: It's at elevation seven.

Ms. Duvauchelle: So are you raising the site also or do you know yet at this point? Are you bringing in import material into the site to raise the existing grade?

Mr. Unemori: We are not able to actually fill the site so that the entire site is in average is higher. We raised the building specifically to meet flood hazard requirements, but the site has to be kept low enough that water, the off site water that comes in from South Kihei Road can still pass through. So we'll make small adjustments to the site, a cut here, a little fill here to basically level it out to create a parking lot and make everything drain properly, but we will be doing no significant elevation changes to the site.

Ms. Duvauchelle: And as far as your...I mean, flooding is obviously an issue in this area.

Mr. Unemori: It certainly is.

Ms. Duvauchelle: And this project cannot solve that problem.

Mr. Unemori: Not the larger issue.

Ms. Duvauchelle: Absolutely, no. But when you do your studies to design your drainage are you basing it on current flooding numbers? Is it a 100-year storm design? Is it...what are you basing your design on?

Mr. Unemori: So as far as the flood hazard requirements that will eventually be need to be addressing a Flood Development Permit those studies are actually based on the analysis that FEMA provides Maui Planning Department and the requirements are basically dictated by FEMA as to what exactly the Maui community can do in allowing for building and planning in the flood hazard areas. On another regulatory tract, the requirements for studying runoff impact from the site itself, Department of Public Works has a set of criteria that we normally use which is like a 50-year storm number in this particular case because of the size of the site. That impact is looked at as well.

Ms. Duvauchelle: So my concern is is that I know you're designing so it will pass through. But right now from all the pictures the site's low. It looks like it actually kinda retains that water as it comes into the site.

Mr. Unemori: Yeah, that's right.

Ms. Duvauchelle: And the detention basin that you have designed is going to handle what is detained currently or will that just...in other worse, will it go around the site through where it would have been detained had the site been left alone?

Mr. Unemori: Okay, so in terms of the hydraulics on the site itself there is an existing, a smaller low

spot near the intersection of Kihei Road and Nohokai Street where the water typically ponds. The retention basin that we'll be providing will be in a different location that will still be able to retain water on site. The net effect of the improvements being done for development will ensure that there's no...the situation isn't made worse by development. That's not to say we're curing the flooding problem—

Ms. Duvauchelle: Correct.

Mr. Unemori: —and are able to prevent large flows from passing through the site as they do now. But as...if you're just looking at the development itself and its associated changes it takes care of itself.

Ms. Duvauchelle: One more?

Chair Ball: Commissioner Duvauchelle?

Ms. Duvauchelle: I think that you've done a great job. That all the project people addressing the design, the aesthetics. I would just encourage you that as you're going through actually designing the infrastructure is that you try to take some of the water coming into the property and handle it. Whether that's an underground infiltration system, whatever it is, but if you can try to maintain or take some of that water rather than just passing it through, okay.

Mr. Unemori: Thank you.

Chair Ball: Further questions? Commissioner Hedani?

Mr. Hedani: I guess this is with Darren since he has the toughest job.

Ms. Duvauchelle: Yeah, he's got the hard spot today.

Mr. Hedani: In a normal situation...I'm just trying to understand the situation. In a normal situation a site drains towards the street, the street takes the drainage, it puts it into a drainageway and it ends up wherever it supposed to end up.

Mr. Unemori: Right.

Mr. Hedani: In this particular case it sounds like the opposite. The street when it floods, when its systems are overrun, dumps water onto the private property.

Mr. Unemori: Yes.

Mr. Hedani: And from a legal standpoint you're required at that point to accept the runoff coming from the street?

Mr. Unemori: I can't speak to the legality of the situation. But I can speak to the practicality of the situation and the situation in this particular case is unusual from the typical situation that you described largely because there is no real drainage infrastructure in the street to handle storm

water runoff. And there's some...a portion of the storm drainage system that ends about where Longs and McDonalds are we aren't able to tie into that system and elsewhere along Nohokai. There really isn't a conventional underground storm drainage system that takes you to you know a large basin or off site facility or to the ocean like you would see in most typical urban areas. So what we're really left with is an area that has no inherent drainage infrastructure. All that off site runoff has to go somewhere. And although Walgreens would like not to have the runoff go through it, there really is no other choice. We cannot block that one off without impacting everybody else around us so it's a necessity that that water be allowed to pass through. It's not really a practical option because of the impact blocking that water would cause.

Mr. Hedani: Okay. You know—

Chair Ball: Commissioner Hedani?

Mr. Hedani: —you know, when I look at the drainage arrows on the site, the only arrow that bothers me is the one that leaves the site into that guy's house.

Mr. Unemori: Certainly.

Mr. Hedani: And from a practical engineering standpoint I'm thinking if you built a berm on your retention basin high enough so that the water couldn't go through that corner of the lot what would happen to the water? It would go back out to the street, right?

Mr. Unemori: Well, that corner of the site is low enough that if are actually able to build it up, we kind of looked at that situation actually in this idea of putting up a flood barrier, if we were to do a solid wall or raise a berm of significant height what would actually happen is we would raise the water on the site as we held it, but unfortunately what would also happen is because we're dealing with a flow, it's not just static water you would actually also raise the water at McDonalds and the adjoining residential neighbors on the opposite side of that barrier. So it's almost like if you ever stuck your hand in running water or you know, built a low dam in the stream when you were a kid, the water upstream of the dam builds up or the barrier builds up and that's what we'd do to the adjoining lands on the higher side of the barrier. So that's one of the problems with adjusting elevations on the site. It's difficult to do that without creating greater impacts than you're trying to solve. We kinda shift around the damage...(inaudible)...so that's something we're...we've considered but we aren't able to do for this site because of its small scale, because of its proximity as a, you know, drainage corridor.

Mr. Hedani: Is it a natural water course?

Mr. Unemori: It's not a natural course in the sense that like a gully is. There's a low spot in Kihei Road where water comes across the street. The subdivision to one side and McDonalds to the other side kind of built up so what's left is sort of like a pass or an opening that is low enough to get to the ocean side on the other side. So I can't speak to the full history of the area but the topography indicates that because of the way it has been developed right now that's the way the water passes through.

Mr. Hedani: Okay.

Chair Ball: While you're up there Darren?

Mr. Unemori: Certainly.

Chair Ball: There's some testimony about the retention basin being filled in with water that's currently there.

Mr. Unemori: Yes.

Chair Ball: Do you have an answer to that?

Mr. Unemori: Well, the testifier is correct. The water table is relatively high. It's about at elevation two feet and I think Commissioner Robinson had asked a question similar to that when we looked at the...I think it was the archaeological study the last time. And we are looking at a basin that is basically very broad and very shallow as a result of that. So really it won't be holding more than about two feet of water at any time, and really we'll take it up to the maximum limit and down to the water table. So we're not counting water that's below the water table. But as Commissioner Hedani had asked we aren't able to unfortunately go up very high because once we start...we pass a certain point we start creating barriers to flow and that can impact the neighbors in other words.

Chair Ball: Okay, further questions? Commissioner Robinson?

Mr. Robinson: On to talking about the study with the three-foot basin and we said that...on your retention basin was at three feet is that correct?

Mr. Unemori: Actually about two feet.

Mr. Robinson: Was at two feet?

Mr. Unemori: Yeah.

Mr. Robinson: Two feet below four foot, four feet, three inches.

Mr. Unemori: Roughly, the top would be roughly about four, the water table would be roughly about two.

Mr. Robinson: Okay, yet the irrigation study showed that we didn't have two feet to go below?

Mr. Unemori: Yeah actually--

Mr. Robinson: So, so, so did you do any calculations for adjustment to where the retention would be 16 inches or 14 inches?

Mr. Unemori: Actually we took a look, a closer look at that study and the thing that was throwing us off the last time was there was a scale on one side of the diagram that showed, it was marked one like as if it were one foot. It turns out that depth was actually one meter so the location in which

the trench was dug was actually...I think it was like two-thirds of a meter to the water table so it was pretty consistent.

Mr. Robinson: Can you, can you show that please?

Mr. Unemori: Sure.

Mr. Robinson: Which one of the big books?

Unidentified Speaker: What you're referring to is the archaeological inventory?

Mr. Robinson: Yes.

Mr. Schnell: So that's one of the appendixes, and it's Appendix C in your book and it's towards back, photographs of the trenches.

Mr. Robinson: I have the pictures in front of me. So as far as where you're saying it's a meter can you help me where that is stated?

Mr. Unemori: So the location of the retention basin is shown by this trench at Photograph 5, Page 31 of the report.

Mr. Robinson: Do you know what figure it is on top of the drawing?

Mr. Unemori: Appendix A, Photograph 5.

Mr. Robinson: I see the photograph and then you have the figures after that to show the depths.

Mr. Unemori: So the figure showing the depth is Figure 8 with Figure 5 on the top and the vertical scale running from zero to one that's in meters. More specifically there's also a table, Table 2 on Page 22 which if you look at the entry for backhoe trench 1, BT1, it's the top line of Table 2, there is a notation on there water table at 75 centimeters below surface, that's two and a half feet. So apparently the archaeologists measure everything in the metric system so it's...I found that out after I looked at the report in more detail.

Mr. Robinson: BT1?

Mr. Unemori: BT1 can also be seen on Map 3.

Mr. Robinson: I got you. So it's at two and a half, it's at two and a half feet is what your testimony is.

Mr. Unemori: So the...and this particular report has the ground elevation at about four to four and a half feet and we're going down about two and a half feet say so, so it's consistent with our assumption of the water table being down at about elevation two to be a little conservative.

Mr. Robinson: Do you have a topography map 'cause my topography map shows four feet. It

shows 4.3 feet in the parking lot and if you look at the back of the basin there's a line going across the topography it says four feet.

Mr. Unemori: Oh, that's the post development topography, right, Figure 3.4.

Mr. Robinson: I have it a grey line going across the storm water retention pond.

Mr. Unemori: I'm sorry--

Mr. Robinson: I don't have anything at 4'6".

Mr. Schnell: Here on the top, this one here?

Mr. Unemori: Yep.

Mr. Robinson: You can't see it on that one, but I have it on...their Exhibit 3.4.

Mr. Unemori: Yeah, so the elevation's marked on the mauka side of the basin 4.3.4...4.3, that's roughly where the top of the parking lot is or the edge of the parking is and the basin's below that.

Mr. Robinson: So it has to be lower than 4.3, can't be 4.6 or the water's not gonna go up, right?

Mr. Unemori: Well, actually it could be a little bit higher. It's just that what we're trying to do is just make sure that the site is low enough because the problem that happens is you see the intersection at Nohokai and South Kihei Road if I raise the site on the low side then I become higher than that intersection. To keep from flooding the intersection I need to keep the site lower than the intersection. So it would up a little bit more not significantly. I couldn't bring it up to elevation six or something.

Mr. Robinson: Okay.

Chair Ball: Commissioner Robinson?

Mr. Robinson: Going on what Commissioner Hedani was saying about accepting the, what was it Duvauchelle, accepting the current water that's on the property as it's draining out...so, so, is my understanding is you have to accept all the water of that square foot that you're generating plus the...and you have to equate the difference of usage from being porous and collecting say .7 to where you guys are like a higher level of water now because it's asphalt and no water seeps through, correct?

Mr. Unemori: So...I think and I understand what you're describing so the...based on the type of method, calculation method that you're describing, rational formula, we are obligated to take at least what was...I guess the regulation for development requires that we take at least the water that we generate above and beyond what is already sent downstream. But in this particular case because there is a...we recognize there is a flood hazard we go beyond that. We basically hold everything we generate on site. So what gets sent down...if there were no flooding in the rest of Kihei, if water wasn't coming down the hill, then that site would basically discharge zero towards the neighborhood

whereas now it might discharge, you know, 3 cfs or something like that. So we actually use the basin to hold everything we generate. The problem with flooding in the area though isn't because that parking lot is generating water it's because we've got, you know, nine square miles sending water into us. So it's...we do what we can and we do as much as we can, but although we mitigate our share of it and then some, the flooding still remains because of the off site contribution that we cannot effectively deal with.

Chair Ball: Okay, we will be in recess till 1 o'clock.

A recess was called at 12:03 p.m., and the meeting was reconvened at 1:03 p.m.

Chair Ball: Calling this meeting back to order, we are on Item D-1, the Walgreens in Kihei. Let's see where we were. Questions from the Commissioners continuing. Do we want...did we satisfy questions for Darren Unemori? Are there further questions on that? I have a question Darren for you.

Mr. Schnell: Okay.

Chair Ball: There's a question for Darren the displacement of the fill to the depth of the base of the retention basin. Is that offset each other because you're coming up seven feet to the—

Mr. Unemori: I think I follow what your question's asking about. So the FEMA flood regulations require that we develop the site in a way that creates no rise in the flood water service. Planning Department's method of doing that for our particular situation because there's a lack of a certain designation by FEMA is to allow you to basically offset the displacement that a building might create on site if you say lower the grade in another location. So basically there's a net volume...the volume change under the water service net out at zero. So that's effectively what we do by raising a building so we create a displacement under the building and we create a negative displacement by scooping out the detention basin or retention basin at the far side of the site. So the two them are intended to net out each other and that's how we pretty much arrive at the basin volume. So the basin volume will really be whatever the building displaces.

Chair Ball: Okay. Further questions for the applicant? Commissioner Hedani?

Mr. Hedani: Actually I guess this is a question for Public Works.

Chair Ball: Okay.

Mr. Hedani: Is there a plan for off site drainage in the area in general that would help to mitigate some of the flooding problems that this area is encountering?

Ms. Dagdag-Andaya: So thank you for the question Commissioner Hedani. We have...I'm gonna make mention of two things. One is South Kihei Road Phase 4 that is a project that had been I believe started when my director was director the first time, but it never, it was never...it never moved forward because of I guess there were concerns about that project that needed to be addressed. However, we are moving forward with the planning for South Kihei Road Phase 4 and that would include drainage improvements for the local area, drainage improvements along South

Kihei Road.

And then as I've mentioned before we had the South Maui Drainage Master Plan contracted out. We did receive the draft copy of the plan so that's currently under review in our department right now and in it, it does provide recommendations for off site drainage whether it...you know, I mean we're looking at detention basins upstream. But again, yeah I did wanna mention that there is a local area project that we're looking into that would help address some of those drainage concerns.

Chair Ball: Further questions? Commissioner Robinson?

Mr. Robinson: Mr. Schnell?

Mr. Schnell: Yes, hi.

Mr. Robinson: Welcome back to Maui.

Mr. Schnell: Thank you.

Mr. Robinson: I have a question regarding the new design that you have for the Walgreens was that with the Urban Review's recommendation or did you guys do that on your own?

Mr. Schnell: We did not go back to Urban Design Review Board, but we incorporated their comments in that design. We could go back to them if you'd like.

Mr. Robinson: But you did those improvements on your own?

Mr. Schnell: The architect made the changes based on comments we received from Urban Design Review Board as well as community and you folks.

Mr. Robinson: Okay, thank you. I think the building looks so much better than previous. The question I have is I notice you took some recommendations into hand. What's holding us back from the recommendation besides the perceived notion that a middle-aged woman would wanna have a parking lot in front of a street instead of it being a walk through place? 'Cause I see where we can move it in a corner and have it both. So besides that one element that you explained what prevents us from moving the store towards the street?

Mr. Schnell: You mean as far as...

Mr. Robinson: You mentioned safety for middle-aged women they didn't wanna a store on the street. I never heard that before but I'm taking your word that you have some studies somewhere.

Mr. Schnell: Walgreens can definitely support that, right. That's their customer base of you know, people wanna feel safe when they enter the store especially at night when it's dark. They don't wanna go to the back of the store where there's not a lot of surveillance or eyes on the street. So that's one of the reasons for the store and parking lot in the front.

Mr. Robinson: If the community is asking for a street that move up to the street besides just middle-



aged women, all the women and a lot of the men too are asking to do it to the street which is also I assume your customers is what's holding you back from thinking about that or having that as an option?

Mr. Schnell: I don't wanna foreclose any design review or design changes at this point. I wanna think about the EA's kinda let's say in the largest and worst ...let's say worst case scenario or the most that we could talk about. I think if you move the store site around on the site, the EA is still valid because it still talks about the general impacts of the project. But Larry, I don't know if you can address the street frontage issue a little bit better than I can?

Mr. Larry Adler: Hi, I'm Larry Adler from Walgreens.

Mr. Robinson: Hi Larry.

Mr. Adler: The issue of convenience and safety is one that was brought up already. The other issue in this particular site is if you move that store to the front I think we'd have a real hard time putting a drive thru in on the backside. You'd end up having to kinda do a U-turn and then where's the parking gonna go. I think we're pretty tight here for that kind of approach. But there are the other basic business operation that's usually our major concern is that we want people to feel like this is a convenient place to come in and park and see where they're gonna be and go back to their car and leave. That's one thing. The other thing here, I think if you moved everything up I don't know where, how we would get the drive thru circulation with not just losing a whole bunch of...we could lose some parking but we can't lose all of the parking.

So the drive thru, the question was why is the drive thru important? The drive thru is important for us to provide, you know, people picking up prescriptions who are either sick, don't wanna come in, you know, into the store and be coughing and be sick on everybody or whatever, don't feel like walking into the store. Elderly people, disabled people who can drive in and easily get their prescriptions, and also you know, mothers and families with children who don't wanna have to drag everybody into the store, maybe some of them are sick as well. So a drive thru is important to us. It's a little bit of differentiator for us as well.

Mr. Robinson: Yeah, I haven't heard anybody complain about the drive thru. I think that's a-

Mr. Adler: No, but Tom was just asking you know what's the reason for the drive thru. So I think it's the drive thru and the convenience and the safety factor are the reasons why we would be opposed to pulling it up to the street. And I think that we've tried to do some landscaping elements with the meandering sidewalks and stuff to kind of create more of a feel of that being more than just a straight sidewalk. I know in Maui Lani we worked a little bit with some trellises and things that you know, we can also talk about further as we continue, if we continue in the process that we can talk about those things.

Chair Ball: Commissioner Hedani?

Mr. Hedani: While we have you up there, I wanted to compliment you on the architectural design changes to the building. I think the changes are highly more reflective of a Hawaiian sense of place than what was there before. And although it's difficult to change from a standard design to a

modified design, from my perspective I think it went a long ways towards reducing the scale of the building, making it more residential in feel. Your height is actually lower than the height of my house up in Wailuku Heights. So I can appreciate you know, what you went through in order to achieve that from the original 35-foot height that you had. So I wanted to compliment you on that. From my perspective in the future I think a sidewalk on the Nohokai side would be very nice as well and appreciated by the residents on that side.

Mr. Adler: Yeah, and that's definitely something we've talked about. You know, we're trying to take these small steps together to kind of...you know, last time we came we were told well we didn't really wanna touch it so that's kinda what we show. But you know, we'll be developing it with all the comments as we move forward and I appreciate your comment about the design. Obviously that was the design team's work, but you know we're trying to be...I know we're a mainland company but we're trying to be, you know, locally influenced and a local store and a local pharmacy for the community. So that's the intention, not just from the architecture that you can see, but I know there was a list of vendors and we're also trying to have locally sourced products and as much local elements as we can. It's good for us, it's good for the community, and I know that there's representatives from those vendors that would speak to that as well.

Mr. Hedani: Thank you.

Chair Ball: Commissioner Robinson?

Mr. Robinson: Speaking towards the competition of your competitor across the street. I have no problem with that. In fact I think it's fantastic that people are gonna have an option especially if you're cheaper and you're more efficient in all those things and you guys thrive, good for your and good for the people 'cause they chose you. So to me that's a...competition is good. But with the community wanting...you know with them saying okay, well we don't want this to happen, but if it does happen you know wish they'd look at those conditions. Did you guys get a copy of that, of that paper? Did you get it prior to today?

Unidentified Speaker: We got it in December, I believe we got from Randy Wagner...(inaudible-speaking from the audience)...

Mr. Robinson: Okay is with those if you could touch on the size of the building which was brought up today?

Mr. Adler: Sure.

Mr. Robinson: And then if you do have chance maybe see if any of those recommendations of that list that they did, that you guys did go ahead and agree with and see that it might be a possibility.

Mr. Schnell: Let me lead off on this one and then Larry can address store size 'cause he's much more familiar with Walgreen's model and what they need economically, but when I look at the list and did get the questions in December, and if I go through the list there's 13 on the list. I see a lot more yeses and check off the list that yes we can do this and there are fine. I mean, we're talking off the top of my head we're talking about more landscaping, yes we can do that. A side walk on Nohokai Street, yes we can do that. There was a concern about reducing parking and pervious

areas, we have more parking than required by Code, so yes we can do that. There are many things on that list that we can do and we're willing to, you know, incorporate into the design.

As far as store size, I can't speak to that and I'll let Larry speak to it, but there is a certain economic model that they're looking for to make the store viable and I'll let Larry talk about that.

Mr. Adler: Yeah, so in regards to list overall, obviously we're responsive. I hope you can see that.

Chair Ball: Sorry, identify yourself.

Mr. Adler: Oh, I'm sorry. This is Larry Adler again. I hope you can see that we're trying to be responsive to the comments of not only the Commission but the community. So yes, it's kind of a work in progress this list and we'll go through it.

As far as the store size goes, there's a certain metric, you know, I'm not the analytics guy but there's a certain amount of lineal foot that we have in a store, certain retail space, a certain number of departments that makes the sales projections viable. If you add on that the constraints of just being in Maui we need a certain size stock room in order to store what we need because we do only get shipments every once a week and we don't have a distribution center not only in Maui but we don't have a distribution in Hawaii so the stores need to be of certain size. Now this is no bigger than our average stores in fact, it's much our standard model. But the stores that were being referenced as smaller stores typically those are urban store very high foot traffic that can offset some of the restrictions or the some of the restrictions that you have on a smaller footprint. Also if you're in an urban environment where it's mostly foot traffic like in San Francisco or something the products and the products sizes you know, mostly people aren't buying rolls of paper towels or toilet paper, they're buying a different subset of category of product. So the size really it does matter to us as well. It's very important that we have that size of retail space in order to make the lineal footage. You know, I think the retail, actual area of the store that you would shop would be like 10,000 square feet and the rest of it is is the stock room and all the offices and stuff that go along with operating a store. So in order to make it viable from a sales perspective that's what driving that square footage of store. Does that answer the question?

Chair Ball: Further questions? I have a question. I think it's more towards Public Works. As far as the Nohokai intersection and crosswalk. One, will you be putting those lights like you have further down South Kihei Road? I was just down there this weekend, they're very effective for people crossing the road and I know there are kids that live in that neighborhood that cross the street there so that would be helpful. The other issue is that was brought up is that stretch from Nohokai down to Lipoa like that whole section is just like so...yeah, it's congested and the lights are untimed and that whole thing. So I don't know if you guys are working on that or whatever and it's not Walgreens problem, it's the County's problem. It's Public Works problems in particular, yeah. Can you comment on that?

Ms. Dagdag-Andaya: I'm not sure how you want Public Works to comment on that. I really don't...I don't know what you...

Chair Ball: Well as far as improving that area from Nohokai to Lipoa are you guys looking at that? I mean, everybody knows it's super congested there and I don't know if there's things that we can

do to alleviate that. Maybe you know, roundabouts or whatever, I don't know timed lights, I don't know.

Ms. Dagdag-Andaya: Well, and you know along with the Drainage Master Plan that we have currently in draft, we are embarking on a South Maui Traffic Plan that will assess all these different areas in addition to mauka areas as well. So you know, it very well could be that there may be some suggested improvements as part of that study. But in the meantime with what the applicant has been...has proposed, that left turn lane you know for both sides that I think that will, that will help because you would have an opportunity to like a storage lane, you know if someone's trying to make a left out of the property they, you know, they can use that as a refuge lane as they cross over onto the...to go north and same for somebody who's trying to make a left into the property or I'm sorry, left into the property from the southern end. So that middle lane will assist and help. And then I think you made mention about the rapid flashing beacons and yes, they have been very effective in a lot of high traffic, high pedestrian traffic areas. So we're looking at...because they're so popular now everyone's asking for that instead of speed tables. So we need to develop a policy and see where these flashing beacons are most effective because they are pretty costly. But I think in time, I mean if that's a suggestion that the community has in putting in those rapid flashing beacons that's something that we should, the department would need to assess and work with the developer.

Chair Ball: Thank you. Further questions for....Commissioner Robinson?

Mr. Robinson: I have a question for the testifier who dug a hole in the ground is he still here?

Chair Ball: No, we've finished that part of it.

Mr. Robinson: I can't ask him a question?

Chair Ball: No. But you can ask them a question. You can ask the applicant.

Mr. Robinson: I'm not able to ask the testifier?

Chair Ball: No. We closed the public testimony.

Mr. Robinson: Okay.

Chair Ball: Ask the applicant the question.

Mr. Robinson: I guess Tom I'm allowed to only ask you.

Mr. Schnell: I think this will be for Darren.

Mr. Robinson: Yeah.

Mr. Schnell: As far as ground water and depth of the water table.

Mr. Robinson: I'll just ask the question.

Mr. Schnell: Sure.

Mr. Robinson: Did either one of you folks talk to the man who suggested that he dug a hole and it was less than two feet deep like your study shows and if you did, did you guys come to a conclusion together.

Mr. Schnell: I have not spoken to him. I'm not sure if Darren did. I know it depends on where you dig a hole on the property 'cause the site appears flat but it does have variations.

Mr. Unemori: Darren Unemori. And yes, Mr. Domingo and I spoke briefly and so he was...expressed again his concern that the water was very low and close to the surface. I didn't quite understand his reference to the comparison on TMKs that he kind of explained to me, but the high water table is a concern and I think what we will need to do certainly is work with the elevation of the table because obviously you can't hold additional water below ground water level. Certainly I think at the time of, at least by the time of construction we probably should have more investigation done to determine where exactly that water table is. So we'll have more information on exactly where to set grades.

At this point, I think we've got enough preliminary information to kind of frame the concept, frame a workable concept but certainly going forward I think it's probably sensible to investigate to make sure that our assumptions are all on track. The other thing that Mr. Domingo mentioned was I guess he...because we're so close to the water table and we're gonna be excavating pretty much down to water table, being a neighbor he didn't want that open I guess marshy ground left open, so my intent was to talk to Tom and PBR landscaping guys to see if there might be something we can propose that would make certain that pond is not unpleasant to live with by the neighbors. So that discussion hasn't happened but that's my thought process after talking to Mr. Domingo.

Chair Ball: Commissioner Hudson?

Mr. Hudson: So correct me if I'm wrong. We're here for a FONSI?

Mr. Spence: Correct.

Mr. Hudson: But we really don't know if this is going to be an impact because no study was done on that is that correct? Am I misreading that?

Mr. Spence: I'll let the engineer.

Mr. Hudson: You just said that you don't know and you won't know until you do more studies.

Mr. Unemori: So the...I guess we do have some information about the ground water table from not only archaeological record but the soils engineer did some borings in that area so we believe our placement of the elevation of the water table is correct, but you know, it certainly makes sense to double check as we go along. And if it varies, it's not gonna vary like five feet. It's gonna be a foot higher, you know a few inches lower or something like that but we will want to confirm where it is and certain design the pond large enough to accommodate the volume we need to accommodate, so...

Mr. Hudson: So what we're voting on today might change then?

Mr. Unemori: I don't think that it would make a significant difference because fundamentally the concept is still the same. We just have to work through the details of how we finally implement it.

Chair Ball: Director.

Unidentified Speaker: The pond could be larger.

Mr. Unemori: Yeah, the pond could be larger, it could be smaller depending on how the...where the water table ends up.

Chair Ball: Director?

Mr. Spence: Commissioners just a reminder, we're gonna see this project twice more. We're gonna see this for the SMA and the Change in Zoning where the Commission will...It will hold the public hearing on the SMA but also public hearing for the Change in Zoning. This Commission will make a recommendation to the County Council on the zoning and then...but you can't make a ...you can't approve the SMA until the zoning is changed. So then after it gets up to Council and go through the process up there, it's gonna come back down for action on the Special Management Area Permit. So there's some time to do some additional investigation. I don't know when SMA is, if the Special Management Area and Change in Zoning is set for hearing or not. It shouldn't be too long, but there's some additional time to do the SMA. Hopefully some of these are questions that can be answered. But the purpose of the EA is to bring up all these issues and disclosure whether, you know, that they're insurmountable or not, they can be mitigated or not, it sounds like it's more than just design issues than anything else. So basically we're here today to deal with finding the adequacy of the EA and so forth on that.

Chair Ball: Public Works?

Ms. Dagdag-Andaya: Okay, just wanted to add Commissioner Hudson that I did go back our chief engineer and made mention of the concerns that had been brought up before the Commission broke before lunch and he is...you know, we still...we don't...I think these are areas that are still in conceptual design and that will continue to need to be firmed up as you move towards construction or as you move towards the change in zoning and the SMA process. At this point, the staff does feel comfortable in the issuance of the FONSI and feel that we can work with the project consultants and with the applicant in developing maybe specific best management practices or even conditions should the Commission proceed to move forward with this project. I mean, we're looking at enhanced BMPs new, even new regulations. We're looking at storm water quality in addition to drainage. So those are things that do not just stop after the issuance of the Final EA. As the project develops we still do additional reviews on this, but at this point the Department of Public Works does support the issuance of the FONSI as recommended by the Planning Department.

Chair Ball: Director?

Mr. Spence: Just one other comment that to me I'm satisfied that the potential impacts have been disclosed and all that with additional permitting through the SMA and zoning, you know, some of

those things will be fine tuned. Ultimately it comes down to the engineers in Public Works, they're really kind of buggers about this kind of thing. They're not gonna issue grading permits or other permits until they're completely satisfied that everything is mitigated properly. And they will put whatever ends up with this Commission for the SMA Permit they're gonna add additional BMPs and everything. So I think we're pretty safe on the drainage issue.

Chair Ball: Okay, further questions? Seeing none, is there a motion? Commissioner Hedani?

Mr. Hedani: I move that we accept the Final Environmental Assessment and Determination as recommended by Staff for a Finding of No Significant Impact.

Chair Ball: Is there a second?

Ms. Duvauchelle: I'll second.

Chair Ball: Second by Commissioner Duvauchelle. Further discussion? Commissioner Hedani?

Mr. Hedani: I understand that there's a concern over drainage. I also understand that the applicant has addressed the drainage concern to the extent that they're legally obligated to accept off site water flowing onto the property from public roads actually onto the property and that the alternatives that they have are very limited under those circumstances. I do appreciate the response that they have given to the Commission's concerns and the public's concerns about the appearance and the massiveness of the building and from my perspective that's been drastically reduced and it has an entirely different sense of place when you look at the building and it's much more pleasant than what was there before. It is very expensive to do that but I appreciate the fact that they've addressed it. The document is very thick, it's very thorough. They've addressed questions of the water table. They've dug trenches until they hit water. Water will fluctuate throughout the course of the year based on the season so it's not something that's exact you know for all time in one photograph and I believe that they've met the requirements for an Environmental Assessment and a Finding of No Significant at this point.

Chair Ball: Any further comments? Commissioner Hudson?

Mr. Hudson: The vote is whether or not there's a significant impact or not, simple, straightforward. Significant impact would be social impact, economic impact or impact in the resources of our County and that's where the vote is gonna be limited to. Appreciate the comments from Public Works it made it very clear for me. But there are some things that I'd like to address even before we get to the vote which will be shortcoming. R-1 for construction shouldn't be a maybe, it should be a guaranteed. While there is cost involved it's not cost prohibitive. R-1 stubouts should definitely installed plus at some point in the future that water's gonna be down there and I cannot see using potable water to landscape. It just doesn't make no sense. Alternate water sources, it shouldn't just be oh, well there's enough water we're just gonna take it. Water is a very, very limited resource and everybody should be required to get alternate sources of water and being a good neighbor somebody should contact this guy whose water is gonna come running through his property and it doesn't mean we contacted everybody in the neighborhood so we sorta contacted him. uh, uh, this is knock on the door, hello I'm so and so, we're gonna be impacting your life. Because of Public Works I will vote to deny it but I will never vote to support it unless everything is

in order and right now it is not. Thank you.

Chair Ball: Thank you. Further comments, Commissioner Robinson?

Mr. Robinson: On that note, Commissioner Hudson, it is the FONSI and as I recall the last time we skipped out because we know they're coming two times back, we couldn't revisit the FONSI. The FONSI once we say it's okay, it's always okay, and I'm not convinced that there's not gonna be significant impact to this guy the way this water is going through. We had three lots of water that was naturally disbursed on regular elevation and we're curtailing that to go out of one exit point. And I haven't seen anything expanded besides just this lot of where this amount of water is gonna go regardless of it doesn't matter if they made the water or not, but they're changing the flow of the natural water. They're changing the flow from three lots coming down to we're gonna funnel it to the right. The catch basement is to catch what the water they would generate, but it's funneling the water into an area to where again, we don't know with this neighbor and how it's gonna impact them to where I mean, talk about a possible nightmare, you know. And I don't feel comfortable saying that there's no significant impact when we don't really know this. You know, it would be great if the neighbor was talked to, great if we did the study, it would be great if we had alternatives that, you know, we do this or that if it does impact it but I haven't...I've seen zero information saying that this person is not gonna be impacted negatively. Thank you.

Chair Ball: Any further comments? Seeing none, call for the vote. All in favor raise your hand and say, "aye".

Mr. Spence: That's three ayes.

Chair Ball: Three ayes. Opposed same sign?

Mr. Spence: One nay.

Chair Ball: And one...

Mr. Hudson: My abstention it counts towards the affirmative, right?

Chair Ball: Correct.

Mr. Spence: That's four ayes.

Mr. Hudson: And one nay.

Mr. Spence: And one nay.

**It was moved by Mr. Hedani, seconded by Ms. Duvauchelle, and**

**The Motion to Accept the Final Environmental Assessment as a Findings of No Significant Impact (FONSI) FAILED.**

**(Assenting - W. Hedani, S. Duvauchelle, K. Ball, L. Hudson - Abstained)  
(Dissenting - K. Robinson)**



**(Excused - R. Higashi, I. Lay, J. Medeiros, M. Tsai)**

Chair Ball: So we are looking for another motion. Commissioner Hedani?

Mr. Hedani: Move to defer until we get more participation from the balance of the Commission.

Chair Ball: A motion to defer is there a second.

Mr. Hudson: Second.

Chair Ball: Second by Commissioner Hudson. All in favor of deferral raise your... I'm sorry, discussion?

Mr. Robinson: I have a question.

Chair Ball: Commissioner Robinson?

Mr. Robinson: I apologize but I would feel a lot more comfortable, if I'm allowed to...I don't know if I'm allowed to, we all gotta go but I'd like to see the ditch for myself and see the heights. I have two different testimonies saying the height of the water and the drainage and I've never been on this street on the side. I don't know how it affects that neighbor going in there. I don't know, am I able on my own if we defer this to go down and take a look or how does that work?

Chair Ball: Director?

Mr. Spence: Commissioners are not supposed to do their own private investigations. The Commission acts upon the information that they have before them. There have been times when the Commission has requested to do site visits. So if the Commission as a whole wanted to do that they certainly could.

Chair Ball: Commissioner Hudson?

Mr. Hudson: What involves requesting a site visit?

Mr. Spence: A motion. You wanna go see it and we would have to schedule it and notice it and  
—

Chair Ball: It's like having a meeting. We gotta follow the Sunshine Law.

Mr. Spence: It is having a meeting, an official meeting. I see Gary moving toward the mic.

Chair Ball: Corporation Counsel?

Mr. Murai: No, no, no, I was only going to step in...you're correct. A site visit is like a meeting. It has to be posted, it has to have an agenda, the public is entitled to you know, to be there unless it's a you know, sometimes construction sites are inherently dangerous so the public can be excluded but it doesn't sound like there's anything really going on that would be dangerous for the

public to be there. If the Commission wants to schedule a site visit then it's like any other meeting except it will be outdoors.

Mr. Robinson: Question?

Chair Ball: Commissioner Robinson?

Mr. Robinson: I remember reading in a...with the Hana Advisory where they had a subcommittee just go out so that the whole commission didn't have to go. They had three people I believe go to that quarry to do a site visit. Would that be something here that the Commissioners that would like to be in that subcommittee can elect to go?

Chair Ball: Corporation Counsel?

Mr. Murai: The Commission can appoint what's called a permitted interaction group or a temporary interaction group that would not be subject to Sunshine Law, but what you'd...so you know, you could appoint a subcommittee that could do, could you know, check the place out and report back to the Commission. But again, what I'm not sure about is the distinction between conducting and investigation. You know as the Directors cautions Commissioners not to do. But you know, but the rules do allow for the formation of subcommittees.

Chair Ball: And I believe the rules are there to have the committee go and gather information and reports back to the body. Director?

Mr. Spence: And I know there's specific Robert's Rules that apply if it's less than a quorum and number of other things...I'd feel more comfortable if we received those prior to appointing a committee.

Chair Ball: Defer is on the table right now. So if we defer it then we get the rest. You know if can have more members present too would be better if we take that vote to make a subcommittee also.

Mr. Robinson: I think so and I think with the Kihei representatives being here will also help too. So that's a...you have a vote on the floor to defer.

Chair Ball: Okay, well let's vote. All in favor of deferring say, "aye" and raise your hand.

Commission Members: Aye.

Mr. Spence: Five ayes. Motion carried for deferral.

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

**VOTED: To Defer the Matter in Order to Have More Members Present.  
(Assenting - W. Hedani, L. Hudson, S. Duvauchelle, K. Robinson,  
K. Ball)  
(Excused - R. Higashi, I. Lay, J. Medeiros, R. Higashi)**

Ms. Thackerson: Can I get clarification on the deferral as far as to when?

Chair Ball: Planner Thackerson?

Ms. Thackerson: Thank you. Just when you would like to see the project come back and what extra additional information you are looking for as the reason for your deferral.

Chair Ball: I believe we have to agenda item the discussion of the subcommittee and that could happen at the next meeting I suppose if we're gonna do that, but I guess we just put this...how do we create the agenda item to make a discussion of the subcommittee unless we bring the whole thing back.

Mr. Spence: I don't know, ...(inaudible)...back.

Chair Ball: Okay.

Ms. Thackerson: So when are we deferring the item until and what's the...what information do you wanna see back on it? Just you wanna wait for more members?

Mr. Spence: We'll figure out how to agendize it either a site visit or appoint a committee or something like that.

Chair Ball: Commissioner Hedani?

Mr. Hedani: Personally I would oppose a site visit. I'm familiar with the site. I'm familiar with South Kihei Road. I've driven on South Kihei Road when it was covered with one and a half feet of water and you couldn't see eight-foot drops next to the roadway that existed. I understand the conditions of South Kihei Road and visiting this particular site would not provide me with more information than I already have.

Chair Ball: As the Chair I would say we reagendize the item and hopefully there'll be more members present. If the body feels that they need to investigate it at that time then we can discuss then. If not, then we just vote on it and if it passes, it passes. So we just reagenda like we've done in the past when we've deferred something we reagenda the item and I don't know who makes the schedule but you know, whatever you guys gotta work on that. Commissioner Duvauchelle?

Ms. Duvauchelle: But are we asking the applicant...if we're deferring it, what are we requesting the applicant to come back with more information on? Do we tell them that at this point?

Chair Ball: I think they have items on there but...

Mr. Spence: I don't we, Mr. Chairman?

Chair Ball: Director?

Mr. Spence: I don't think we've asked them to come back with additional information at this point. The motion was to defer so there could be more commissioners involved with the discussion.

Ms. Duvauchelle: Okay.

Chair Ball: Yes, I concur with that. Commissioner Hedani?

Mr. Hedani: I think...well, everybody should be reminded to hang onto all of your material because we're going to see this all one more time and not just toss it in the recycle bin. And the other...I wanted to add two other comments if I could?

While I have great respect for the Kihei Community Association, I took exception to the letter that they provided to us today where they stated that the proposed project was unacceptable to them. It's not for the Kihei Community Association to say whether a project is acceptable or not acceptable to this Commission. This Commission decides on its own what is acceptable and not acceptable from our perspective. And to have a letter outlining requirements for the project I also thought was overstepping. If anything, it's a recommendation to the Planning Commission of suggestions that they feel would be appropriate for the project. And they shouldn't be dictating one way or another what private property rights exist for a specific piece of property. You know, it's urbanized, it's community planned business. It's not zoned yet because the zoning hasn't followed the community plan but those are processes that respect the private property rights of the owner of the property that's pursuing this particular project and I think we need to understand those rights and their ability to pursue.

Chair Ball: Is that your second? Is that two in one? Commissioner Hudson?

Mr. Hudson: I agree with Commissioner Hedani, but this is a FONSI and they haven't given me clear proof that it's not gonna have a significant impact so in direct answer to your question, show me that there will be no impact. Don't leave questions hanging, make sure they tag their bases, contact the neighbors, knock on the doors, do due diligence and then come back so it is not in my opinion, and we're all entitled to our opinion, in my opinion it's not a simple matter of numbers. There's not enough commissioners here. I want it clear in my mind that there's not gonna be an impact and that's water, R-1, traffic, and all the rest of that that goes with it. It seems to me because I'm a very impatient person seems to me almost a waste of time for us all that are here and spend our entire day here and have a deferment. It's like...that's like a draw at a football game. It's not fun. If these questions are answered we have a better chance of making a solid decision that's gonna impact the community of Kihei for many years to come. Thank you.

Chair Ball: Commissioner Robinson?

Mr. Robinson: I think I would be comfortable if I did have more information with the impact of that neighbor and the drainage. My thought is even when we had the first time this came around and the community and all the testimony there was some passionate ones that were about the flooding. I think we all agree that Walmart (sic) is not gonna cause any flooding. Water comes down from Haleakala it's not their doing but it's something that they do a good neighbor. There's also where the community plan they wanted to have a...move the store, store front to start a walking community. We have other plans in that area that's going there and I hope that...I love what they did with the new design 'cause the other design was not aesthetic at all. I think I commended them on that, but I think moving it forward it could also be something the community wants and I didn't take Kihei Association as telling us what to do because I think Kihei Association is here enough to

know that, you know, that we listen to them because they're a part of the community but that we're autonomous in our decision making. With that, it is great a group, a community to come up with some recommendations that we don't want this project but if this project does go forward please look at these other things and they didn't just give one or two, they gave a bunch. And if a business is gonna survive in a community based on these people protesting, as a business you would want it to, you know, be one with the community. It's not, you know, it's not a hospital, it's not a police station, it's...you know, it's a store that, you know, that there's one across the street that they can choose from. I'm not against this project, I'm not for this project, I just wanna make sure like said a FONSI, we have to make sure that it doesn't impact the neighbors. The petition that we had had over a dozen and a half people from, from the street right next to it so that's a significant amount to sign a petition. We had one person on the other side for it plus a couple employees. I think that with, with the added time it will give the developers to handle this FONSI and we can move this forward. And again, they're asking us to take away three residential lots and put in a commercial enterprise. With housing is the way it is, with meters already there, we're taking away three residential lots to put in a Walgreens. Thank you.

Chair Ball: Okay, all in favor of the deferral, raise your hand and say, "aye". Did we already do that? How are we still talking about this?

Mr. Spence: I don't know.

Mr. Robinson: He got a comment so we...(inaudible)...

Mr. Spence: One little last comment. Sometimes—

Chair Ball: Director?

Mr. Spence: And this is also for the public's awareness, sometimes you do your darrest to contact neighbors and you can't get them to respond. You can send them certified letters. They can receive them. They don't write anything back, they call you, they don't nothing. All you can do is do your part and if this gentleman...you know, they've already tried to contact them. If he doesn't respond that's, so...

Mr. Hudson: That's fine. But then it's noted somewhere that we banged on his door on such and such a date, at such and such time and he told where we go and so we left. That's absolutely fine, but it's documented and in place somewhere that they made the effort.

Chair Ball: Right, okay.

Mr. Hudson: Having bad news is different from not receiving bad news and most Americans can deal with bad news, it's the fact that when we don't get bad news and find out through the grape vine that something else happened then we get a little upset.

Chair Ball: Okay, let's move on.

Mr. Schnell: Thank you Commissioners. We look forward to coming back and addressing your concerns.

Chair Ball: Thank you. Look for the Department to reschedule it again.

Mr. Robinson: Thank you for understanding.

Chair Ball: We are going to move onto D or sorry, E, Acceptance of the Action Minutes for December 8, 2015 Meeting and Regular Minutes of the October 27, 2015 meeting--

**E. ACCEPTANCE OF THE ACTION MINUTES OF THE DECEMBER 8, 2015 MEETING AND REGULAR MINUTES OF THE OCTOBER 27, 2015 MEETING AND PORTION OF THE REGULAR MINUTES (Item C1 and C2) OF DECEMBER 8, 2015 MEETING**

Mr. Hedani: Move to approve.

Chair Ball: Motion by Hedani to approve.

Mr. Hudson: Second.

Chair Ball: Second by Hudson. All in favor, raise your hand, say "aye".

Commission Members: Aye.

Chair Ball: Any opposed? The motion carried unanimous.

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

**VOTED: To Accept the Action Minutes of the December 8, 2015 Meeting and Regular Minutes of the October 27, 2015 Meeting and Portion of the Regular Minutes (Item C1 and C2) of the December 8, 2015 Meeting. (Assenting - W. Hedani, L. Hudson, S. Duvauchelle, K. Robinson, K. Ball) (Excused - R. Higashi, I. Lay, J. Medeiros, M. Tsai)**

Chair Ball: We are moving onto Item F, Unfinished Business, No. 1.

Mr. Spence: Okay, Commissioners. We are here again with Mr. Tom Croly on behalf of Mr. and Mrs. Terry Epstein. Our Staff Planner this afternoon is Mr. Danny Dias.

**F. UNFINISHED BUSINESS**

- 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.**

**The Second Public Hearing on the requests was conducted by the Commission at its October 27, 2015 meeting. The record was transmitted to the Commission for the October 27, 2015 Commission meeting. The Commission deferred action on the requests as they were unable to take action to approve or disapprove the requests. (Commissioners: Please bring those documents previously circulated to you to the meeting.)**

Mr. Danny Dias: Good afternoon, and Happy New Year Chair Ball and Members of the Maui Planning Commission. The item before you is probably pretty familiar this is the fourth time that this item has come before this Commission. Because of that I don't have a presentation. I don't believe the applicant has one unless you really want one then I believe he has something prepared. I don't wanna get into the details of this project. I'm sure you folks are all familiar. Like I said, this is the fourth time it has come before you. There were presentations at all three previous meetings and every member has been through at least one of them, some of you all three of them.

So I'm just gonna focus on what occurred at the last meeting, October 27, 2015. This item was heard. There were seven members present. One member had to abstain from voting which left six voting members and the vote was split four to two, and based on that we or the Commission deferred this to a later date with the hope that there would be more Commission Members and could perhaps break that four to two vote that took place.

So that's pretty much gist of what occurred. There is one thing I wanna point out before I hand it off to Mr. Croly. There is a 120-day deadline as you folks are aware and that would be February 24<sup>th</sup>. So if no decision is made on February 24<sup>th</sup> then there's an automatic approval. I just wanted to point that out. So with that, let me hand it off to Tom for some brief comments. Thank you.

Chair Ball: Before we move forward, I want to get the Commission on what Danny said. Is everybody in agreement with that that we've seen the project and we know about the project, we don't need him to present the project again, do we get a consensus on that? Everybody okay, you comfortable with that to move on or do we want, does anybody want the project presented to them again?

Mr. Robinson: F-1? I'm sorry I was...(inaudible)...housekeeping, F-1?

Chair Ball: Yes.

Mr. Robinson: I'm fine with that.

Chair Ball: Okay. Show that the Commission is aware of the project.

Mr. Tom Croly: Thank you, Chair. Thank you, Commission. Tom Croly on behalf of Terry and Kay Epstein. First, I hope that the Commissioners enjoyed the tangerines and the banana bread--

Chair Ball: We did, thank you.

Mr. Croly: – that Kay Epstein made from the bananas and tangerines grown on their, on their ongoing agricultural efforts at their farm. As Danny said, we're before the Commission for the actually the fifth time when we considered the Decision and Order that went before this Commission as well. And I'd just wanna point out that these folks made their application back in 2012 as soon as the ordinance became possible to make application, and they've never operated since that time unlike some of the applicants that have been before you. As Danny has stated in the past, this application has met all the requirements for a Short-Term Rental Home Permit and the applicants have responded to all objections that have been raised and made changes to ensure that their use as a short-term rental would never impact their neighbors in any way. And the permit conditions that come along with this ensure that as well that that as long as they're complying with the permit conditions that that they're being held to, their neighbors, they're not gonna see, they're not gonna hear, they're not gonna smell anything from the use as a short-term rental.

I'm hopeful that we could receive an approval from this Commission today, and even if some of the Commissioners cannot support the application, I ask that they might consider allowing this permit to be granted even without their expressed vote.

I have my presentation that I gave before. If anyone wants to hear it, it's available to you. I don't want to go through it, but I'm ready to present it if you want. The Epsteins are here to answer any questions as is Irene Aroner from Tropical Villa Vacations, who would be the manager of the property when it is used as a vacation rental. Again, I do wanna stress that this is the Epstein's home. It will continue to be the Epstein's home even should this permit be granted and they have folks that would rent it. It will still continue to be their full-time residence and then they'll move out and someone will rent it, and then they'll move back in. That's the program that's in the place right now. Okay, thank you.

Chair Ball: Thank you. At this time, we'll open up to public testimony. If anybody would like to testify at this time may do so. Seeing none, public testimony is closed. Let's get the recommendation from Staff, Danny?

Mr. Dias: Thank you, Chair. This recommendation is our original recommendation from 2013, and basically it's we recommend approval of the State Land Use Special Use Permit subject to six conditions and approval of the Short-Term Rental Home Permit subject to 23 conditions. Thank you.

Chair Ball: Thank you. Commissioners, questions? Commissioner Hedani?

Mr. Hedani: I have no questions for the applicant in this particular case. I disagree with some of the testimony that's been given today by Mr. Croly. I believe that the home has impacts to 63 homes that exist in Maui Meadows because that's the access route through Lot 29 in



Maui Meadows Subdivision which is the access to the subdivision where this particular home exists. They can't get to it any other way except by helicopter. Sixty-three residents are impacted, the four immediate residents that are next to this particular site are impacted permanently by the wall that they created between their homes which is 13 feet high and is now completely sealed blocking off trade winds, views to the four adjacent neighbors that originally filed the complaint. The Maui Meadows Association went to the Council and got them to cap short-term rentals in their subdivision to five units. Those five units have already been met. If we approve this adjacent subdivision tied to Maui Meadows through Lot 29 then we essentially are approving a sixth short-term rental in that particular community in addition to eight B&Bs. None of those conditions have changed. I think the impacts to the neighbors immediately adjacent are real and that from my perspective the Commission can approve this particular short-term rental but it would do so without my vote. And on that basis I would suggest that we defer this item until you get more members present if you need five vote to move forward.

Chair Ball: Okay, further comments from the Commission? Go ahead.

Mr. Hudson: Question for your Mr. Robinson, are you gonna abstain from voting this time?

Chair Ball: Don't start counting votes.

Mr. Hudson: No, I'm not counting votes, but the last time he didn't vote. He was...recused himself.

Chair Ball: Yeah, we don't wanna start counting votes, so do you...is there a question for the—

Mr. Hudson: That was a question, I'm sorry.

Chair Ball: Well, not...you can't ask that...(inaudible)...vote, I'm sorry Larry. Commissioner Robinson?

Mr. Robinson: Is, I believe my vote was counted.

Chair Ball: Abstention is in the affirmative so...

Mr. Robinson: It was counted. So my vote was counted. There was six of us and it was counted. I was not...I did not have a counting vote, I did...I abstained, but I didn't recuse.

Mr. Hudson: Okay, thank you. All right, my apologies.

Chair Ball: Commissioner Duvauchelle?

Ms. Duvauchelle: I agree with Commissioner Hedani as far as deferring until we have more members available. One of my questions is and maybe it's to the Director is the determination whether Lot 29 is part of Maui Meadows, do we defer that back to Council to make that decision?

Chair Ball: Director?

Mr. Spence: I'll have to double check the record, but this is, I believe this is not a part of Maui

Meadows. It was a subdivision apart from that one. You know, I'll double check prior to the next meeting.

Ms. Duvauchelle: Okay, right. Thank you.

Mr. Spence: Doesn't sound like it's gonna go anywhere today.

Ms. Duvauchelle: Yes.

Chair Ball: Okay, further comments? Commissioner Hedani?

Mr. Hedani: Motion to defer.

Chair Ball: There's a motion to defer.

Ms. Duvauchelle: Second.

Chair Ball: Second by Commissioner Duvauchelle. Further discussions, did you have?

Mr. Robinson: No, no, no.

Chair Ball: Commissioner Hedani?

Mr. Hedani: I'd also like to remind the Commission that this particular item has been denied twice by the Commission before and it was remanded back to this Commission by the Court primarily on a technicality on one of the votes on the second denial as we move forward.

Chair Ball: Okay, so a vote for deferral. All in favor—

Mr. Robinson: Comment?

Chair Ball: Comment? Continue.

Mr. Robinson: Danny, you...it's a comment, just a comment. It's...we've deferred it before and it came back and you guys came with no other evidence or no...nothing that changed. I just recommend that maybe the next time this comes around hopefully there's something that changed besides just saying, we're here again hoping to get a vote. That's all. Just a comment. Some kind of, you know something. You know, I guess you've heard the Commission, you've heard the comments from Mr. Hedani and other Commissioners maybe the next meeting in the future there could be something to help us persuade us.

Chair Ball: Well, and just as a in general comment, the problem is that we're having is we have a lack of...we have a quorum, but we have a lack of members at this meeting. With the deferral today, they're probably, they probably will get their permit because our agenda is set for next time. February, their 120 days is up, that's it. That's it for us, they're in by a lack of action by the Planning Commission. So in no fault of theirs or the members present, we're stuck because we have a body that only has five members present instead of nine, but that's my soap box and I'll step back off of

it.

Mr. Spence: Commissioners?

Chair Ball: Director?

Mr. Spence: Commissioners, and one of the reasons...and well, actually the reason it was deferred back to the Commission is because as you recall at the first commission meeting there was most of the Commissioners were present, at the second meeting there was a vote to deny, but there were new Commissioners present that had not referred...had not reviewed the entire record. So prior to coming back in February, we will make sure that all the minutes and everything and I know you still have your materials for this, does need to be reviewed and we will make sure that all the Commissioners have reviewed the entire record for this particular item. So when the vote, assuming a vote is taken then it will be with, you know, everybody on the same page and everybody having reviewed the same material.

Chair Ball: Okay, everybody said their piece? All in favor of deferral raise you hand, say "aye"?

Commission Members: Aye.

Mr. Spence: Five ayes.

Chair Ball: Five ayes to defer to date undetermined.

**It was moved by Mr. Hedani, seconded by Ms. Duvauchelle, then**

**VOTED: To Defer the Matter Until There are More Members Present.  
(Assenting - W. Hedani, S. Duvauchelle, L. Hudson, K. Robinson,  
K. Ball)  
(Excused - R. Higashi, I. Lay, J. Medeiros, M. Tsai)**

Chair Ball: Moving on. You guys want to power it out or take a break?

Mr. Hudson: Power it out.

Chair Ball: Let's power it out. I'm for powering it out. Item F or sorry, we're going onto Item G-1, Director's Report.

Mr. Spence: Okay, Commissioners Item G-1 is me notifying you of my intent to administratively grant a two-year time extension for an SMA Permit and if you have questions regarding this Ms. Gina Flammer is here. This is for you to acknowledge receipt. You may decide whether to waive your review or just allow me to grant that extension.

## **G. 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 request administratively:**

**MP VENTURE, LLC requesting a two (2)-year time extension on the Special Management Area Use Permit condition to complete construction of the Maui Palms Hotel Redevelopment Project (Maui Pagoda) at TMK: 3-7-003: 007:0002, Kahului, Island of Maui. (SM1 2001/0012) (G. Flammer)**

Chair Ball: Okay, thank you. Gina?

Ms. Gina Flammer: Did you want me to give a broad overview?

Chair Ball: Just give us why the extension is needed I guess.

Ms. Flammer: The property was purchased in 2014 by Peter Savio and the Savio Group. They spent 2015 updating the plans and they are ready to go. As soon as they can get the approval they lock in their financing and then submit the final building plans for the building permit.

Chair Ball: Okay, question. We'll open it up for public testimony at this time. Anyone would like to testify may do so? Seeing none, public testimony is closed. You wanna give us the recommendation then I guess, you kinda just....

Ms. Flammer: In this particular case how it works is that the Department is intending to approve the two-year, but we bring it to you so you acknowledge receipt and then you have the choice to waive the review in which we would then go ahead and grant the two years or if you wanted to review the project you could schedule it at a later date.

Chair Ball: Okay, thank you. Questions from the Commission?

Mr. Robinson: Question, Director?

Chair Ball: Director? Commissioner Robinson?

Mr. Robinson: I don't know anything about this project, and so I think she...I think we just heard they are gonna submit new plans?

Ms. Flammer: The plans are all in your packet. So the packet that was submitted with the application—

Mr. Robinson: Yeah.

Ms. Flammer: —it's a little confusing because it doesn't come with a memo.

Mr. Robinson: Right.

Ms. Flammer: Yeah, so in it are about 60 pages that describe the original permit, what the plans were, what the updated plans are, and then any kind of milestones or actions along the way is

included in here.

Mr. Robinson: So, so with these plans it doesn't trigger anything new. It's just adjusting of the building itself?

Mr. Spence: It's just granting time.

Ms. Flammer: Today, today's action is just to allow them two more years to finish construction.

Mr. Robinson: But there's no adding of rooms or wings, it's just--

Ms. Flammer: No, it all falls under the original scope of the....otherwise they'd have to come for an amendment.

Mr. Robinson: Yeah, thank you.

Chair Ball: Further questions? Seeing none, Commissioner Hudson?

Mr. Hudson: Waiting for you to call for the motion, just getting ready.

Chair Ball: That's what I was hoping you were gonna do.

Mr. Robinson: I...

Chair Ball: Go ahead.

Mr. Robinson: I move to accept waiving the overview is that?

Mr. Hudson: And receipt of the notification.

Chair Ball: Okay, motion to acknowledge receipt and administer it--

Mr. Spence: Waive your review.

Chair Ball: Waive our review, thank you. Further discussion? Sorry, there's a motion by Robinson, second by Hudson. Further discussion? Seeing none, all in favor raise your hand and say, "aye"?

Commission Members: Aye.

Mr. Spence: Five ayes.

Chair Ball: Motion carries.

**It was moved by Mr. Robinson, seconded by Mr. Hudson, then**

**VOTED: To Acknowledge Receipt of the Request and to Waive Review of the Time Extension Request.**

**(Assenting - K. Robinson, L. Hudson, W. Hedani, S. Duvauchelle,  
K. Ball)**

**(Excused - R. Higashi, I. Lay, J. Medeiros, M. Tsai)**

Chair Ball: Moving onto Item 2.

**2. Notification of the Issuance of the following Special Management Area (SMA) Emergency Permit:**

**December 21, 2015-SMA Emergency Permit Approval Letter to Mr. Wesley Hickey of Hickey Backfill for emergency revetment repair at 1576 Halama Street, TMK: 3-9-010: 006, Kihei, Island of Maui. (SM3 2015/0016) (SSA 2015/0073) (K. Scott)**

Mr. Spence: Okay, Commissioners this is just notification to you that the Planning Department has issued a Special Management Area Emergency Permit for revetment repair on Halama Street in Kihei. No action needs to be taken. This is for your information. They have to come back to us for some kind of permanent SMA Permit. So I doubt it...it will probably be on your Minor list at some point. But that's just for your information.

Chair Ball: Okay.

**3. SMA Minor Permit Report**

**4. SMA Exemptions Report**

Mr. Spence: You also have the SMA Minor Report and the Exemptions Report, and those just need to.

Chair Ball: Are there any questions on those reports? Seeing none, we can move onto Future Agenda.

**5. Discussion of Future Maui Planning Commission Agendas**

**a. January 26, 2016 meeting agenda items**

Mr. Spence: Okay, on the January 26<sup>th</sup> meeting, you will have two public hearing items, one by Mr. James Argyropoulos for Shoreline Setback Variance for debris and removal that's in Kuau for a pretty severely eroding shoreline. And the second public hearing item is Mr. Ed Alexander and Mr. Kyron Brimmer requesting a B&B Permit in the Rural District in Kihei. That one's in Maui Meadow. That one's a B&B not a short-term rental. There will be some New Business, review of a Draft Environmental Assessment that's that big tree killing document in front of you.

Chair Ball: Still saying we need Ipads or the like.

Ms. Duvauchelle: Something electronic.

Chair Ball: They have it at Maui Waena.

Mr. Hedani: It would exceed the memory of the Ipad anyway.

Mr. Spence: Anyway you'll be considering this next time, and then we'll discuss the notification of a transfer of a SMA Permit for Wailea Old Blue Commercial Redevelopment Project.

Chair Ball: Okay, next meeting will be on January 26, 2016. Thank you all for coming. We are adjourned.

**I. NEXT REGULAR MEETING DATE: JANUARY 26, 2016**

**J. ADJOURNMENT**

The meeting was adjourned at 2:10 p.m.

Submitted by,

CAROLYN J. TAKAYAMA-CORDEN  
Secretary to Boards and Commissions II

**RECORD OF ATTENDANCE**

**Present**

Keone Ball, Chair  
Sandy Duvauchelle  
Wayne Hedani  
Larry Hudson  
Keaka Robinson

**Excused**

Richard Higashi  
Ivan Lay  
Jason Medeiros  
Max Tsai, Vice-Chair

**Others**

Will Spence, Director, Planning Department  
Gary Murai, Deputy Corporation Counsel, Department of the Corporation Counsel  
Rowena Dagdag-Andaya, Department of Public Works (on-call)