

**MAUI PLANNING COMMISSION  
REGULAR MINUTES  
JUNE 14, 2016**

**A. CALL TO ORDER**

The regular meeting of the Maui Planning Commission was called to order by Chairperson Max Tsai at approximately 9:08 a.m., Tuesday, June 14, 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 Tsai: Good morning everyone. Today is June 14, 2016. Maui Planning Commission is called to order. I apologize if I sound sick. I was just getting over my flu so...but I'm not contagious. First on the agenda, we're gonna open the floor for public testimony at this moment. So if you wish to testify on agenda items if you cannot be here later when the agenda item comes up you can testify now or you can wait, but you can only do one or the other. So does anyone wish to testify at this moment? Please come forward, identify yourself, you have three minutes. Seeing none....we have one person.

**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.

The following individuals testified at the beginning of the meeting:

Kai Nishiki – Item D-1, Hololani, SMA and SSV  
Felimon Sadang – Item D-1, Hololani, SMA and SSV  
Junya Nakoa - Item D-1, Hololani, SMA and SSV  
Tiare Lawrence - Item D-1, Hololani, SMA and SSV  
Tom Croly – Item D-4, Phillip Collins McGain, SUP2

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

Chair Tsai: I have actually a signup sheet here. I have Mike Moran. You're gonna wait?

Mr. Moran: Yes.

Chair Tsai: I have Virginia Keen?

Ms. Keen: I'll wait.

Chair Tsai: Adrienne?

Ms. Gaedeke: I'll wait.

Chair Tsai: You'll wait. Okay, thank you. Josie Malott?

Ms. Malott: I'll wait.

Chair Tsai: Okay, anyone else? Seeing none, public testimony is now closed. Director?

Mr. Spence: So Commissioners we are on agenda item C for your Public Hearings.

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

- 1. MS. ROBYN KAHALELEHUA of CENTERLINE SOLUTIONS for VERIZON WIRELESS requesting a County Special Use Permit in order to construct and operate HI1 Ulumalu Project, a telecommunications facility and related improvements located in the County Agriculture District at 1500 Kaupakalua Road, TMK: 2-7-013:0175, Haiku, Island of Maui. (CUP 2015/0005) (R. Quigless)**

Mr. Spence: You have a letter for Item C-1 you have a letter in front of you from Centerline Solutions, Robyn Kahalelehua withdrawing the application. I suspect they're going to be applying again shortly. So you will see them again.

- 2. MR. DAVID GOODE, Director, DEPARTMENT OF PUBLIC WORKS requesting a Special Management Area Use Permit and Shoreline Setback Variance for the Kulanihakoi Bridge Replacement Project in order to replace the existing four-culvert bridge with a six-culvert bridge and associated improvements in the South Kihei Road Right-of-Way at TMK: 3-9-001:015 (por.), 147 (por.) and 162 (por.), Kihei, Island of Maui. (SM1 2013/0006) (SSV 2013/0002) (K. Scott)**

Mr. Spence: The second public hearing item is for Mr. David Goode, the Director of Department of Public Works requesting an SMA Permit and Shoreline Setback Variance for Kulanihakoi Bridge Replacement Project in South Kihei and our Staff Planner this morning is Mr. Keith Scott.

Mr. Keith Scott: Good morning, Commissioners. The replacement of the Kulanihakoi Bridge on South Kihei Road will provide a safer bicycle, pedestrian, and vehicular travel over the stream. There are no vehicular lanes added to the project. The projects of wider travel lanes. The sidewalk and bicycle lane on the mauka side of the bridge transitions from the existing roadway to the bridge and utility realignments. Milton Arakawa of Wilson Okamoto would like to make a presentation so that you can see the project in detail.

Mr. Milton Arakawa: Thank you, Keith. As Keith mentioned, my name is Milton Arakawa. I'm with Wilson Okamoto Corporation and we are consultants working on behalf of the Department of Public Works. So let me start the Power Point presentation.

Basically just in terms of some location and background. The County is wishing to replace and upgrade the Kulanihakoi Bridge and the bridge is located approximately 200 feet south of the Kaonoulu Street intersection on South Kihei Road. And the existing bridge is really a four-cell

concrete box culvert system. And each of the cells, each of the existing cells are six feet wide and four feet high.

This is just a general location map of the project and its outlined area in the orange in the center and as you can see to the south of it is the existing Kihei Bay Vista Condo, Kihei Bay Surf. Nearby is the Hawaiian Islands Humpback Whale Sanctuary and to the north is that Aston Maui Lu Resort.

So what's the purpose and need of the project? Basically the bridge is structurally deficient. The County did a bridge inspection report back in January 2011, and that report noted that the culverts and retaining walls are in critical condition. Subsequent bridge inspection report showed advanced deterioration. There's exposed reinforcement, crumbling concrete, severe spalling as well as corrosion and immediate repairs were recommended.

There's also a need for enhanced safety for pedestrians and bicyclists. There's currently no approach guardrails or transitions at either end of the bridge and pedestrians and cyclists share the existing paved shoulders on both sides of South Kihei Road.

These are some photos that were taken of the project site and you'll notice the date. It was actually several years ago in 2012, but the culverts are located where the...you see the concrete barriers along South Kihei Road. And this is a view of the culverts looking southeast and then that's the Kihei Bay Vista Condominium in the background of the photo. This is a view looking from the mauka side. The West Maui Mountains are in the background here, and you'll see just before the inlet here, here this is an existing sewer easement.

Just some conditions on the interior portions of the culverts which most people don't see but there is spalling, there's also exposed rebar and also delamination. Basically the concrete...the layers of concrete are chipping off at this point. Some of the rebars have actually fallen off and you can see in this particular cell the roof of the culvert is actually bowed a little bit.

This is a photo of one of the walls of the culverts and here over time these culverts are basically over a little over a century old and over time water seeps into the concrete. The rebars expand and then the concrete basically pops out.

So because of the advancing deterioration of the existing culverts the County pursued an emergency temporary bridge and this is because the permitting for the mauka temporary bridge and the permanent bridge would be completed at the earliest by 2019. The County wanted to seek a separate temporary solution to provide safe passage on South Kihei Road. And the Planning Department granted a Special Management Assessment back in March of 2013.

So the emergency temporary bridge was basically built over the existing culvert so that we wouldn't place additional stress on the existing culverts and then this is a photo of that emergency temporary bridge taken earlier this year in February.

As far as the new proposed culvert improvements the project involves the removal of the existing culverts, the existing four culverts and it proposes to replace that with six culverts. And each of the new culverts would be the same size, six feet wide and four feet high along with inlet

and outlet head walls. There's also a roadway widening on the mauka side to accommodate a five-foot wide bike lane and a separate five-foot wide paved walkway or sidewalk and that sidewalk extends from the Kihei Bay Vista where there's an existing sidewalk to Kaonoulu Street. And the makai side there's a five-foot wide bikeway and a five-foot wide paved walkway on the bridge in the immediate vicinity. And there's an existing earthen ditch on the mauka side. That ditch would be replaced by a new drainpipe and that would be connected to the new culverts.

This is just the plan view and the elevation of what's being proposed. On the top graphic in blue is the area for the proposed sidewalk area and it kind of links to the Kihei Bay Vista sidewalk, existing sidewalk at Kihei Bay Vista and you can see the sidewalk on the makai side is a little shorter because there is no existing sidewalk to link to.

The Kulanihako'i Bridge is part of a larger 10,614-acre watershed and this watershed extends from the ocean up to approximately the 9,600-foot elevation near the summit of Haleakala. And like many of the watersheds in Hawaii drainageways are fairly well defined at higher elevations but tend to flatten out closer to the shoreline.

This is just a graphic of the Kulanihako'i watershed, the drainage area noted in purple. And you can see the project site is near the shoreline and just for reference this is Piilani Highway. So you can see it extends quite a bit mauka through the Kula area all the way to near the summit of Haleakala.

So the drainageway in the area of the existing culverts is relatively flat and undefined and you can basically see that if you stand near the project site and look mauka. However there's natural wave action at the ocean outlet which forms this sand plug which causes flooding problem and a back water effects, and back water effects to inhibit storms and is the cause of that muliwai or the standing water that's normally there on a relative permanent basis. So the hydraulic capacity or the drainage capacity for the existing culverts is inadequate for the 100-year storm. But even if we increase the capacity of the culverts it helps with the drainage capacity on an incremental basis, but it does not solve regional drainage problems.

Although the proposed project would increase the number of culverts from four to six, the main purpose of the proposed culverts is to replace deteriorating infrastructure and regional drainage issues will need to be dealt with separately through implementation of projects designed to deal with those regional issues.

Prior to the removal of the existing temporary bridge and the existing culverts a two-lane, two-way temporary detour road and steel panel bridge will be constructed on property mauka of South Kihei Road and this detour road and the bridge will be in place before construction of the new culverts begin. And there will be a brief temporary closure of South Kihei Road at the project site to install the detour road transitions. And after the permanent culvert improvements are done then the temporary mauka bridge and bypass road would be removed.

This is just a graphic of the temporary mauka bridge. The curve is somewhat severe or acute because of the existing property that's already developed on the south side, the Kihei Bay Vista property. And the County plans to install basically a concrete steel panel bridge. This is a cross

section of the bridge similar to the types of bridges, the temporary detour bridges which were installed in the Hana area except these bridges would be two-lane and two-way bridges.

As far as shoreline setback is concerned this was calculated utilizing the annual erosion hazard rate base setback line and portions of the proposed culverts and the outlet wing walls are located within the annual erosion hazard rate setback line.

This is a graphic showing that annual erosion hazard rate setback line. But first we had to calculate the certified shoreline and that's indicated here in red. That was certified by the DLNR back in September of last year. And the green line here is the average lot depth calculation and from there we calculate the annual erosion hazard rate setback which is here. So as you can see, a portion of the culverts and the outlet walls are within the shoreline setback.

So that approximately 6 to 30 feet of the makai portions of the culverts are proposed within the AEHR, the setback line and the remaining mauka portions of the culverts ranging from 54 feet to 20 feet are outside of that setback line. So pursuant to Section 12-203-15(a)(4) of the Shoreline Rules of the Maui Planning Commission a shoreline area variance may be granted if a proposed structure or activity is necessary for or ancillary to drainage purposes and since the proposed project involves drainage improvements it meets the criteria noted in the Commission's Shoreline Rules.

There are also other permits and approvals which still must be obtained for the project. We have completed the State EA, environmental review, Environmental Assessment environmental review, a Federal environmental review still remains to be done, SMA Use Permit and the Shoreline Setback Variance which is undergoing hearing today. There's also Section 10, Section 404 permits administered by the Corp of Engineers, Section 401 permits issued by the Department of Health, Coastal Zone Management Federal Consistency, Conservation District Use Permits, Stream Channel Alteration Permit and NPDES or National Pollutant Discharge Elimination System Permit. So assuming all these approvals can be obtained in a timely manner construction can begin in early 2019 with completion nine months later and the project cost is approximately 2.6 million.

So basically we ask for the support of the Commission in implementing this much needed project and I'll be happy to answer any questions that the Commission may have.

Chair Tsai: Thank you. Deputy Dagdag?

Ms. Dagdag-Andaya: Thank you, Chair. I just wanted to thank Milton for his advice and guidance. As some of you may know Milton is a former Director of Public Works and someone who I used to work with when I was in the private sector I'd go to Milton for a lot of my questions. And having him on board with this project has been tremendous for the department. I'd also want to thank Mr. Mike Moran of the KCA. I'd like to think that we have a very good relationship with him and his members and have been...we've been communicating a lot with the KCA, the Kihei Community Association on this project as Milton had stated we went through an environmental review process and that took about I wanna say three years to complete and it's because of all the discussions with stakeholders, the community as well as our partners in Federal, State and local agencies in trying to address some of their comments. This is an

important project for our department as well as the region and one thing I'd also like to note as you know there are tremendous opportunities in this area with respect to drainage and those are things that we'd like to further address in the future maybe through the community planning process as well as the information that we receive when we final get our drainage master plan completed. But with that I did wanna thank Milton and his staff at Wilson Okamoto and also Mike Moran for his assistance as well.

Chair Tsai: Thank you, Deputy Director and Milton. Now at this point I'm gonna open the floor for public testimony.

**a) Public Hearing**

Chair Tsai: Please come forward Mike.

Mr. Mike Moran: Good morning, Commissioners. Thank you for your volunteer service to the community. Mike Moran for the Kihei Community Association and thank you very much Deputy Director for your kind words.

KCA is extremely appreciative of the numerous meetings and discussions with Director Goode and his department on this culvert and the surrounding area. From our initial communication with old friend Milton Arakawa over three years ago now in the private sector, we wrote this before we knew he was going to be here presenting, presenting a replacement culvert project. A KCA community meeting was held for our general membership to his continuing discussions with the director we had asked for consideration of an actual bridge rather than a ground level culvert to allow greater water flow under rather than over the crossing somewhat akin to the temporary bridge that's in place presently.

I would mention that in the picture at least to my eyes it looked like the current bridge was level. Those of you who have ridden on South Kihei Road recently know that it's not. It goes up extensively and has a 10-mile per hour limit because the bridge goes up and we kind of like that feature, but you know, that's only a temporary bridge and we understand that.

Some other considerations in the area. The corner of Kaonoulu and South Kihei Road is always the first intersection to flood in Kihei. Land on the southeast corner has been offered by the private landowner as a donation to the County for good public use including an east west greenway extending from South Kihei Road to the Piilani Highway. I remind you this would be in the area of the Department of Education's Kihei High School. Planning this with the State Land Use Commission imposed pedestrian bicycle over under highway crossing would provide a safe, secure, walkable, bikeable route for the community from the beach to the Kihei High School beyond that, this land is in the area of the Kulanihakoi Gulch crossing. This culvert would provide continued open space serving as a restored native species planting area potential wetlands.

Another consideration at the same intersection, this is with all the approved development lead by massive expansion of the Maui Lu Resort at the northeast corner brings up an update of this intersection is possibly signaled or KCA recommended roundabout. While we understand no update is yet required we expect it will certainly happen and want to ensure this nearby culvert

replacement considers all of these factors as smart planning something that's seemingly is lacking in Kihei in the past.

So we're in support of the project. We wish it was higher. We wish it was there, but you know, wishing and fishing and all that, so we're in support of it. Any improvement is an improvement going from four barrels to six barrels is an improvement. You saw the pictures of how bad it was. We had citizens calling us all the time. Are they gonna wait till this falls in? They didn't. The department put down a metal plate initially which was not shown. Okay, so I'm just kind of going on here. We just wanna look at the overall perspective in that area. There's so much ...(inaudible)... The area is so important so this will be one important segment of it. Mahalo

Chair Tsai: Thank you, Mike. Anyone else wish to testify at this moment? Seeing none, public testimony is now closed. Questions from the Commission? Commissioner Carnicelli?

Mr. Carnicelli: Yes, I don't know if this is for Keith or for Milton, but in that particular area we're talking about you know, flow and 100-year floods and everything like that. However, that area the dune comes the other way significantly in that area. You know there's always sand on the roadway and everything like that. Does this, when I looked at you know the proposal you didn't address that at all. Is there anything in place that addresses the dune erosion coming mauka?

Mr. Arakawa: Actually we did a dune delineation study several years ago. But you're correct, there's that sand plug there and then the sand accumulates along that shoreline. And it's basically two conflicting types of forces of water coming together. On one hand you have a large watershed and the water's...when there's significant rain it flows down to the ocean where it collects at the muliwai. When there's significant rain it basically breaks through there, the sand plug to basically drain the upper portions of the watershed. But it's basically a natural process. I can't see what else we can do. The County basically prohibits us from building any structures on the dune area. And basically this project is just a, just basically a replacement of the existing infrastructure.

Chair Tsai: Deputy Director?

Ms. Dagdag-Andaya: Sorry, I just have a little bit to add. Recently it's been...we've had talks with Planning Department Staff, our Highways Division and Parks regarding the dune area and how we maintain it. Our Highways Division does all the road maintenance and of course at times you have a lot of sand build up. So the question becomes what do we with it? Push it back, right? But I think what we're planning on is having some sort of coordinated effort with the departments to see how we can have some sort of sand management area...sand management plan for that area. So although this project doesn't really directly address sand management there are efforts to create a plan.

Chair Tsai: Commissioner Robinson?

Mr. Robinson: I have a question for Public Works. Hi, I know the Maui Lu has been taken over from another property. Has there been any discussions of what they're planning to do and where their in and outs are gonna be or is this just us as a County just doing regardless of what that project might entail?

Ms. Dagdag-Andaya: Can you please state the question again? You want to know...

Mr. Robinson: Maybe you can help Director, Maui Lu has been sold the Aston have sold that and it's gonna be I think Hilton or whatever vacation, whoever it's gonna be, but it's gonna be I assume it's gonna be a pretty large project. Has there been an indications of the direction of where their entrance is gonna be. It's gonna be off South Kihei Road is it gonna be on that side road, feeder road because I see like we're adding two bike lanes and two walkways on each side. Is that for future growth in case we have to take one away because that's ...(inaudible)...the case?

Mr. Spence: I don't. I don't know and I didn't come prepared to talk about the Maui Lu.

Mr. Robinson: Well I mean, yeah because I guess you know where the trucks are gonna go, you know the building and all that construction if it's gonna be using that road?

Mr. Spence: Okay, are you asking is construction of this bridge going to be coordinated also with the Maui Lu?

Mr. Robinson: Is it gonna be adequate for construction for the weight bearing and all the trucks and all that stuff that's gonna happen at that location there. I'm not sure. I didn't see any bearing on it.

Mr. Spence: I would certainly defer to Milton, but even for the temporary measures that they're gonna put in while they're under construction with the permanent bridge they have to consider all different traffic that's gonna be on that road no matter how heavy and everything.

Mr. Arakawa: You know the temporary mauka bridge is a two-lane, two-way bridge and it's designed, it would be designed for heavy equipment basically.

Mr. Robinson: And one follow up question. And this is not for the project, this is for the future. Do you know Milton with the experience that you have is weight on the road traveling at 10 miles an hour is it any greater than being having people with flags and trucks being stopped on the bridge on each side. You know, ...(inaudible)...is supposed to carry so much weight, but when a traffic happens there could be three, four trucks, five trucks both ways on top of that bridge?

Mr. Arakawa: I don't know if I can answer your question directly, but I do know when the structural engineers go through their analysis they will rate their improvements based on the amount of weight that each axel of the truck can bear on the bridge itself.

Mr. Robinson: And is that like head to toe, head to toe?

Mr. Arakawa: Yeah, yeah.

Mr. Robinson: Thank you. I just...

Chair Tsai: Commissioner Higashi?

Mr. Higashi: I have a question, Exhibit No. 8 in your plan. Notice that the sand dunes is much higher on the road itself, number one, and historically this whole area all the way from Maalaea on has been a problem when especially during winter months, the flood comes through. And the construction of this bridge is it gonna be flat level or is it gonna be a rise so that 20 years or 30 years from now with the rising of the ocean the wave action would keep moving inland. So what's the prognosis on...

Mr. Arakawa: Your question is more of a generational question as far as rising sea level. That's, that's a difficult question to answer. I think that needs to be answered more in a regional context because there are a number of properties that need access to South Kihei Road had developed over the past generations where they basically...they rely on that access now. So if there's gonna be a plan to have access somewhere else, somewhere more mauka it's really going to affect a lot of different properties that are along the road as well. But the sand that you're talking about is specifically for that site. That's what the issues that Rowena was just referring to where it basically blows on the road and Public Works basically tries to just push it back. That's basically just a short-term issue at this point. But like I said, this project is not addressing sea level rise issues. It's basically just trying to replace deteriorating infrastructure at this point.

Chair Tsai: On that note, can I ...I have a question for Public Works. Rowena regarding all the sand you're saying that is there a more permanent solution for that?

Ms. Dagdag-Andaya: With the sand management in terms of a permanent solution you know we're looking...again it's...you know the testifiers that came this morning had talked about you know it gets pushed back, it goes, you know, it goes in waves. And so I know in talking with Tara Owens and Jim Buika, you know what we're trying to do is see how we can use fences. You know that's one way to keep the sand in using sand fences. Maybe bringing sand back and renourishing the area that's another idea that we had. But so far those are the only, you know things that...those are the only ideas that we've currently explored. Nothing really more from...

Chair Tsai: Commissioner Hudson?

Mr. Hudson: Mr. Arakawa, sir, good to see you again.

Mr. Arakawa: Nice to see you too.

Mr. Hudson: A couple of quick things so I'm clear on this. There's extreme spalling on the current culvert system that's over a hundred years old and it seems like its structural integrity is gone, being compromised. Could we, could we say in a nutshell that it's at its end of life?

Mr. Arakawa: I would say so, yes.

Mr. Hudson: Okay. So the final question is, is you have a temporary bridge. If everything goes smoothly and working with the County for many years sometimes that's not the case, you

expect construction to be done by the end of 2019 how long do you think the temporary bridge is gonna hold? Will it suffice until that thing...until that time?

Mr. Arakawa: The temporary bridge is pretty sturdy. It will hold at least to 2019 for sure. Well, you never know how long permits will take as you well know. But if we can get those permits early hopefully we can apply, we also must apply for Federal funding because right now Federal funding is earmarked for 2019, and if we are fortunate to get all our permits, I mean, we can certainly apply for earlier Federal funding. But the temporary bridge will definitely last to that point.

Mr. Hudson: Thank you.

Chair Tsai: Commissioner Duvauchelle?

Ms. Duvauchelle: Good morning, Milton. On your temporary bypass are you making a walkway or bicycle path during construction with that temporary bypass? I'm sorry if it's on here, I tried to see.

Mr. Arakawa: Yes, the temporary bridge will have sidewalk, five-foot wide sidewalk.

Ms. Duvauchelle: Okay, thank you.

Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: So on that temporary bypass it's gonna go mauka, I'd hate to say everybody gives a thumbs up and we haven't secured either easement or permission from the landowner. Has that happened? Has there been...has that been secured?

Mr. Arakawa: Yes, we have a right-of-way permission to use that on a temporary basis.

Chair Tsai: Seeing no more questions from the Commission can we have the recommendation from the Department please?

**b) Action**

Mr. Scott: The Department believes that the proposed project is in conformance with all the goals, objectives and policies that we are required to take a look at. So the Department recommends approval of the project subject to four standard conditions and ten project specific conditions as stand in your report.

Chair Tsai: Thank you. Can I get a motion?

Mr. Hedani: Move to approve as recommend.

Mr. Hudson: Second.

Chair Tsai: Moved by Commissioner Hedani, second by Commissioner Hudson. Discussion regarding the motion? Director, can you repeat the motion, please?

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

Chair Tsai: Okay, call for a vote. All in favor?

Mr. Spence: That's seven ayes.

Chair Tsai: Motion passes. Thank you.

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

**VOTED: To Approve the Special Management Area Use Permit and Shoreline Setback Variance as Recommended by the Department.  
(Assenting – W. Hedani, L. Hudson, K. Robinson, L. Carnicelli,  
S. Duvauchelle, S. Castro, R. Higashi)  
(Excused – J. Medeiros)**

Chair Tsai: We're gonna take a 10-minute break. We'll return at 10 after 10:00.

A recess was called at 10:03 a.m., and the meeting was reconvened at 10:16 a.m.

Chair Tsai: Director, next item on the agenda?

Mr. Spence: Commissioners, we are on Item, public hearing item C-3. This is for Mr. Barry Helle on behalf of 355 Haiku Road LLC requesting a State land Use Commission Special Permit and a Conditional Permit in order to operate a vacation rental and have special events in their property in Haiku and our Staff Planner this morning is Gina Flammer.

- 3. MR. BARRY HELLE on behalf of 355 HAIKU ROAD LLC requesting a State Land Use Commission Special Permit and a Conditional Permit in order to operate a transient vacation rental and special events in the State and County Agricultural Districts on a lot located at 355 Haiku Road, Haiku, Maui on TMK: 2-7-003:087 (Por.), Haiku, Island of Maui. (SUP 2015/0012) (CP 2015/0007) (G. Flammer)**

Ms. Gina Flammer: Okay, good morning Commissioners. I did wanna say with this project when the property went on the market for sale I got a number of calls about it and it was really interesting to hear what people wanted to do with it. I had one person that wanted to turn it into an American Butchart Gardens that it could get about a 1,000 people a day through there. And then I had somebody else that wanted to turn it into a full scale hotel and restaurant and I was concerned that our community plan policies don't really support that kind of development so I was relieved when I got this application with the project scope. I had worked with Wailea Group in 2010 on permits for their special events at the golf course so I was familiar with them.

I did wanna say before I turn it over to the applicant who's gonna give a presentation as we talked about during the training public notice only goes out 30 days prior to the hearings and the staff reports are due about three weeks. So you often get a lot of testimony. I know it came really disjointed. I just wanna go over partly for the record when we get to Council and also make sure you have all the testimony. So there is one letter of support in the application or in the staff report itself and then there were four letters that came in during the time between the report and you, one from Mr. and Mrs. Calvin which we think is Yamashita an adjacent neighbor, Ed White who's here today, who's an adjacent neighbor and also works on the property. Then we had two neighbor letters one adjacent to the south letter with concerns in it. And then testimony also with concerns in it from David DeLeon. You got all via email. And then the applicant responded to both the two people that had concerns and you should have those too as well.

So what I'd like to do now is I'm gonna turn it over to the applicant. We have Barry Helle who represents the Wailea Group. We also have Ann Takabuki who's the manager for the Wailea Group and then we have Ed White who's the groundskeeper. I'm gonna come back when they're done and I'm gonna talk a little bit about the project analysis, the department's recommendation and then we'll turn it over to you. So here I have Barry.

Mr. Barry Helle: Good morning, and it's a pleasure to be here with you today everybody. Representing...my name is Barry Helle and I represent 355 Haiku Road LLC which most recently people might know it as the Simon Estate and then for those of us who have been around Maui long time, were born here probably know it as the Baldwin Estate and currently...it is currently...355 Haiku Road LLC is subsidiary of Wailea Golf. We purchased this property about a little over a year ago. Ann Takabuki is our president. She's here as Gina said. I'm actually the general manager of the Blue Course but also help handle some of the special projects that our company has. We have a couple of onsite supervisors that kinda came to us with the purchase of the property. One is Michele Fujimoto unfortunately she couldn't be here today, but we have Ed White who is our property maintenance supervisor and Michele is our property manager. Between Ed and Michele they've got over 47 years of experience with this property. They've been with the previous owners prior to that. And Michele's mom who is also sent a letter in she worked for the...in her teens worked for the Baldwins when they owned this property so they have a long history with this property also.

Our parent company is actually out of Vancouver, British Columbia and it's a family-owned business and representing the family and working with us on this project is Erica Chan and Peter Juiswager. Peter and Erica are married. They've had a residence here on Maui for many, many years. The family has a long history with Maui. And Erica and Peter have been very instrumental in identifying this property and providing some of the vision as what we would like to do with it moving forward.

Again, we are here for a Conditional Use Permit and first of all let me just show you where exactly this is at. This right in here is Hookipa Beach Park, the big turn in the road obviously is Maliko Gulch. You come out of Maliko and you're gonna take the first right turn, you're gonna go up Haiku Road just about a mile, and so 355 Haiku Road is right in here about 10-minute drive Paia Town.

Again, we're here for a Conditional Use Permit, what we're asking to do is use the existing main two dwellings on the property, one is the house and then the cottage for short-term rentals. And then we're also asking for permission via the permit to provide and do special events on the property primarily weddings, corporate retreats and possibly charitable fundraisers. 355 Haiku Road is just under 19 acres in total. So it's a big parcel and would be perfect for these kinds of events.

Before I talk a little bit about what we really want to do I think it's important to understand the history of the property. Its roots are in agriculture, recorded history takes it all the way back to the 1849 when an early missionary, Richard Armstrong purchased 530 acres for King Kamehameha III. Richard Armstrong was actually the minister of education for the monarchy. Was very instrumental in the fact that the Hawaiian people at that time were some of the most literate people in the world. They really took a big effort in educating the Hawaiian people. Mr. Armstrong was instrumental and so King Kamehameha III really rewarded him by selling him basically a good chunk of Haiku during that time. And in 1858 Mr. Armstrong along with some investors created Haiku sugar mill. The actual mill again is just across the street from us. In 1871 he brought in Samuel Alexander as the general manager of the property. And then in 1884 Samuel Alexander and his partner Henry Perrine Baldwin purchased outright Haiku sugar mill. They had previously partnered up to Paia mill and so they expanded with the purchase of Haiku sugar mill in 1884. Henry Perrine Baldwin was basically the general manager of the property throughout his, most of his career and in 1910 just a year before he passed away he actually purchased this parcel which is now 355 Haiku Road from the mill for his...as his personal residence. The property itself served as the residence for the general manager of the sugar plantation for many years and so I think as he was coming down to the end of his career he wanted to make sure that property stayed with his family so he purchased the assets from the sugar mill. I mentioned that he passed away in 1911 and his son, Dwight Coldbrook Baldwin took over the estate and then throughout the years for most of the last century it was known as the Baldwin Estate as it stayed within their family. In 1978, H.P. Baldwin's granddaughter and the son of Dwight Baldwin decided for whatever reason to sell the property and so that started a kind of a short chain of property being sold over the years. First to Athalie Irvine Clarke, she was a wealthy lady from Southern California. Her family was agriculture in California and actually a lot of what...their ag land became Irvine, California and she started a process of remodeling the main home and the cottage. Throughout the years it has some need for repair and so she actually started the process. The cottage that's on the property was actually Mr. Baldwin's office and over the years it was grown over with vines and she did a great job of starting the process of revitalizing the two main homes or dwellings on the property. In 1985, Mrs. Clarke traded the property, the Reverend Robert Schuller. She traded for a oceanfront condominium on Kahala over on Oahu and so Mr. Schuller started to utilize the property. He had a vision of doing religious retreats of the property and did some things and I'll talk about in second as far as what he did to accommodate that. Mr. Schuller only had it for about four years. Things weren't working out the way he wanted and so he looked to sell it and right about that time William Simon who was the Treasury Secretary, 63<sup>rd</sup> Treasury Secretary in the history of the United States, he was under Richard Nixon and Gerald Ford, he had just purchased Honolulu Savings and Loan, was looking for a home in the State of Hawaii, identified this property and basically bought it sight unseen and it stayed with their family up until the time that we purchased. Mr. Simon unfortunately passed away in the year 2000, a couple years before that he sold it or his estate sold it to two of his children who kept it as a second home all

the way up until last year when it went on the market and it was purchased by Wailea Golf. So that's when we got. And I kinda go through the history 'cause I think it's important that we as the current stewards understand the history of this property and what's meant throughout pine here on Maui and the relevance of it and I think it's important for you as the decision makers to understand that we understand that there's a lot of history with this property and it means something to the people of Maui.

Significant events, again the property has always been tied to agriculture starting with the sugar plantation and during, you know, going back to the late 1800's. Mr. Baldwin was...he had a lot of wealthy friends, they traveled the world and one of the things that his friends would do for him is bring back exotic trees from around the world. To this date there's over a 120 different varieties of exotic trees that have been brought to Maui and he planted and nourished on this property. So he really started the beginnings of what is a botanical garden and surrounded the property with just magnificent trees. One of the most notable is a banyan tree that just covers the central part of the property. It's magnificent.

Another major planting of trees occurred right after the turn of the century. There's a lot of Cook Island Pines that were planted there. The desire, the reason for planting those was they thought that they would make a good tree to be used as a mast for sailing ships. It didn't work out. Some of the early trees, the pine was too soft. I think it broke so the trees were never harvested. They were intended to be harvested for the sailing ships but they never were so they still stand there today. Many of those trees are still in place today. And then one last major time where a lot of trees were planted on the property, a lot of fruit trees actually were planted right at the beginning of World War II. There was open pastures on the property and there was always a fear that the Japanese would come back and try to land airplanes and so they wanted to kinda fill in the pastures so that you couldn't land an airplane there. So that was the last time that there was some major plantings on the property. But again, it truly is a botanical garden on this property. It's just magnificent mature trees throughout.

Other significant events is it was always kind of a gathering place. You go back to in the early days of the Haiku sugar mill. A typical Sunday was for all the employees to come over and have picnics with their families. It was a real...you know, the one day they get off this is where they came. So it's always had, always been a place where people would congregate. Henry Perrine Baldwin once threw a huge luau in honor of Queen Liliuokalani. She came to Maui, they brought her up to Haiku and the whole community came out for that. And throughout the years there's been charitable events for local organizations and other parties. So it's agriculture but it's also been used for special events throughout the years, all these time.

The renovation side of it, again for the home itself was started by Mrs. Clarke. The Reverend Schuller again going back to his desire to do religious retreats he added a six-bedroom wing onto the property so that, you know, people come in and they'd have a...you could house a lot of people. He also built an outdoor cathedral so he could actually have sermons there for his people. And the buildings and the modifications that have gone on over the years is one reason the house really doesn't qualify for any kind of historical registry. It's been modified. It's been, you know, remodeled over the years so it doesn't really qualify as any kind of historical facility but there's still a lot of history there. And then the Simons did a great job. They brought in

landscapers and whatnot and really regroomed the property too during their time to make it into what it is today.

It's always been a farm. It's always been, it's been going on as an active farm. When we purchased it it did have a approved farm plan and we reapplied for that again just to update it and so it does have a fully approved farm plan. This right through here is the main botanical garden area. We have a waterway down through here. A lot of the exotic trees and everything grow all around it. This is the main house. This is the cottage. This upper area here is more fruit trees and such and then this is like palm trees and different trees. They're flood resistant down in here although we really don't have much of a flooding problem.

These are just some of the pictures of the trees. You can see the vast maturity of it and a lot of this just encloses the property quite a bit. A lot of threes have been marked. You see the little name plate over here. One of the things that we're planning on doing is going back through the property again bringing a botanist. We tried to work with Ernest Rezens but he was quite busy last fall. We're hoping to get him out there again and help us reidentify all of the trees in there so that we can properly mark them and know exactly what is there.

Again, we're going for a Conditional Use Permit to rent the home out, to rent the home and cottage out and to use the property for special events. This is a site plan of the property. Basically we've carved out...the whole property right here is 14 is actually just under 19 acres, 18.9 acres. The shaded area is about 14.9 just for where our special events and things go. This is the house. This is a pool. One thing we wanna do eventually is build a pool house so we'll either build it here or over there. We haven't quite identified the exact spot. This is the cathedral that Reverend Schuller built on the property amongst all the trees and everything here. You can see the vastness of the property. We actually also own this side of it here, but it's a different TMK and so our focus here today is strictly on this property.

The main house is 10 bedrooms with the addition of the wing that Reverend Schuller built on. It is 10 bedrooms. The cottage is just one bedroom. Our plan as far as renting it is to rent to one contiguous group. We're not interested in doing single room bed and breakfast type of thing. Well if somebody's gonna rent it they're gonna rent the entire facility. We're not interested in renting to multiple parties at a given time. It be nightly rental. We expect most of the rentals might be, you know, three, five, seven nights, somewhere in that range and the typical people that we're marketing to, I think it will be you know families would come in, maybe multi-generational with grandmas and families and the grandkids and things like that and enjoy the entire property. Wedding parties would be cause we wanna have the weddings there and you could have the whole wedding party stay within the house. And then of course, Corporate retreats. I think this would be good. We actually had our corporate retreat. We brought in some of our own staff and had them stay there for a few days and it worked out perfectly for that. You can kind of sequester them away. We got, you know, places where they can meet and do strategic planning and things like that. So it's ideal for something of that nature.

Just some photos of the property to get an idea of the expanse of it and how heavily vegetated it is. This is from just in front of the main house looking makai. The white fence is bordering Kalanikahua Road which is right below us. This is over just a little bit also looking makai just out

in front of the house overlooking the pool it's onsite. This is the cottage, the sidewalk leading from the main house over to the cottage and then the cottage has been fully renovated.

Interior shots of the house. Definitely old plantation style. This is the living room. This is the master bedroom. Everybody from Merle Streep to Newt Gingrich stayed there under the Simon family. The six bedroom wing all the bedrooms are identical. There's two photos there and they're basically...the six bedrooms are identical. Every bedroom has its own bathroom and then you have the sleeping area and then you also have kind of a at the end of each room is kind of a seating area where you can read and things like that. This is the kitchen area. This is not the main dining area. There's another dining room right adjacent to that. But again, old plantation style. This is probably the most popular room in the house which is actually just an enclosed lanai, screened in, great if you just wanna chill out, read, just kick back and relax. It's very therapeutic. This is an interior shot of the cottage living room.

The special events that we wanna do on the area, on the property, we've identified an area that's in the center of the property as far away from Haiku Road as you can get and most of the neighbors. It's about 5,000 square feet and so it's an ideal spot and it's heavily vegetated around it and that's where we would do...designate as area for special events. It's basically adjacent to where the cathedral's at and it's basically this is a Google Earth shot and I know it's not real clear and everything but this is the main house here and the 5,000 square feet that I'm talking about is right in here. You can see it's encircled by mature trees, these are the banyan trees. This building here is a barn. It's a maintenance facility that Ed uses. That is not a house. The nearest, let's see I think it's like over 400 feet down to the road, this way is about 600 feet and actually to the nearest homes up in here which there are some homes right in here is about 850 feet. So there's some good distance between each of the neighbors and again, the special events section that we would use for weddings and receptions is here. And again, we own this parcel so that's not an issue with any neighbors on that side, but it's totally enclosed by vegetation. This is kinda at the top of the...of that grass lawn looking towards the ocean and you can see it's heavily vegetated. This is from the opposite side looking back up the hill. So we really think that if there's noise generated here through, you know, at a wedding reception, you know the vast majority of it is gonna get absorbed by the heavy trees.

I think this is pretty close to what I think was what was in the staff report is what is being recommended. Smaller groups, 80 people or less, five times a week, Sunday to Thursday and 8:00 p.m. curfew, 10:00 p.m. on Friday and Saturday. Once the groups get a little bit bigger we can only do them twice a week again with the 8 o'clock, 10 o'clock sound curfews and then up to 500 people a couple of times a year. And in the report there was a bunch of other conditions and we have no problem with any of the conditions that the Department has presented in that report.

Parking is an issue that we have to address. This again is our special events area here. If you go to 500 people the requirement is 2.5 cars...or 2.5...one stall per 2.5 people is what I should say. So if you do go to 500 people that's 100 and ...no 200 stalls are required. We have identified and we've worked with Chris Hart and Associates identifying parking all along that road. We have three entrances into the property. This is the main entrance here. We have another one up off of Haiku Road and then one off of Kalanikahua. In this area alone is about 80 parking stalls and then we could easily fit...this actually shows up the 250, but we wouldn't

really need that much. You could fit the balance of it probably much in this area right in here. This a grass lawn. If we ever did that kind of a event we probably would valet the cars. We're not gonna have people drive up in there themselves. We would control it. We would problem either have them valet over in this area where the guests could drop their car and just walk a short walkway to the event site or maybe even at the main entrance or right in front of the main house we could do that then valet them over. For smaller groups we would let them park but this area for smaller groups would easily handle the parking requirements that have been identified. That's pretty much it as far as the presentation goes as far as what we got. Thank you for your consideration.

Chair Tsai: Thank you, Barry.

**a) Public Hearing**

Chair Tsai: At this time I'd like to open the floor for public testimony.

Ms. Adrienne Gadica: Good morning. My name is Adrienne Gadica and I have to picture you right now as eighth graders because I teach at Kalama and I'm really nervous about this so it helps when I think you're eighth graders.

I live right where the ...(inaudible)...of the concept use plan is. And even though it's across Haiku Road and it's across a gulch I'm within the noise that parties from the Simons have generated. And I'm very, very concerned especially because of it being rented like, like you know, these concept, these adventure weddings from the mainland. On Maui we go to bed, the party ends often at 10 o'clock. On the mainland it doesn't. So if you rent for many dollars a whole house, and a pool house and everything would you stop partying at 10 o'clock? I'm not from Hawaii. You can hear my accent. I'm from Germany originally so we would not ever have stopped at 10 o'clock if we paid that much money. Where I live I have lived there since 1993 in my house. We build it and I really enjoy the rural quietness that's part of why I moved from Haliimaile to Haiku much quieter, fewer Halloween children too, trick or treaters, but it's just very rural, very quiet even though the Coqui frogs are trying to destroy that right now on one side. But now I'm worried about the other side. We already have one event place very close at the corner where Chris Hart is right across there. But the difference is the owner of this event site lives there and nobody spends the night there so it's much easier to enforce 10 o'clock lights out. How are you going to do that if you have people 10 bedrooms staying there having a...I mean, I feel sorry almost for them if they to stop at 10 o'clock because that's just not what party people do. And I also don't understand why this property wouldn't be held to all the other properties who have short-term rentals where you can have a maximum of 12 people staying there. Why is this different? It is a beautiful, gorgeous property but it should be held to same rules as all the other short-term rentals in the neighborhood. And I think that's it.

So if the permit for special events is given then I really would look for the following of restrictions like no amplified music. The parking should be onsite although I'm worried about all the gorgeous trees that was pointed out. Strict quiet hours but I don't know how they will be enforced. Their numbers of events should be restricts and the numbers of attendees also. Thank you very much.

Chair Tsai: Thank you.

Ms. Josie Malott: Good morning. My name is Josie Malott and I also live in the neighborhood near the proposed event site. I have lived in Hawaii 20 plus years. I remember a Maui that had nothing but two-lane roads, one traffic light on island. It has changed tremendously. I lived in Wailuku for many years and when my husband and I saw the expansion of Wailuku we decided to move to Haiku to rural residential area. We have two acres and the goal is to have a quiet home life. My husband and I work Monday thru Friday. Our home is our sanctuary. We enjoy our quiet time. There is another location across the street from the proposed location that already has a special use permit for events. Again, Adrienne mentioned that they are responsible that they have the owners onsite and they are. It's also located kind of in a gulch area so and it is protected by old buildings so the noise level isn't that high although we can hear events fairly often but they do respect the 10 o'clock curfew. I don't understand why a mainland company with no interest in residential rural community wants to have this area opened up for a commercial event site where we already have plenty of traffic on Haiku Road. There are two shopping centers and a post office, the Haiku Cannery. Nearby there's plenty of traffic and here they wanna open up the traffic to hundreds of cars. That road is also fairly dangerous. The property across the street from the proposed site is already missing a few palm trees from accidents at that turn which is supposed to be a 20 miles per hour turn and you know I've heard and seen a fair share of accidents already at that area. We moved from Wailuku to have our peace and quiet, you know will be forced to move from Haiku? Where will we go to? So it is a big impact. We've lived on our property now for close to 15 years and yes, it's a beautiful site. There are other sites nearby to have events. There's Haiku Community, theirs is Plumeria and Baldwin Street. There is the Hui No'eau. There's Seabury Hall. There is Paia Community Center. There's Baldwin Beach. There are a lotta places where people can have events in that area.

Ms. Takayama-Corden: Three minutes.

Ms. Malott: Thank you.

Chair Tsai: Anyone else wish to testify at this moment? Seeing none, public—oh, come forward please?

Ms. Sylvia Hamilton Kerr: Good morning everybody. My name is Sylvia Hamilton Kerr and I am just here to testify in support of this project. These people are my neighbors and I know them. I'm friends with them. I have history and I just know them to be very thoughtful, kind people and reasonable people and I think that there won't be...I think they'll be very respectful of the neighbors just knowing who they are and the kind of people that they are. I really hear the two people who just testified on their concerns and I think that that the owners and the people that run the place would be very sensitive to those concerns and really keep those things in mind. Noise is definitely a concern I think. I think there's any getting around that. And I think you know, as the owner of a property in a business like that myself I know that if you...from my point of view, your business depends on being sensitive to neighbors because if you're not sensitive to neighbors you're not gonna really have a business for long I think. So that would be one point. I have a very good friend that actually did get married at that site 27 years ago one of my

best friends on the island and so if there's some precedent for that and really that's all I have to say. Thanks very much. Thank all of you for being here and volunteering your time.

Chair Tsai: Thank you. Public testimony is now closed. Questions from the Commission?

Ms. Flammer: Did you want the Department's analysis before you launch into that effort?

Chair Tsai: After yeah.

Mr. Hudson: Question?

Chair Tsai: Yeah?

Mr. Hudson: Recommendation first?

Chair Tsai: No, I do it after.

Mr. Hudson: I have a question might be for you Director. There isn't an exception to this, right if they're staying there...80 people aren't staying there overnight, right?

Chair Tsai: Mic?

Mr. Hudson: I'm sorry. Is a short-term home rental is two persons per bedroom correct?

Mr. Spence: Correct.

Mr. Hudson: So you have, you have a limited amount of 20 to 22 people that should be there after 2200 hours is that correct?

Mr. Spence: If I could go by military time.

Mr. Hudson: Ten o'clock.

Mr. Spence: It doesn't qualify as a short-term rental home because those are limited to six bedrooms. This has 10 bedrooms. So that's why they're going for the extra permit, for the Conditional Permit. So yes, it's normally limited two per bedroom but you wanna add something Gina?

Ms. Flammer: Yeah, it actually might be useful for me to go through the analysis and the conditions to better understand the scope of the project. How the Department is putting limitations on it. Would you be okay with me doing that?

Chair Tsai: Yeah, that's fine.

Ms. Flammer: Okay. So what I wanna do first is there's a lot in the report. I just wanna remind you of the two permits that we're looking at. We're looking at the State Special Permit because it's zoned Agricultural and then we're looking at a Conditional Permit because it's County zoned

Agriculture. So with the State Land Use Special Permit, it starts on Page 7, but the actual criteria for evaluating that permit are on Page 8. There's five that are listed but I just wanna talk about what's really relevant to today and to special events types of...and transient vacation rental types of projects. Number 2, the desired use will not affect, adversely affect the surrounding property. That's probably the most important. And then when you look at the Conditional Permit and you go to Page 9, and you're looking at kind of the two-thirds of the way down under establishment, under A, the Code specifically talks that the proposed use needs to not be significantly detrimental to the public interest, convenience and welfare and will be in harmony with the area in which it is located. So I think what you know now from being on the Commission a while, and I'll just remind the two new commissioners how it works, we typically use the conditions to mitigate the project so that it meets those particular criteria. But what I mentioned earlier is when the public notice goes out only 30 days in advance and the report gets prepared, you don't always get the neighbor testimony. So we rely really strongly on mana`o, your review today and your comments and your conditions that you kinda craft in today's hearing. So the special events permit is something that you have the authority on. The conditions that you place on that will stay. The Conditional Permit goes to the County Council for a final review. However, they don't have the ability to expand on the limitations that you put on. They can actually have further limiting conditions but they can't grant something that is more broad than what you, what you put on today. So you have a lot of ability to really shape the project to how you think it should fit in this area.

Next I just wanna let you know in the staff report it looks good up there but it's a little easier to see, we have in the exhibits, if you look at Exhibit 4, the applicant was really good about putting together a plan that shows who the neighbors are, so it's Exhibit 4. Today we had Lot No. 16 and Lot No. 18 testify. So it gives you a chance to see where they're located on there. No. 1 by the way is Haiku Mill. And then if you turn the page to Exhibit 5, again, it shows you a Pictometry, a satellite photo so you can see where Haiku Mill is located, you can get a sense of where those two lots are that are here today, and then you see where the subject property is.

And then if you keep going, again the Pictometry picture on Exhibit 6. But Exhibit 7 is this site plan that's up here. It shows the parking just a little bit better so you can see where the parking's gonna be. One of the letters did come from a neighbor that was concerned about the parking down in the south which is the top of the page up here. So I just wanted you to be able to know where to access those maps.

I also wanted to let you know with the parking plan as you discuss it all the stalls are provided on there. However, because it's grassed parking it does have to come into the Department to the Zoning Division, actually it will come to the Current Division for a special parking approval and at that point they're gonna have to show us what kind of surface they're gonna be using. I don't know if there were any concerns about mud or if there is, but it's gonna have to come in for a separate approval and I know they're working with Jordan Hart & Partners on that and they, too, wanna protect the trees, wanna protect the grass and all of that. So that's a whole other separate process that's gonna happen.

And I just wanted to real briefly go through the conditions. I know you have copies, but I also wanted members of the audience to hear what the conditions are. The conditions on the Special Use Permit are the same on the Conditional Permit so I'm not gonna go through them

twice. And again, this is a starting point for today for you to discuss. That's how we've done our other permits. So starting on Page 3 of the green sheet. The permit is...we're recommending that it be issued for one-year. That's often what we do with Conditional Permits. Extensions, there is notice that goes to everybody within 500 feet. If even one complaint comes in it gets sent through the same process. It comes back to you and then it goes back to the County Council for review. So that's important to understand how that process works.

Number 2, it can't be transferred without prior written approval. And I did put the permit in the names of the two managers of the LLC so they need stay with that or at least one of them. They're required to have an insurance policy that's Number 3. Number 4, they need to submit compliance reports to us before they start operating to show us that they are...they have done everything in here. And again, when they apply for the renewal. Number 5, they can only have one permit for this type of use and that's because the Short-Term Rental Home Permits typically it's only issued to one person. Number 6, they need to have a TAT and GET License and make sure that they're...understand the taxes that are owed. Number 7, any representations they make today including the power point are actually attached to the project. Number 8, any kind of government requirements they need to adhere to those. Number 9, we are in our recommendation we're recommending that a manager be designated for not only the then if you go to Number 10 here on Page 5, the manager has to...for the vacation rental they have to be accessible to guests and neighbors and the County at all times. They have to vacation rentals but also for the special events and that the neighbors need to know who that is. And answer a phone, they have to be there within an hour. You might remember this from the Short-Term Rental Home Permits. It's the same requirement. However, for the special events when there's amplified sound or more than 50 guests we're recommending that that manager be actually on site for the special events. There had been some talk about maybe having a different wedding planners from around the community come in. The Department spoke with the applicant. They were fine with it to actually having somebody there monitoring it at the time. Number 11, we'd like them to notify all the neighbors again once the permit is approved. And then if anything changes this is Number 12, that they again notify everybody. Number 13, like the short-term rentals we're requesting that they have a two-foot sign along the main access with a phone number so they don't actually have to knock or interrupt something. They can just call the manager with that phone number. They have to house policies in there and they have to let people know ahead of time what the house policies are and those house policies talk about quiet time. That the...when they're advertising they have to have their permit number.

And they have to let people know that the maximum occupancy is no more than two persons per bedroom and that each dwelling shall be rented to only one group at a time but what I heard today is they're gonna rent the entire property for one group at a time and then we specifically state in Number 17 that that maximum occupancy again is only two guests per bedroom so you're looking at a total of 22 guests on the property. All the parking needs to be on site and you can see the plan that's up here. They need to have appropriate lighting and by Maui County Code that lighting has to be downward shielded.

And then we talked with the applicant quite a bit about what type of special events and how frequently should they be. So A, B, and C talk about what that is so up to 80 guests can happen on a regular basis so long as those events are done before 8 o'clock at night similar to the Haiku Mill where we called them daytime events. So they have them up to five times a week.

Events with between 80 and 150 guests or attendees can on until 10 o'clock at night. All the cleaning needs to be done by 10:30 and that clean up time has to be quiet. And then twice a year they're asking for events with guests up to 500 people and those again would be held either on a Friday or Saturday night till 10:00. If they're gonna do it on a Sunday everything has to be done by 6:00. Any event that has a 150 or more guests they need to work with the Maui Police Department on traffic and safety measures and we need to see that upfront what those measures are gonna be.

And then Number 22 on are Fire Department requirements. So just briefly they have to have a fire exit in each room. They have to have the proper fire extinguisher which is a larger commercial size fire extinguisher. They need to have working smoke detectors and those need to be tested monthly. They have to be available for inspections. And then starting with 27 we ask for written verification of tax payments. 28 we go back to Fire Department rules about open flame and cooking. They have to be in compliance with the Fire Department regulations. They're not allowed of any open flame or pyrotechnics without a prior approval. Any events open to the public require approval by the Fire Department ahead of time.

And then the Department of Finance, Real Property Tax recommended that it be classified as Commercial for real property tax. And they do have to comply with Department of Health for their wastewater disposal method. I know they're working with them now to find out what those requirements are, but they're not gonna be able to start operations until they have that. So I wanted you to know how we're looking at the project. Of course you have the full ability to add anything else on that you think.

And then the process. This will go onto the County Council when you're done for the Conditional Permit. However, like I said earlier the conditions you put on today will stay. Any questions with all of that?

Chair Tsai: Thank you, Gina.

Mr. Robinson: Just 33, huh?

Chair Tsai: Actually not too bad. Questions from the Commission?

Mr. Robinson: I have a question.

Chair Tsai: Commissioner Robinson?

Mr. Robinson: This is for Gina or for Barry. I notice that you guys have only asking for 500 people only twice a year so nothing between...so anything over 150 is gonna be considered you can only do it twice a year?

Ms. Flammer: Yeah, that would be correct.

Mr. Robinson: Yeah, wow okay. Thank you.

Mr. Carnicelli: I have a question.

Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: I'm looking at the testimony put in and there's a Mr. DeLeon who lives in Haiku Hill says that he gets noise, you know, he hears the noise from the Mill. So I guess I'm just...and he also suggested that if it's going to be one of those larger parties could it not be on the same night that Mill is, is also you know, to say coordinate to where it's like there's not two events at the same night.

Mr. Helle: Yeah, I talked to Dave about that. I've known Dave for many years and I called him after that. We did have a discussion about that and I assured him, you know, we know Sylvia very well, it's a family friend of the owners and the line of communication is there and we would do our best to make that happen. There may be some times when it, when it does you know do that, but we would work with her to minimize. It doesn't do either of us either good for our own businesses. So we would work together with Sylvia to make that happen as little as possible.

Mr. Carnicelli: If I could as a follow up then? So the notice here within 30 days of approval you're gonna give out notice to the people within 500 feet?

Mr. Helle: Yeah.

Mr. Carnicelli: Could we expand that because obviously Haiku Hills is further than 500 feet? You know just, noise doesn't stop at 500 feet.

Mr. Helle: I have no problem with letting more people know. You tell me what the number is and we can do that. I don't think that's a problem.

Mr. Carnicelli: Okay.

Mr. Helle: The County system identifies it, right off of KIVA? Yeah, okay.

Mr. Carnicelli: Yeah, okay.

Mr. Helle: Yeah, and I just wanna reiterate too going back to what one of the testifiers said about you know, cutting it off at 10:00 and I know Gina made the point that there is a condition there that we have somebody onsite and that is something we're definitely going to do. And if somebody is renting the home, as part of the rental agreement is they're gonna be signing documents that state that they understand the house rules. So that is something that we're very cognizant of.

And also on the parking side of it. For most of the smaller groups, yeah I mean you got people that would be staying there up to 22 people but beyond that, we anticipate a lot of these people would be coming out of Wailea or Kaanapali. You know the destination weddings type of things and we would shuttle them up. We're not gonna expect to see for most events a lot of cars there. We want to keep that to a minimum. So we would require from our side as much as possible that the people be shuttled up there. We can handle onsite.

Mr. Carnicelli: On other follow up question Barry it would be it mentions in here that the condition would be that if you're going to use pyrotechnics you're gonna get Fire Prevention approval. I think if I lived in Haiku if there was a fireworks show I don't think I'd be real happy you know.

Mr. Helle: You know, they put that in as a condition. We've never discussed that on our side. That's not something that we even thought of, so...

Mr. Carnicelli: Would you be willing to say none?

Mr. Helle: If you want to put that down as a condition I don't think we would have a problem with that.

Mr. Carnicelli: Okay.

Mr. Helle: We're not into disrupting the neighborhood like that. No, I think we'd be totally okay with that.

Mr. Carnicelli: Okay, thank you.

Mr. Castro: I have a question.

Chair Tsai: Commissioner Castro?

Mr. Castro: Having sat in the Board of Variances and Appeals before there's always been an issue of...with the Fire Department, the fire truck. Is the road going into the property wide enough for the fire trucks?

Mr. Helle: To my knowledge, yeah. I mean, it's a full gate. I think all three entrances you could get a fire truck through. I haven't measured it. I can't say for certain but I'm pretty sure it would that the fire truck would fit on property.

Mr. Castro: Do you know if there's hydrants in close proximity?

Mr. Helle: There's a hydrant right by the corner. I'm pretty sure there's one...I think there's one like right in here and then I think there's another one right in here and then they go down what are they...every 300 feet, 200 feet? I forget how they are, but I know there's one like right in here and then they kinda go down that way through the property. A pipe stand, oh up in here? Okay, there's another one up here too. And I know if we go for building permits, I talked about a pool house I know we would have to go to the Fire Department and meet all of their requirements. I've had discussions with Scott English before he retired about that when we were looking at the property.

Mr. Castro: Thank you.

Chair Tsai: Director?

Mr. Spence: And Commissioners, if you would look at Exhibit 17 the Fire Department does comment on it. Probably the applicable comment with regard to accesses any event open to the general public will require a site plan review and approval by the Fire Prevention Bureau. So...and I see the pyrotechnics comment from them nobody else, so...

Mr. Helle: Yeah, also Ed who is our property manager he just assured me...the fire trucks have been on property. I don't know hopefully nothing serious, but...to check the hydrants, okay. So yeah, they have fit through the gate. They have access, yeah.

Mr. Castro: Thank you.

Chair Tsai: No more questions? Okay, can I get a recommendation from the Department, please?

**b) Action**

Ms. Flammer: So in consideration of the foregoing which is the analysis and recommendations I read to you the Maui County Planning Department recommends that the Planning Commission adopt the Planning Department's report and recommendations prepared for today, June 14, 2016 as its findings of fact, conclusions of law and recommendation to authorize the Director to transmit said recommendation to the County Council on behalf of the Maui Planning Commission.

And for the State Special Permit we recommend approval of that permit.

Mr. Castro: I move that recommend as presented.

Chair Tsai: Okay, moved by Commissioner Castro.

Mr. Carnicelli: I'd like to...I'm not gonna second it. We haven't gotten a second to even discuss it?

Chair Tsai: Yeah, do I hear a second?

Ms. Duvauchelle: Second.

Chair Tsai: Second by Commissioner Duvauchelle. Discussion on the motion?

Mr. Carnicelli: I'd like to make a motion to amend the current motion to include in Item 11 that the applicant provide owners a record within one mile of the subject property or half a mile...let's say a half a mile? I don't know, I mean it's gotta be more than 500 feet.

Chair Tsai: Director?

Mr. Carnicelli: What's reasonable to you?

Mr. Spence: Well, I'm trying to think of how many...I know a mile is over a...yeah, if you say, 1,000.

Mr. Carnicelli: A thousand, okay, yeah.

Mr. Spence: That's like a quarter mile, right around there.

Mr. Carnicelli: Okay, so I'd like to amend it to read, so Item No. 11, and then on the special conditional permit it would be what, Item No. 12 to both read a 1,000 feet instead of 500 feet. And then I would also like Item No. 29 to amend it to say that there is...the use of pyrotechnics or open flame...I'm not...I'll just say the use of pyrotechnics at events are prohibited and then also the No. 29 on the Conditional to also say the same. That the use of pyrotechnics is prohibited but open flame at any events requires Fire Prevention approval.

Chair Tsai: Okay, so I have an amendment to the original motion. Do I hear a second on the amendment?

Mr. Robinson: Second.

Chair Tsai: Okay, so I have an amendment by Commissioner Carnicelli, second by Commissioner Robinson. Will the maker of the original motion be okay with the amendment?

Mr. Spence: And just for clarity for the record I'm assuming that candles would not be considered open flames?

Mr. Carnicelli: I would assume the same.

Mr. Spence: Okay, you're talking like bon fires or...

Mr. Carnicelli: Sure.

Mr. Spence: ...or something? Okay. Something significant?

Mr. Carnicelli: Yes. Well, whatever, I mean what was the original intent. I'm just...is the use of pyrotechnics is my intention, my thought is just to take pyrotechnics out.

Mr. Spence: Okay.

Mr. Carnicelli: And whatever was the original intent we leave for open flame.

Mr. Spence: Okay.

Chair Tsai: Second, motion are you okay with that too?

Ms. Duvauchelle: I am. I agree.

Mr. Murai: Well, actually so if there's a consensus of the commission, in other words, basically if you're voting in favor of the amendment then by I guess by a claim or consensus it's amended, the original motion is amended.

Chair Tsai: Right. You don't need to take a vote on that.

Mr. Murai: Unless there's any objections?

Chair Tsai: No objections? Okay. All right, so we have an amendment motion that's been agreed to. Any more discussion?

Mr. Spence: Just do we want to ask the applicant on the...do the applicant want to comment on the—

Chair Tsai: Oh yes.

Mr. Helle: On the amendments?

Mr. Spence: Yes.

Mr. Helle: Totally okay with the 1,000-foot to notify everybody. That's totally fine.

Chair Tsai: Barry, can you identify yourself for the record again?

Mr. Helle: Sure Barry Helle with 355 Haiku Road. And no pyrotechnics we have no problem with that.

Chair Tsai: Thank you, Barry. By the way, a mile is over 5,000 feet so...

Mr. Spence: The thousand foot is more than enough. More than we've ever done for any other permit.

Chair Tsai: All right, any more discussion on the motion and the amendment? Commissioner Hedani?

Mr. Hedani: I kinda hear where Mrs. Malott and Mr. DeLeon are coming from. Haiku is a quiet area and when I look at the application I'm kind of confused as to whether or not they're trying to do a transient vacation rental operation which can be controlled in terms of the sound or a full on commercial event scenario where they're doing it ...(inaudible)... less, 52 times a year plus 2 times a year on a commercialized event basis. And I guess my question would be to the applicant as to whether or not the proposal can fly as a TVR without special events as recommended by the testifier, from Dave DeLeon?

Chair Tsai: Good point. Let's ask the applicant.

Mr. Helle: I gotta say that throughout or planning process and reviewing the property we've always tied the two together. We definitely feel the ability to do at least the small groups and

then the small parties. I think property can handle it. I don't think that it's gonna be that detrimental. I see the two, you know, at...(inaudible)...some special events as part of our plan for the property.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: Barry, if I want to rent the property as a TVR for my family, pay \$10,000 a night for 10 days, \$100,000 in order to occupy the residence how can that happen when you have special events five days a week?

Mr. Helle: Oh okay, I'm sorry I misunderstood your question. In our discussion and what we intend is we're not gonna have somebody renting the home not affiliated with the special event. We see the special event would be tied to whoever is renting the property. We're not gonna have me and my family there renting the home and then you come in and throw a wedding out in the backyard that's not gonna happen. If we're gonna be renting the home it's gonna be...and having a special event it's gonna be you know, one party primarily, one tenant or one client I guess that the way we would say that. Does that answer your question? I wanna make sure we answered the question.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: I guess I'm just not understanding what the proposal is. It's like commercial events venue, oh plus we'll throw in the rooms as a bonus so that you can actually occupy units while you're on the site is that what it is?

Mr. Helle: I'm not sure that that would...that's the way we would formulate...I see people renting the house and if let's say it's a, you know, a family that somebody's gonna get married while they're here. They're gonna rent the house, headquarter there and then while they're there one night out of their stay they're gonna have, they're gonna have a wedding and ceremony and a reception.

Chair Tsai: Commissioner Higashi?

Mr. Higashi: I'm having a major problem with this application from the standpoint that although the property is a very beautiful property it sounds like it's a quasi-hotel venue with a lotta activity taking place. And the thing that concerns me we already just approved a property which is adjacent to your property which means that there's gonna be a major conflict between having simultaneously having these activities occur at the same...and I don't know what kind of communication gonna take place. For me personally, I would like to request a postponement on the action on this particular application until we have more time to digest quite a few points on it. One in particular I see is this comment about the parking and in the application it says that the parking will be installed and it hasn't been installed yet and that's one of the requirements that's supposed to be added onto it. So I'm kinda, I'm kinda confused as to how am I gonna react to an application that actually is pending upon another application that we just approved on which is adjacent to yours.

Chair Tsai: Director?

Mr. Spence: Improvements to the parking are not dependent on any kind of commission action. That administrative action that they're going to just undertake it for the protection of the property. I mean you don't...until you get permits in place you don't wanna go expend exorbitant amounts of money to do something that...to accommodate something that you don't have permission to do. So these permits come first then they would go expend the funds to help with the parking and what not.

Mr. Higashi: The reason why I brought up this up is I'm familiar with another application that's coming up and according to the Planning Department in order for the permit to be proposed it needs concrete parking and on this particular project it's all grassed parking. So what's the difference between one that doesn't have paved and one that has grass parking?

Chair Tsai: Yeah, Gina?

Ms. Flammer: Actually that other application we just recently got approval to do grass parking or got approval to have the applicant submit a grassed...a plan that includes grass parking. So how grass parking works in the parking section of the Maui County Code, 19-36(a) is the Director has the authority to allow grass parking at his or her discretion provided that they're comfortable with it. So in this particular case we wanna see something down on the surface that would 'cause it's rainy there, that's gonna keep it from getting muddy and it's gonna protect the existing botanical garden that's there. So we wouldn't do grass parking on a slope. So we look at every case individually. But how it works is it's the Director that has the discretion to grant that otherwise they have to adhere to the regular parking code and all of those requirements, but the only leeway we really have with that is special approval for special events for grass.

Mr. Higashi: Okay, well that's a side issue. I still have some problems with the application with the amount of conditions that are put on.

Ms. Flammer: Would it, would it help to understand what their plan was for the mitigation for the grass ahead of time?

Mr. Higashi: Well, it's basically a multiple issue. One is you have a 10-bedroom building that's almost like a quasi-hotel that you have in this particular...and the other part is we have two applications on special events that's adjacent to each other and to what extent are we gonna mitigate getting these things done? It's not to say that the estate cannot accommodate what they're asking for. What I'm concerned about is you have two activities in the same surrounding area requesting similar types of activity and I agree with the neighbors saying noise will become a factor even though you might be out in the country. So anyway that's my feeling about the application. It's not that the applicant is not qualified in getting what they would like to get. It's just that the situation is such where we have two activities adjacent to each other.

Ms. Flammer: So it sounds like you're looking for something to mitigate the cumulative impacts as well as the just separate noise concerns.

Chair Tsai: Commissioner Higashi, I appreciate your comments just...and this is for all the other commissioners too, if we have questions please keep it specific directly to the application. I don't think we wanna speculate on anything that may come up, any other issues that's not in discussion.

Mr. Higashi: I thought we were in discussion.

Chair Tsai: We are, but I think you're just...it's a motion on the floor so we're discussing you know, items regarding the motion. So, Commissioner Robinson?

Mr. Robinson: I'm actually in support of this permit. I agree with you it's a little...10 bedrooms is a little different. You know, it's kind of that little bit out of what we normal 20 would be a lodge, you know. And that does have reservations, but what we don't have today is we don't have all the people that we had that were here for the Mill a couple months ago, about the jobs, about the work Upcountry, about the benefit of Upcountry people being able to work Upcountry in a facility like that and I don't see this as that different than the Mill. In fact, I see this as a compliment you know, when I saw this application, I was like wow, these guys are smart. The Mill's gonna have weddings, now you got a 10-bedroom place, people don't have to go stay in Wailea. The wedding party can now stay across the street. They can have mini parties, they can have their predinners with the family, you know, they can make it a whole weekend which I think is gonna help both which to me means if they're gonna have that kind of functions and that centralization that the people that do work for that and do work for both I see Barry and the Mill sharing employees. You know, I see it as a benefit and at the same point it also restricts them more because now there's two companies that have to be quiet. And if either one of them mess up, the complaint would be good and it's a one-year, one-year term. I guess because of the company that bought the company, and I don't know somebody said it's a foreign company. I've known the Wailea Company and they've always been, you know, they've always been upfront and they've been in front of us a couple of times. I wanna give them the benefit of the doubt. And if they don't, I'm pretty sure the people who testified will be calling the Department and they can go through their procedures to get their permit pulled.

Parking, yeah, I can't see...I can't see, you know, the events only twice a year which I was surprised. I thought they would want more for more that people but I would, I would think that they're gonna bus 'em. I mean, you know, my wedding was a couple hundred and I already bussed them because just to have to deal with parking and cars and people trying to find the place. You know, and that's how I imagine. I imagine like the Mill but you know, kind of as an addition to it. And I think these conditions you know protect the public. Of course, I am like you, you know, 10 is a little, is little large and I think if anything it might hurt them because of the sound level. I think if it was less rooms it would be easier for them to control it. I think that's gonna be something that they're gonna have to decide, but this permit isn't that they're gonna do an event five times a week if they're allowed to. But really they're allowed to do whatever their neighbors allow them to because they're going have to follow these conditions and be good neighbors. And you know, it's really up to them, if they mess up I see their neighbors stepping in and asking the Director to pull their permit. I'm hoping they don't. I'm hoping that they work together and I'm hoping that this is a good function and hopefully I can attend an event up there. Thank you.

Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: You know, I'd like to kinda just piggyback on what Commissioner Robinson just said. I mean, I, too am support of this. I've been in love with property since I got to Maui and the first time I drove by it, it's like it's fantastic. You know, does that mean that it needs to be a hotel? No. But when I read the application too, I thought it's like this is the perfect spot for something like this. I mean, it's like the perfect property in my estimation. And so I kinda wish I would have gotten married there, you know what I mean, it's just like it's fantastic.

I'm a little bit concerned about five days a week, you know 80...groups of 80, you know, a couple of times, you know, 150. The big, big groups limited to twice a year. I can see that as being okay, that's...it just in my mind it seems like okay, it's kind of doable. But like Commissioner Robinson said, this is a one-year application. So for to me it's kinda like, okay let's give 'em a go for a year and if they come back and the room's filled with everybody going... Then they're done. So anyways I'm in favor of it. If somebody's, you know, if one of the commissioners wants to amend, you know, to lower the number of times that they can do whatever it is that they want to do I would be okay with that. You know, to just limit the number of the frequency with which they can do what they can do. Okay, but I think for now, I think I understand the intent of what they're trying to do. But like, what Commissioner Hedani said is it a special events place that happens to have rooms or is it a TVR that happens to also be able to do special events? Time will tell.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: I think my concern is with special events occurring five days a week. It doesn't make sense to me to have special events five days a week at this location. You cannot run a TVR with special events happening five days a week. This one party gonna rent the property and have an event every night of their stay or 10 days. I mean it's a recipe for making the neighborhood crazy. I think the property is a beautiful property. There's already some dispute as to whether we're talking about 13 acres or 18 acres in which case it shouldn't be here. It should be at the State Land Use Commission is a question. But five days a week special events really bothers me.

Chair Tsai: Do you propose an alternative?

Mr. Hedani: One suggestion would be to eliminate special events five days a week and say, events up to 150 people shall be limited to one a week. And then adjust the timeframe from 10 o'clock to say 9 o'clock and then say no amplified music to be heard outside of the property boundaries like we have in other cases. That would be my suggestion.

Chair Tsai: Well, Commissioner Hedani you know the ropes if you're willing to make an amendment and see how that flies.

Mr. Hedani: Okay, I'll move to amend the motion to eliminate conditional or Condition 21A and to amend Condition 21B to read, events up to 150 guests shall be limited to one event per calendar week and shall be concluded by 9:00 p.m. with cleanup concluded by 9:30 p.m. provided that noise shall not be heard beyond the property boundaries.

Chair Tsai: Are you keeping the ...(inaudible)...the same, 500 guests.

Mr. Hedani: Right.

Chair Tsai: Okay. We have a motion. We need a second.

Mr. Hudson: Second.

Chair Tsai: Okay, we have a second from Commissioner Hudson. Discussion?

Mr. Robinson: Commissioner Hedani, where does the 9 o'clock come from when we've...this board has 10 o'clock at least the whole last year I've been here. Is there a reason for 9 o'clock at this instance?

Mr. Hedani: I think what we're dealing with is noise impact to the surrounding community. And the frequency that's being proposed is very high. The higher the frequency I think the less time they should be, the less the length should be allowed to go on. It should end earlier if it's more frequent is the way I look at it. I'm not sure if this will work from a numbers standpoint with the applicant and I'd like to actually hear if it would work from them.

Mr. Helle: Thank you. I appreciate letting me speak on that.

Chair Tsai: Please identify yourself just for the record.

Mr. Helle: Oh, Barry Helle. I would like to have pretty much what Haiku Mill got as far as the time limits go. I don't see the type of music that we would have any different than what they had. And I believe they got 10 o'clock twice a week and I think that would be acceptable to us. I understand your concerns about five times a week. If you wanted to bring it down two times a week I think we could live with that. But I think the 10 o'clock is...would be reasonable especially on a Friday and Saturday night.

Chair Tsai: Commissioner Hedani? Thank you, Barry.

Mr. Hedani: Barry, the motion that I made is for one event per week not two.

Mr. Helle: I understand. I would prefer two.

Mr. Hedani: I understand, but that's not the motion.

Mr. Helle: You said you wanted to hear from the applicant and I would prefer two. And the reason I'm saying that is if you got a wedding on Saturday night and you do a dress rehearsal dinner type party on Friday night, I see, you know that's two in a calendar week. So I think two would be easier for us to accept than one and I would appreciate your consideration on that.

Chair Tsai: Thank you. Director?

Chair Tsai: Director?

Mr. Spence: My experience with event sites is that you give permission...if a company has permission to do something or a private party has permission to do something that's just permission to do it. It doesn't necessarily mean it's gonna happen. It's just that it's okay, it's within our bounds to do this. If it happens...it seldom actually happens, but that's my experience anyway. I can't...I'm not trying to speak for the applicant.

Mr. Helle: I totally agree with what you're saying. Even at five I don't really foresee it being five. You know, I think that would be very unusual, but I think two would be, you know, a good compromise.

Chair Tsai: I'm just going to make a quick comment. Thank you, Barry. I would think based on everybody's discussion two seems more reasonable based on given conditions of events and so forth. And I think that...not sure if we have what we...Gina did you work on that project for the Haiku Mill? Do you know what conditions we gave them hours wise? I think that's reasonable also.

Mr. Helle: I think it was 10 o'clock, but I'll let Gina...

Ms. Flammer: We've done a number of special events. We did Kaanapali Golf Course, we did Dragon Fruit Farm, we did Haiku Mill. Most recently we did Haiku Mill who had one event...they asked for one event up till 10 o'clock at night. In the other cases, I don't remember what time you did Dragon Fruit until. It was pretty early because it was right in the middle of lots, no vegetation and we had a lotta neighbor concerns. It was before 9 o'clock I recall and there was no amplified sound on that one. Kaanapali Golf Course we came in originally at 9:00 and then there was support from the condominium boards adjacent to the property for 10 o'clock so you granted them till 10 o'clock. So that's what I remember from recent cases.

I do know with Haiku Mill they did ask to do smaller events during the daytime. This one's worded a little different. Hers were broken up into nighttime and daytime and daytime was more like it says here, farm to table culinary events, retreats, workshops. I think in this case having it till 8 o'clock at night which is what theirs said also it just reads a little bit different.

Chair Tsai: Thank you, Gina. Commissioner Robinson?

Mr. Robinson: I think that makes a big different what the Haiku Mill did and having events earlier instead of trying to get the you know, 10 o'clock five times a week and I think that's maybe what the commission is kind of struggling with thinking oh my God they're gonna do this every night, but having a balance of you know, of something lower. I'm comfortable with whatever the Haiku Mill got. You know, that they would have the same ability to do and you might have to, you might have to have that pre wedding dinner a little bit earlier.

Chair Tsai: Commissioner Hudson?

Mr. Hudson: And I think I mentioned it before, before 2200, I mean, I'm good with 10 o'clock. I think we should develop some kind of consistent standard. I realize what Mr. Hedani is saying.

There's certain exceptions to the existing standard but we should have a standard. If you're gonna have a wedding by 10 o'clock you're done. If there's other things if you're in a heavily populated area that we can put on other exceptions but those are exceptions and not the standard. For me, my own opinion the standard is 10 o'clock for weddings or similar events. I think 10 o'clock is reasonable because if you shut down at 10 o'clock 10:30 everybody gotta be out of there, we're good to go. My opinion.

Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: Yeah, I would have to agree I think that whatever conditions were put on the Mill would, you know, reasonable to do here, and I guess the question for me is Corp. Counsel do we expose ourselves by saying okay, we just gave one to these guys, you know, a couple of parcels over and these guys come and we're inconsistent, do we get exposed on that at all?

Mr. Murai: I'm not sure what you mean by exposed? Certainly you're going to review each application on its own merits.

Mr. Carnicelli: Yeah, okay.

Mr. Murai: Although you do consider, I have...(inaudible)...you do consider things like density and conflicts, you know, in the uses.

Mr. Carnicelli: Yeah so for me, I think whatever the Mill got if it was twice, you know twice a week at 10 o'clock that to me sounds very reasonable.

Chair Tsai: Gina, I think you said, once a week, but there's also a—

Ms. Flammer: I did. I brought the letter. I thought this might come up. Special events are limited to wedding, corporate, nonprofit benefit receptions, musical hula performances, film screening and farm to table events up to 200 guests and shall be concluded at 10:00 p.m. That is once a week. Up to five times a week, they can have wellness retreats, workshops, classes and yoga, Pilates, meditation, and tai chi, farm to table breakfast or lunch with up to 80 participants and shall be concluded by 8 o'clock.

Chair Tsai: We get all that? Okay, so for logistics we do have a amendment to the amendment to the amendment. So there's a motion that we need to vote on. So you want to repeat the motion?

Mr. Spence: So there was a motion to amend, it was seconded and it was to eliminate Condition 21A and then limit 21B up to 150 people one time a week ending at 9 o'clock, everybody gone by 9:30 with no noise going past the property boundaries. Is that correct?

Mr. Hedani: Correct.

Chair Tsai: Okay, so let's take a vote on this amendment. All in favor of this amendment say, "aye"?

Commission Members: Aye.

Chair Tsai: Show of hands please. All in favor? Richard you do? Two.

Mr. Spence: I saw Richard raise his hand.

Chair Tsai: We're voting right now.

Mr. Spence: All in favor of the amendment? That's two.

Chair Tsai: So we have two. All opposed?

Mr. Spence: One, two, three, four, five opposed.

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

**The Motion to Delete Condition No. 21A and Amend Condition 21B to limit up to 150 people one time a week ending at 9 o'clock, everyone gone by 9:30 with no noise going past the property boundaries, FAILED.**

**(Assenting – W. Hedani, R. Higashi)**

**(Dissenting – L. Hudson, K. Robinson, L. Carnicelli, S. Duvauchelle, S. Castro)**

**(Excused – J. Medeiros)**

Chair Tsai: Motion fails. Can I hear a new amendment?

Mr. Robinson: I have a question Chair? Since we're gonna pare down the time and the business aspect of our applicant are we able to give them some time to absorb it and talk to Gina too so they can review what actually we're proposing after this so they can reply or do we have to defer to allow them to let them think about it for a couple minutes?

Chair Tsai: I guess I would direct to applicant see if they wanna discuss this or you guys want to...what do you think about what, you wanna take a five-minute recess and discuss? Okay, let's take five minutes.

Mr. Robinson: Let's do the motion first and then let's take a five-minute recess for him to hear what our motion is.

Chair Tsai: Yeah, so you have a new motion?

Mr. Murai: Well, we have a motion pending on the floor.

Chair Tsai: Right, we still do.

Mr. Carnicelli: So an amendment to the motion that's on the—

Chair Tsai: Anybody wanna do another amendment that's gonna pare down the—

Mr. Carnicelli: So I will then make a motion to amend the current motion on the floor which was already amended to include the same exact language that the Haiku Mill has. So 21A, B, and C or A and B will read—

Ms. Flammer: That's what's already in there. It just slightly—

Mr. Carnicelli: Oh it's the same thing?

Ms. Flammer: It is. I just didn't call it daytime events because they thought with an 8 o'clock they thought it was confusing so we just pulled out the word, "daytime".

Mr. Carnicelli: Okay, okay.

Ms. Flammer: And they are asking to do...we didn't limit farm to table culinary events just to brunch and breakfast and they're asking for a fashion show. Other than that it's a little—

Mr. Carnicelli: Okay.

Ms. Flammer: I could, I could replace it with the exact wording if you felt more comfortable. I don't know if—

Mr. Carnicelli: I guess I'll remove –

Ms. Flammer: I don't know if they wanna offer Tai Chi.

Mr. Carnicelli: -- I'll remove what I was gonna say. I'll just...I'm not gonna make a motion.

Chair Tsai: So you guys understand Commissioners that we're still at five events a week that's the current—

Mr. Carnicelli: Till 8 o'clock.

Ms. Flammer: It's in there. The Mill was a little more specific in calling them actually brunch, lunch and breakfast. So it wouldn't be a reception dinner that was concluded at 8:00 for them. They actually just called it brunch and lunch events and daytime events, wellness retreats.

Chair Tsai: I thought we had a concern about the five times a week thing?

Mr. Spence: That was ...(inaudible)...event.

Chair Tsai: Yes, you guys okay with not addressing that.

Mr. Hudson: Just for clarification. Only once a week for weddings and/or similar type events is that correct?

Ms. Flammer: Once a week we'll allow amplified music and guests up to 150.

Mr. Hudson: So only once a week you'll be able to go to 10 o'clock?

Ms. Flammer: Only once a week can you go to 10:00 and only once a week can you have amplified music. Anything that is up to 80 people during up till 8 o'clock cannot have amplified sound or any noise that's heard beyond the property boundaries.

Chair Tsai: Okay, let's get some clarification here because I believe that motion that...

Ms. Flammer: That's what's on the table now.

Mr. Murai: It failed.

Chair Tsai: It failed. So we are going back to the original which still says you can have five times a week.

Mr. Hudson: No. Five times a week? We're talking weddings five times a week?

Mr. Spence: No, no, no, hold on.

Mr. Hudson: Okay.

Mr. Murai: We should probably clarify for the record exactly what the motion pending on the floor is.

Chair Tsai: Director please?

Mr. Spence: What's on the floor right now. There's no motion to change Condition No. 21 is what is proposed. There's three parts to that condition. The first part of it is events with 80 or less invited guests or attendees such as photo shoots, movies, filming, et cetera, up to five times per calendar week, the events shall conclude by 8 o'clock in the evening including event cleanup and shall not have amplified sound that can be heard beyond the property boundaries. Then B, events with between 80 and 150 invited guests shall be limited to one event per week and shall be concluded by 10 o'clock with cleanup concluded by 10:30 provided that no noise shall be heard beyond the property boundaries after 10 o'clock. And then the third one, third part of this is two events up to 500 guests or attendees two times per calendar year on a Friday, Saturday or Sunday. Events on Friday or Saturday shall be concluded by 10:00 and on a Sunday shall be concluded by 6:00.

Ms. Flammer: I'm just gonna make one small tweak and say, events with up to a 150 people for B. I think maybe that's where some of the...I don't want them to feel like if they have 70 that doesn't qualify for that, but I think it's what we're talking about in here.

Mr. Spence: And so that's exactly what...Gina, that's exactly what Haiku Mill has?

Ms. Flammer: Actually this commission gave them up to 200 people.

Mr. Spence: Okay, 200.

Ms. Flammer: For the once a week event.

Mr. Spence: Oh okay.

Chair Tsai: So that's the motion we have on the floor. Commissioners, do you guys wanna make any more amendments or do you wanna vote?

Mr. Murai: Sorry Mr. Chair for the record there's still the first motion to amend which was your motion, Commissioner Carnicelli was adopted.

Chair Tsai: Right.

Mr. Carnicelli: Right.

Mr. Murai: So the motion on the floor is to recommend approval as amended by Commissioner Carnicelli.

Mr. Hudson: So we gotta take a vote on that?

Mr. Murai: No, it's already voted on.

Mr. Spence: It's already voted on.

Chair Tsai: Unless there's any more we can just vote on—

Mr. Spence: It's a 1,000 foot notification and no pyrotechnics.

Chair Tsai: So if that's all good with you guys we can vote on...call for the vote.

Mr. Robinson: Going to have the Planning Director read?

Mr. Helle: Noting that Haiku Mill got 200 once a week, instead of the 150, our property is much bigger I would prefer if we got up to 200 instead of the 150 whichever one it's just once a week.

Chair Tsai: So Barry you're saying you would rather get what...going back to what exactly Haiku Mill got?

Mr. Helle: Pretty much yeah. Yeah, I mean they got 200. I think we can handle the 200. I would prefer to do 200 over 150, but with the same you know, frequency and time limits.

Chair Tsai: Okay, thank you. You wanna make a motion just to give them the exact same?

Mr. Robinson: I make a motion to replicate the Haiku Mill and amend it to 200 people, up to, up to 200 people.

Mr. Murai: For the record, I'm sorry, just so the record's clear, Paragraph E Commissioner Robinson would now, would now read, events with up to 200 invited guests and we'll be striking the words, between 80 and 150?

Mr. Robinson: Correct.

Mr. Murai: And inserting up to 200?

Mr. Robinson: And that's the two permits right? There's two times.

Mr. Murai: No, that's for one, for once a week.

Mr. Robinson: No, but I'm saying it's on, it's on

Mr. Carnicelli: It's on both places, here and the Conditional Permit as well.

Mr. Robinson: The two permits.

Ms. Flammer: Yeah, thank you for that clarification. I made note of the wording and also that it's on both the Conditional and the State Special Use. Thanks.

Chair Tsai: Okay, so we have a motion of amend by Commissioner Robinson. Do I hear a second.

Mr. Castro: Second by Commissioner Castro. Discussion regarding this. We're making the same so...oh, Commissioner Hedani?

Mr. Hedani: Just for clarity, my clarity can we understand what the amendment is at this point?

Chair Tsai: Yes. Director?

Mr. Spence: The amendment is when we're...we're talking about the frequency of events and the number of attendees at the event. Looking at for the Special Use Permit and corresponding condition for the Conditional Permit for Special Use Permit...excuse me, Condition 21, that as represented by the applicant special events shall be limited to A, no change there. The change comes to B, events with up to 200 invited guests or attendees shall be limited et cetera, et cetera. So you're really just changing...you're eliminating the words, "between 80 and 150" and you're changing it to "events up to 200 invited guests".

Chair Tsai: Okay, that's on Page 6 and Page 9. Any other question, discussion? Call for a vote for the amendment. All in favor of the amendment signify raise your hand?

Mr. Spence: One, two, three...that's six ayes.

Chair Tsai: Opposed? One. Motion carries.

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

**VOTED: To Amend Condition 21B to delete the words, “between 80 and 150” and amend to “events up to 200 invited guests”.  
(Assenting – K. Robinson, S. Castro, L. Hudson, L. Carnicelli,  
S. Duvauchelle, R. Higashi)  
(Dissenting – W. Hedani)  
(Excused – J. Medeiros)**

Chair Tsai: So we have an amendment to amendment the original motion. Any other discussion? Seeing none...

Mr. Spence: The motion is approve by staff, amended by the 1,000-foot notification requirement, no pyrotechnics, and to change the No. 21B events up to 200 invited guests.

Chair Tsai: All in favor of the motion raise your hand?

Mr. Spence: That's five ayes.

Chair Tsai: Opposed?

Mr. Spence: Two opposed.

Chair Tsai: Motion carries. Congratulations.

**It was moved by Mr. Castro, seconded by Mr. Duvauchelle, then**

**VOTED: To Approve the State Land Use Commission Special Permit and Conditional Permit as Recommended by the Department as Amended.  
(Assenting – S. Castro, S. Duvauchelle, L. Hudson, K. Robinson,  
L. Carnicelli)  
(Dissenting - W. Hedani, R. Higashi)  
(Excused – J. Medeiros)**

Chair Tsai: We're gonna go break for lunch and come back at 1 o'clock.

A recess was called at 11:51 a.m., and the meeting was reconvened at 1:07 p.m.

Chair Tsai: Maui Planning Commission is called back to order. Next agenda item, Director?

Mr. Spence: Commissioners, we are on Agenda Item C-4, Mr. Phillip Collins McGain requesting a Land Use Commission Special Use Permit for a bed and breakfast in Haiku and our Staff Planner this afternoon is Tara Furukawa.

**4. MR. PHILLIP COLLINS MCGAIN requesting a State Land Use Commission Permit in order to operate a Little Piece of Paradise Bed and Breakfast, a three (3)-bedroom bed and breakfast located in the State Agricultural District at 1055 Upper Ulumalu Road, TMK: 2-8-009:007, Haiku, Island of Maui (SUP2 2016/0001) (T. Furukawa)**

Ms. Tara Furukawa: Good afternoon Commissioners. This item's under your review because the applicant is requesting a Land Use Commission Special Use Permit to operate a bed and breakfast at his four-bedroom farm dwelling that sits on one-acre of agricultural land in Haiku. At this time, I'll present you with the scope and details of the proposed project and then provide you with the Department's recommendation.

The proposed Little Piece of Paradise B&B is located in Haiku at 1055 Upper Ulumalu Road. If anyone's familiar with Haiku it's above Five Corners. The owner, Phillip McGain has owned the lot for 26 years. The dwelling has a kitchen, dining room, living room, four bedrooms, three of which are proposed for guest use, two and a half bathrooms, one and a half proposed for guests, a laundry room and deck. Guests would be able to park on the gravel driveway leading up to the house. I also have pictures.

So this is the property, and then the site plan, and the parking plan, and the floor plan. The three bedrooms are all on one side of the house along with the one and a half baths that's proposed for guest use. They'll also have access to the kitchen, dining room, and living room areas.

This is the driveway leading up to the guest parking area. So, there a bunch of bamboo trees lining the driveway and then these are two guest parking areas. This is the front of the house and then this is the kitchen and dining rooms areas, and the living room. Bedrooms one, two, and three, the two guest bathrooms and the laundry room.

Operation of a B&B will be compatible with the agricultural character of the area. There's agriculture surrounding the home. There are eucalyptus trees as I was mentioning and there are two acres of fruit trees. There are avocado, lilikoi and plumeria trees lining the drivers entryway. There's are two separate entryways, the guests driveway and the owners driveway. Along the western portion, western boundary is a forest and a gulch and then amidst the landscaping is the farm dwelling. The abundant vegetation, gulch and the fact that surrounding lots are all agricultural makes it difficult to see and/or hear anything from neighboring properties. There are no letters from neighbors submitted after notice was provided. Neighbor notice was provided twice, once for the bed and breakfast application and more recently for the SUP2 application public hearing. And the Department sought comments from the Land Use Commission and State Office of Planning and received no comments.

So these are just views to the south. This is toward the gulch and the rear of the property and then this is the farm plan. And then this is all the ag. So he as a bunch of...two acres of citrus trees, different types.

There are no approved STRHs and B&Bs within 500 feet of the proposed Little Piece of Paradise B&B location. Now the applicant, Phillip McGain will discuss the agriculture on the property.

Mr. Phillip McGain: Good afternoon Commission. My name is Phillip McGain. I've been a Hawaii resident for over 30 years living on this property for 26 years. I started this process a year ago in which time I did some research to implement farming plan and obviously there's a lot of options in Haiku with cattle or goats and since I already had a lot of agriculture already planted on my property it made sense to continue and expand that. Also I had a passion for gardening and planting and trees, so I did some research and did working with a consultant also to find out the best trees to plant in that area in Haiku, mainly citrus. There's lots of starfruit, obviously bananas grow very well, coconuts I already had existing, lot of bananas already had existing, lilikois, lychees and some of the other exotic tropical fruits that will grow up in that area.

My plan is to start getting fruit probably from the citrus in the next two or three years, some of the other tropical fruit trees will take a little longer to fruit, but my plan is to be able to supply some of the local restaurants, attend the local farmer's markets as well, supply local juice bars and some of the organic fruit stands and local retails in the area and mainly on the north shore. You have any questions?

Chair Tsai: Thank you. Appreciate it. At this time we're gonna open the floor for public testimony. Anyone wish to testify regarding this agenda item, please come forward, you have three minutes. Seeing none, public testimony is closed. Like to open the floor for our commissioners for questioning. No questions? Can't be this easy.

I have a question. On the application it says the parcel located on approximately one-acre land totaling 5.352 acres can you explain that? Are you talking about one-acre just for the B&B area and then the rest of is not included, it's ag land?

Ms. Furukawa: Yes.

Chair Tsai: Director?

Mr. Spence: You don't need to specify that, but they chose to.

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

Chair Tsai: Okay. Anyone wish to testify at this moment?

Mr. Tom Croly: Only cause I'm not sure how long the other items will take. I'd like to just share some thoughts on a bed and breakfast permit that you'll hear later, later today for Phil McGain.

Chair Tsai: Your name?

Mr. Croly: Oh sorry. Tom Croly speaking on my own behalf. I assisted Mr. McGain assembling his application for his bed and breakfast permit so I've been to his property and personally find it to be an excellent representation of a host bed and breakfast where Phil is sharing his house

with the people who are gonna come in and share his kitchen and share the rooms in his house and this process helped bring about some agriculture on his property that didn't exist before and this is, this is one of the benefits of the short-term rental and bed and breakfast permit process which is you have to have an approved and verified farm plan in place. You don't have to have that necessarily if your home was built back in the '90s or the '80s and there's lots of homes that are built in the Agricultural District that were built back then and don't have any agriculture taking place but in order to be considered for a bed and breakfast for short-term rental you first have to demonstrate that you've implemented a farm plan. And as a result of this process, Mr. McGain implemented a farm plan and planted 30 some fruit trees on his property and we now have greater compliance with our agricultural laws. So again, just with that in mind, I encourage you when this item comes up that you grant him his Bed and Breakfast Permit and the associated State Special Use Permit that would enable his Bed and Breakfast Permit. Thank you.

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

Chair Tsai: Do I get a motion?

Mr. Spence: Recommendation.

Chair Tsai: Recommendation, sorry.

Ms. Furukawa: The application complies with the applicable standards for a bed and breakfast permit and State Land Use Commission Special Use Permit and the Department's recommending approval of both permits. The Bed and Breakfast Permit has 17 standard conditions. The State Land Use Commission Special Use Permit has 7 standard conditions. The Department is recommending that the Maui Planning Commission adopt the Planning Department's report and recommendation prepared for the June 14, 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 behalf of the Planning Commission.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: Move to approve as recommended.

Mr. Castro: Second.

Chair Tsai: Moved by Commissioner Hedani, seconded by Commissioner Castro. Discussion? Seeing none, call for the vote. Director, repeat the motion?

Mr. Spence: Motion is to approve as recommended by Staff.

Chair Tsai: All in favor raise your hand.

Mr. Spence: That's six ayes.

Chair Tsai: Motion carries. Congratulations.

Mr. Spence: That was a new commission record.

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

**VOTED: To Approve the State Land Use Commission Permit as Recommended by the Department.  
(Assenting – W. Hedani, S. Castro, L. Hudson, K. Robinson,  
L. Carnicelli, S. Duvauchelle)  
(Excused – J. Medeiros, R. Higashi)**

Mr. Spence: Okay, Commissioners now we're on Unfinished Business with Mr. James Barry of Sea Engineering on behalf of Hololani AOA requesting an SMA Permit and Shoreline Setback Variance for a seawall and revetment. Our Staff Planner this afternoon is Mr. Jim Buika. We're gonna...Commissioners, what we would like to do is first update you where we are. At our last meeting you requested two special...the standard conditions and two special conditions and we have those to hand out to you. And then Staff also felt strongly about some additional conditions to complete the project they've been working really hard with the applicant for most of the day already and I'm sure they will have some comments for you, but after we look at the standard conditions and two ones that you recommended we would like to go over some proposed additional conditions. So take it away Jim.

#### **D. UNFINISHED BUSINESS**

- 1. MR. JAMES H. BARRY of SEA ENGINEERING, INC. on behalf of the HOLOLANI AOA requesting a Special Management Area (SMA) Use Permit and a Shoreline Setback Variance for the Hololani Shore Protection Project consisting of the proposed development of a 370-foot combined steel sheet pile seawall and rock revetment and related improvements at 4401 Lower Honoapiilani Road, TMK: 4-3-010: 009, Kahana, Lahaina, Island of Maui. (SM1 2014/0001) (SSV 2014/0001) (J. Buika) (Public hearing was conducted on April 26, 2016 and the matter was deferred.)**

Mr. Jim Buika: Thank you Director. Thank you Chair. My name is Jim Buika with the Planning Department. I have three handouts here so I will hand them out when we look at them so you can pay attention at least for a few minutes and then these are the conditions that Director Spence talked about that we have agreed to between the applicant and the Department. So I'll hand those out momentarily.

So with the Chair's permission I'll give an update of where we are. Director Spence gave us kind of the direction of what we'd like to do. So what I'll do is I'll just summarize where we ended at April 26<sup>th</sup> meeting. I'll provide just a short description of the project again, state the objectives again of why we are here with, what these conditions are attempting to achieve. I'll introduce the applicant and additional persons representing the applicant here. And also, I have one coastal engineer from Moffatt & Nichols who is here supporting the Department regarding the regional beach nourishment or the sand survey and conceptual regional beach nourishment

project that we, the County is funding and introduce two new exhibits that you do have, then turn it back over to the Chair and then we will look at these conditions as soon as possible.

So just beginning with a short recap of the April 26<sup>th</sup> hearing. This is a continuation of that public hearing. The Commission did complete their deliberation and ended in a deferral decision to construct a 370-foot seawall revetment at the shoreline at Hololani fronting the condominiums on Kahana Bay in the Napili region.

At the meeting the applicant presented its seawall revetment as its preferred alternative. The Department presented the regional beach nourishment as a preferred alternative and recommended a deferral of the decision to approve the seawall revetment until the County funded Kahana Beach regional beach nourishment project and study is completed which will probably be next month in July.

As part of the proceedings the Commission did hear public testimony both for and against the project. There was intervention by...that was heard by the Commission from Royal Kahana the immediate next door neighbor and that was denied so that the Commission could continue to deliberate on this project.

So at the end of the day the proceedings concluded when the Maui Planning Commission voted 5 to 1 to defer the application and asked the Department to craft two specific conditions meant to both protect Hololani's Condominiums in the short-term and to actually renourish the Kahana Beach cell most likely with T-head groins providing protective beach in front of Hololani additionally for the intermediate and long-term. So we've crafted those conditions for you to review.

The proposed seawall revetment if approved will protect Hololani no doubt about it. The beach nourishment project represents mitigation and most likely will follow construction of the protective seawall revetment out in front of Hololani, but the regional beach nourishment is 10 parcels from one end of Kahana Bay to another.

Another key mitigation component of the requested conditions by the Commission is that the applicant be required to eventually dismantle and remove the seawall and revetment located at the shoreline once the regional beach nourishment project is in place and completed. This final action would occur once that beach was reestablished through the regional beach nourishment project. And this was final dismantling is important because what it does is it does not set precedent for other properties in Kahana Bay to also build seawalls and revetments causing a significant and cumulative impact of seawalls and revetments and a domino effect down the shoreline which is contrary to our Special Management Area Rules and the purpose of the Shoreline Rules which is to preserve, protect and were restore our shoreline.

So at the April 26<sup>th</sup> meeting we explored the four different and potential environmental impacts caused by shoreline hardening. And talked about those and talked about how the regional beach nourishment would help to mitigate those four different environmental impacts. The impacts being the placement of the sea wall revetment in conservation district partially in the water on public land. There would be passive erosion out in front because of the lost erosional component of the shoreline there leaving the revetment at the water's edge. There would be

wave reflection and the fourth is that there would most likely be end effects or flanking erosion to the Royal Kahana property to the south that has a similar beach.

So we discussed those, looked at those and the Department is pleased that Hololani AOA and its applicant agree that regional beach nourishment is a viable option and provides mitigation and are willing to participate by financially contributing to the studies, engineering, design, planning and the eventual implementation of a regional beach nourishment solution for all of Kahana Bay as a condition for building the seawall revetment.

The Department finds that the regional beach nourishment does represent the preferred alternative that is most clearly in the public's interest, public trust as required by our Shoreline Rules. So again, real quickly that's kind of a summation of where we were.

The description of the project for the Hololani AOA it's located at 4401 Lower Honoapiilani Road along Kahana Bay and this project requires a variance, Shoreline Setback Variance as well as major SMA Use Permit. The project proposed is to construct a 370-foot long hybrid seawall and then a revetment out front out into the water at the shoreline approximately 65 percent of the footprint would be beyond the State certified shoreline at the water's edge in the water. So it would be physically located beyond there, beyond the State certified shoreline on an active sandy beach in that area.

This Conservation District is on public land as I said. This active sandy beach continues south from Hololani to several other condominiums to Royal Kahana, Valley Isle Resort. We showed those. We don't have slides right now, and then to another sandy shoreline, Sands of Kahana and then the final to the south at Pohaku Beach Park, S Turns Beach Park is the Kahana Beach Resort which does have a seawall in front of it, an independent seawall that was built in the 1980's with a permit.

And then getting back to the Hololani property in this 370-foot revetment that they will be building there's about a 30-foot space of land between Royal Kahana and the end of the revetment so the revetment would end up short of the Royal Kahana property and the applicant has proposed to cover that native soil, ground there that would be unprotected with a...it's called a Tensar rock-gravel mattress kind of shaped like a mattress and it would...and it would have gravel in it, plastic containment where it would be on that last 30 feet right up to the Royal Kahana property so that would be a mitigation measure between the seawall revetment and the Royal Kahana property.

At the far north there's a 15-foot drainage easement on the Hololani property to the Department of Public Works at the Lower Honoapiilani Road and so again, the seawall revetment would come sort and leave a 15-foot gap between the next property on the shoreline which does have a seawall, kind of an L-shape right there at that drainage called Pohailani AOA.

So there are three objections. So that's a description of the project. Three objectives today. So this continuing business item is to review the specific conditions requested by the Commission on April 26<sup>th</sup> that will accomplish three things. First and foremost, we want to protect the Hololani structures. There has been no damage to any of the structures. We wanna keep it that way. So these conditions are proposing to do that in the project. Second, is to mitigate

anticipated impacts to the neighboring property the Royal Kahana property from the seawall and revetment protecting its shoreline and property as much as possible and that needs to be emphasized. I think we want to make sure there are no end effects that would create a domino effect where Royal Kahana would also request a similar type of structure because of erosion caused by the seawall revetment here. So I think we've achieved that through the regional beach nourishment. And then third is to adequately mitigate the loss of this public trust resource going beyond the shoreline by beginning a regional beach nourishment project with Hololani as an active participant and financial contributor along with some of the other condos in the region there. So have prepared those conditions for you to look at and that's the objective is to or the goal is to look at the seven standard conditions, two specifics and as Director Spence said, we have four additional conditions that we would like to bring to the table for your consideration as conditions and then anything else you feel you need to add in as mitigation for this project. So those are our objectives today.

Regarding introductions, I have the applicant Jim Barry, Sea Engineering, coastal engineer representing Hololani and he can introduce the Hololani team here and the Department has Russ Boudreau from Moffatt & Nichol Coastal Engineering under contract to the County for the sand survey for Kahana Bay and the conceptual design of T-head groins and this regional beach nourishment concept for Kahana Bay. So Mr. Boudreau has a...he does have a slide set. You have an exhibit. I'll go over the exhibits right now that were handed out. He does have a slide set that does give a visual representation of what a...what the regional beach nourishment would like for Hololani and can explain if you need additional information on a regional beach nourishment project.

So in your packet you received the alternate Department recommendation with nine project conditions, the green packet and it includes those two specific conditions there so we can come back to the conditions at the appropriate time. There also is a Exhibit 25 that was handed out in the mail that is the draft Kahana Beach Regional Beach Nourishment Preliminary Findings. So this report is exciting, it's important. The findings show that we have found 405,000 cubic yards of potentially available sand in the near shore area approximately 200 since the presentation on April 26<sup>th</sup>. The consultants have estimated that in two fields within half mile to a mile of Kahana Bay there's approximately 275,000 cubic yards of clean, beautiful beach sand at ...it can be fairly environmentally friendly way brought up, dredged back up onto the beach for Kahana Bay. So all of the details are contained in here. Again, it is preliminary. It's not final, but I wanted to share this with you and we can talk about that a little more if need be.

Keeping regional beach nourishment front and center approximately, even though we have 275,000 cubic yards of sand available to renourish nine of those condo properties from Kahana Villas in the north...to the south by S-Turns we probably need a minimum of about 50,000 cubic yards or up to 100,000 cubic yards...50,000 cubic yards would get us about 54 feet of dry beach out in front of all of the condos, 100,000 will get us about 110 feet of dry beach out in front and these would be contained with these T-head groins configuration. The concepts are in the report here and we can explain anything else you want on that.

So you know these positive results represent that a sand source, a critical sand source is right, right there nearby. It's probably the sand that was once on Kahana Bay and it is a game changer. It allows us to really seriously look at renourishing Kahana Bay as a one end member

building a beach back in front of all the condos. All the condos are threatened because of the erosion. And so it provides an alternate, preferred alternative as opposed to the domino effect of continuing to add seawalls and revetments for the entire bay. So that's the significance there. Unfortunately the information about the sand availability was not available at the time of the Environmental Assessment so this regional beach nourishment option several years ago was not explored as thoroughly as the seawall revetment at the time. Nor was this information available at the time when the State Board of Land and Natural Resources approved the seawall revetment. On the State side this sand option was not there. They actually some of the...I think some of the deliberation was based on that there was no available sand source there looking at the minutes from the Conservation District Use Permit.

So finally there's Exhibit 26 which is two, I think two or three testimonies in favor of the project and I think Carolyn, our secretary had emailed you six additional written testimonies against the project. So that's an update on the written testimonies. So those are my...that's the conclusion of my opening remarks Chair and I can turn it back over to you for any questions, deliberation as you would like to proceed.

Chair Tsai: Thank you, Jim. So we're gonna open the floor for public testimony right now. I have two people...let me see here, Virginia do you wanna testify now?

Ms. Virginia Keen: My name is Virginia Keen. I've lived at Hololani for 17 years. It is my only home. I retired as a teacher from New York and at present time I consider Hawaii to my community. I substitute teach at the high school I am part of the Pat Emsley tutoring program for the past 15 years and I'm active in Maria Lanakila and Sacred Hearts Church and I'm here to ask you definitely to please approve the revetment project to save us. I am in condo B104 so I am within 15 feet of the ocean and at times have seen the waves come over the edge and it is a little scary when you're there and you're looking at this and you realize this is your home and the chance that it might disappear. So I mean, I ask you to please give your permission for the revetment and we will meet whatever requirements we need to meet. Thank you.

Chair Tsai: Thank you, Virginia. Anyone else wish to testify at this moment? Seeing none...oh, please come forward, identify yourself, you have three minutes.

Mr. Ty Manuel: My name is Ty Manuel. I'm an owner and resident at Royal Kahana, and I would just like to ask as I think Jim said that there will be ample mitigation for Hololani's project if approved. County recognizes that end erosion may occur with the beach armoring. We've spent a lot of and are spending a lot of time and money on our own protection system which meets all of the County's and State's requirements. If you've seen the news, I'm sure you have or have been at the Kahana lately you've seen that Royal Kahana and Valley Isle have sustained a lot of damage this winter. Flanking effect erosion I fear would jeopardize the system that we have in place that we're continuing to have to repair. It would jeopardize our property and our building. But I think mitigation is an essential component of approving this project. I'm also personally concerned about the domino effect as you've heard. I don't want to see a continuous string of armoring along any part of Hawaii because the beaches are...(inaudible)...part of why people live here and visit here and I think that's very important to all of us. Thank you.

Mr. Stuart Allan: Good afternoon, Commissioners. My name is Stuart Allan. I'm the president of the AOA at Hololani. I also happen to be the president of the AOA at Valley Isle Resort. So I happen to be the president of the two associations on either side of Royal Kahana and I find it interesting and I just wanna make sure that all the commissioners understand that Royal Kahana has sprayed gunite for the entire length of the shore except for the portion of the Royal Kahana shoreline which butts up against the Hololani where there are Tensar mattresses as Jim Buika described which have successfully protected that part of the Royal Kahana land from the erosion which the remainder of the Royal Kahana land suffered in this past winter. So I think it's important that everybody be treated the same and I'm kind of at a loss to understand why Royal Kahana would think that hardening its shoreline is appropriate for Royal Kahana but taking steps to protect the other properties are not equally valid. But any rate I wanna tell you that the Hololani Association supports the mitigation that the Department has proposed in the form of regional beach nourishment and is ready to participate on a prorated basis with the other nine Kahana Bay condominium associations in funding and participating and helping run that project to a successful end if at all possible. Knowing that that will take years, many years we appreciate the consideration that the Commission and the Department have given us to our request to protect our building in the short term with this sloped rock revetment. Thank you.

Mr. Robert Louse: Mr. Chairman and Members of the Commission, Director, my name is Robert Louse. I am the owner of A403...402 at Hololani and have been a part-time resident there for the last 10 years. I'm also vice-president of the AOA Board. I would like and I realize you have deliberations are going to take place but I would like to specifically thank Jim Buika, Director for the hard work that has gone into these conditions especially over this morning. I do work...I work in the realm and the real life on the mainland in the area of advising commissions, boards, the city and I'm quite familiar with the concepts of public trust and how all of this goes on. And from my perspective I believe that the conditions that you have in front of you, the two...the standard conditions, the two that were added by your request and then then the additions that were worked out this morning with the Department represent a very, very good balance when it comes to public trust and the three pieces of that being protect human life and buildings and I would consider that number one and there may be disagreement about that and balancing that with mitigation and with the beach nourishment piece for the public. And so I want to thank the Department for working with us on that and reaching what I think is a very, very excellent compromise. I'm here to ask you to support those recommendations and approve that alternative solution.

Ms. Michele Stafford: Hi, thank your time and efforts and your sweat that has gone into especially you, I mean it. You know there's some jobs we have when we go to work—

Chair Tsai: Ma'am could you identify yourself?

Ms. Stafford: Oh sorry, Michele Stafford, Hololani 403A, also a board member. We go to work every day and we don't always know what we're getting into and usually it's fun because of the people we work with but sometimes we're led with tasks that are not so fun but that's where we earn our badges so thank you to all of you.

I wanted to just kinda give you a little story about my background, our family background and that is that dad purchased Hololani 28 years ago and he placed it or he purchased it as a

retirement place for his family and it was a place for us all to celebrate our lives together and as many of you related to it's a place of refuge in Hawaii, right? At 88 he's no longer able to make the trip, but for my siblings it now stands as a symbol of the sacrifices he made to become successful. Most notably was his 18-year-old brother was killed in World War II over in Germany and he was sent home in a box Christmas Eve on a train and dad his whole life fought to make his brother's sacrifice worthy of the American dream. About 15 years ago my father was also on the board of directors for Hololani and I remember him telling me how the board had recognized that they were losing sand every year and so he and another guy went and hired a helicopter to go fly him around the islands to take pictures of how other places had successfully protected their buildings. And now here we are 15 years later and we continue to stand before you and plead for the opportunity to protect our legal right and our American dream. And we plead for a permit today and we just want you to know that we have abided by all of the rules and tried to do all the permitted according to well-intended citizens on a well-intended board, but it's taken 15 years and 10 by probably your paper trail but they started this long before that.

Ms. Takayama-Corden: Three minutes.

Ms. Stafford: So I simply ask you for your well intentions back to us to not only permit us but to permit us in a fashion that sets us up for success so with parameters that we can meet and don't fiscally cripple us too much or it defeats the purpose. Just think with parameters that are fair. That's all. Thank you.

Chair Tsai: Thank you, Michele.

Ms. Amber Stribbling. Good afternoon, my name is Amber Stribbling. I am an owner at Hololani and also a board member. First of all, I want to thank the five of you Commissioners that were here on April 26<sup>th</sup>. I was very nervous about my testimony and you all made me feel heard for the first time. So thank you.

For the three of you that weren't here, I guess two of you that weren't here now there were three this morning, I first visited the islands 19 years ago. I fell in love with the people, with the culture, with the aloha spirit and dreamed of having a home here one of these days and that dream came true four years ago. I spend about four months out of the year here. Our intention is within the next five years to be full-time residents. I have more friends and more sense of community here on Maui than I do in mainland at my home in Denver. This is my heaven on earth. This is where I come to sooth my soul. So I get here as often as I can.

When we first bought our home at Hololani those waves outside crashing were like a lullaby to a baby. They rocked me to sleep. They soothed me to sleep. Now, those waves crashing out there raise my blood pressure. It's the first thing I look out when I get up in the morning. It's the last thing I look at when I go to bed at night. I took a couple of pictures yesterday and I don't know if you guys will be able to see them from where you are. But this is standing on my lanai and this is the waves crashing up against the sandbags, more of them that have been destroyed since I left here five weeks ago. Generally in the summer things get better. They're usually better by now. They're not better. If anything they're worse.

The other picture that I took is I tried to walk the beach is the Gunite concrete that Stuart Allen mentioned that's sprayed in front of Royal Kahana that is not there in front of their residential buildings but protecting their pool and cabana. And an interesting observation is there's a lot more sand in front of this Gunite at Royal Kahana and there's a lot more sand down the beach at the south end of the bay in front of Kahana Beach Resort that has had a wall there for 36 years, 35 years. So I feel like we can do both. I feel like right now we need a permanent revetment to protect our homes because we don't have the time it's going to take for beach nourishment to prove itself successful but we are more than willing to participate in beach nourishment, we just can't fall on beach nourishment as our only plan.

Ms. Takayama-Corden: Three minutes.

Ms. Stribbling: So once again, I'm pleading your immediate support and I thank you for hearing me.

Chair Tsai: Anyone else wish to testify?

Ms. Lea Stockhammer: Hello, my name is Lea Stockhammer. I believe all of you, you know who we are this is my husband Don Stockhammer. We came to Maui 16 years ago and this is our only home what we have. And I feel that we...like the owners did whatever we could to prevent and try to save our beach. That is going too long, eight years we are going through the agony. We cannot sell it and we are afraid that we will lose any day. Now what I would like to know who will be responsible if something like that tragedy happens? Who will take responsibility? No, no. Something else, when I was growing up I was told Lea when you make a decision use your brain. Now I am 80 years old woman and I came to conclusion that sometimes people we have to use our heart. Listen to our heart too. Thank you.

Chair Tsai: Anyone else wish to testify at this point?

Ms. Kai Nishiki: May I please?

Chair Tsai: Actually—

Mr. Spence: Kai, you already testified.

Chair Tsai: Yeah, Kai.

Ms. Nishiki: I did testify. I was wondering there's two agenda items. There is D-1 and E-1. May I speak to D-1 at this time or do I need to wait?

Mr. Spence: No. You've testified on that item this morning.

Ms. Nishiki: On D-1, I'm sorry E-1.

Mr. Spence: On E-1?

Ms. Nishiki: Yes.

Mr. Spence: On the written—

Ms. Nishiki: Intervenor.

Mr. Spence: --decision and order?

Ms. Nishiki: Yes.

Mr. Spence: We're not on that agenda item now.

Ms. Nishiki: Okay, I can speak at that time? Right before that agenda item?

Mr. Spence: Okay, we'll talk about that.

Ms. Nishiki: Okay, thank you.

Chair Tsai: Yeah, we'll wait until that item comes up, Kai.

Ms. Nishiki: Okay.

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

Ms. Kai Nishiki: Good morning. My name is Kai Nishiki and I have applied in the past to volunteer to my time on boards and commissions and having spent the past few weeks examining this project I must tell you I have a new found respect for your commitment to careful consideration and thorough examination of all options in order to conclude what is clearly in the best interest of the public and our community.

I fully support the Planning Department's April 26<sup>th</sup> recommendation to you to defer this request for Special Management Area Use Permit and Shoreline Setback Variance in order to consider the option of a regional beach nourishment project for the shoreline. It only makes sense to consider the best practicable alternative to the problem rather than further hardening the shoreline and more loss of public beach. If a beach nourishment project can restore the public beach then that is the best shoreline option for this special management area request. The County is being proactive in solving this loss of beach...of public beach front by hiring an independent professional team to analyze the shoreline and come up with some design solutions that will restore a significant amount of public beach.

This is the preferred alternative that is clearly in the public interest. Besides deferral for the fair consideration of a beach nourishment option I also want to point out that the department has determined that both the SMA and SSV request are out of compliance with the guidelines and criteria for approval. I believe this is a good reason for outright denial if not deferral.

The EA for this project did not reach out to stakeholders, did not adequately inform the community unfortunately which I am a member of or they would have heard our objections and possibly look at beach nourishment solutions from the beginning. The EA also admits that the

prevailing theme and the comments from the involved agencies is the need to equality consider every possible alternative to the highest degree possible. The EA summary also states that while beach nourishment is an option, at the time of the report, "is it not feasible at this time because it requires a suitable sand source." And now that an independent study has concluded that a viable sand source is available it seems a prudent and appropriate response should be to reevaluate, an alternative that is clearly in the public interest.

If the applicant is willing to spend at the very minimum \$2.5 million for a permanent seawall, I wonder how much beach nourishment \$2.5 million would actually buy? I applaud our Planning Department for taking proactive steps to replenish our beaches lost to erosion and hardening of the shoreline and for fulfilling the mandate of the Coastal Zone Management Act to protect the public interest. Please defer this request and require the applicant to consider beach nourishment as the best practicable option. Thank you very much.

Chair Tsai: Thank you. Commissioner Carnicelli?

Mr. Carnicelli: Thank you, Kai. In your testimony here you say that the SMA and SSV request are out of compliance can you tell me how they out of compliance?

Ms. Nishiki: If you look at the conclusions of law by your Planning Department it says that the Department finds that the proposed action may have a significant adverse effect on the environment because of the proposed action and at least six, eight bullet points as to many reasons why it's not...it may be contrary to the West Maui Community Plan. It may conflict with the County's and State's Long Term Environmental Policies. And I also believe that in...and in their recommendations in the referral reasons for deferral they had determined that the preferred alternative of the hybrid seawall may have significant adverse environmental effects and I believe that they're conclusions of law if read carefully would support those facts.

Chair Tsai: Thank you, Kai.

Ms. Nishiki: Thank you.

Chair Tsai: Anyone else wish to testify? Please identify yourself, sir. Please identify yourself, sir.

Mr. Felimon Sadang: Okay, my name is Felimon Sadang speaking in behalf of Joseph Sadang, Kenneth Sadang, Geraldine Wahine Holokai and Doreen Kepaa. We own a beachfront property.

Mr. Higashi: Speak in a the mic, please.

Mr. Sadang: We own a beachfront property between Kahana...between Kahana Reef and Kahana Outrigger. Our address is 449...4495 Lower Honoapiilani Highway and we lived there all our lives, okay.

We live there over 60 years in the time when protection measures were never considered to be important, important. We see the loss of our shoreline because of quick fix projects like this

which I know will only create more problems than good. I live next door and have never had the opportunity to get involved with this seawall. I ask that this seawall be denied. I lived there all my life. I seen this island go from pig pen, chicken coop to concrete and steel. I seen the stonewall built right next to me. Nothing, nothing good that build. The stonewall you guys going build now, if you guys going give the okay for the stonewall what impact our land going get? Who I gonna sue if we get terrific impact? That's what I concerned about. This thing should be more...to study more because we own that beachfront property and we the only one there. The wall you guys creating over there might create problems. And the problem might come right back to you guys because we've gonna sue you guys if the thing is not built right. Thank you.

Chair Tsai: Thank you.

Mr. Ke`eaumoku Kapu: Good morning. My name is Ke`eaumoku Kapu. I'm from Lahaina and I'm the C.O. for Aha Moku O Maui. Uncle Felimon that was just before you he's the representative for the Aha Moku Council representation for Kaanapali. He came in front of this body many times before to share what the Aha Moku System is all about and it's a legislative law that was implemented under Act 288. Act 212 was signed into law by Governor Linda Lingle in 2007. Eventually signed again into law by Neil Abercrombie, Act 288 in 2014. There is rules that is set to make sure that projects like this go to the right body and the right body means that it should be people that needs to be consulting from a moku system of people that actually live there. Now if this SMA reflects certain rules that needs to be applied then why wasn't this rules applied to even doing a scoping or a public process to allow the general public or the general community to give recommendations based upon this project. I only found out about this last week. Uncle Felimon lives right next door. He was never informed. So there are rules that are set in place. I just a copy of the conclusions of law that came from the Planning Director. I support their Intent of the Planning Commission to make sure that they oversee all these bullet points to make sure that not only the fact that may impact the environment and it may impact the long time residences of Kahana. People that is a part of the place that has always been a part of the place that they should be a part of this report. It doesn't reflect anything in there of the people of that wahi pana of that story place to even consider going to them to get some kind of information on whether or not these kinds of projects would be viable for them, their property that they own too. I see too many times where the government and private interest over weighs the public benefit or the public trust. It seems that this is the route that it is going. So I can only recommend and suggest to this body that this application should be denied in its entirety until all these conclusions of laws, of laws that was implemented by your Planning Director to make sure that we are part of the process, to make sure that all these environmental concerns are addressed, to make sure that the...(inaudible)... of law is also applied within this body too. So I mahalo you for your time, your diligence and the sharpening of your pencils and your pens to make sure that things are adequately addressed for the benefit of not only just the public, but the people that lived on these islands for a long, for many generations as the Naleieha Family and Uncle Felimon Sadang. So mahalo. Thank you.

Mr. Junya Nakoa: Howzit, good morning. Junya Nakoa from Napili. I don't know how long maybe about four years ago the DLNR was doing all kinds stuffs, doing the shoreline, okay and they was trying for tell us get one land...get one place we can always hang out, we call it kana boat ramp and they wanted to tear 'em down. Try go call the DLNRs or even the engineer that came. The engineer say you guys cannot do nothing over there 'cause the thing ruins the

whole the ocean, the whole system. So you guys just go ask the guy from the DLNR. I...again, we never have time. We just got this notice last week. We had over hundred something people so up to this when the DLNR came over there and look 'um. We had little bit guys from the County, County. We had guys from the DLNR and from the State, engineers come over there. We had tutus, we had everybody coming down there for make that...make one statement. Like my uncle them said we live there all our...all our lives you know what I mean? And try call you guys own people. Try go call the da guys, the engineer from over there. They probably going tell you guys the same thing, no can do this kind concrete stuff 'cause it runs the whole ecosystem and all that stuff. It's getting kinda tired of everybody telling us locals how for take care our aina when we know what we doing. As their fault they put the stupid hotel right there on the beach. Next time pull more back so no need worry. You know, all that kind stuff, you guys gotta stop this building on the beaches that's where it screws everything up and this place is locals. This place is all locals over there. Us guys stay over there. We over there every day, every day. I know where this beach stay, I know where they talking about. We used go dive ogo over there. Now no more nothing because they for...they've been trying to build this seawall, something, I don't know plenty times, we 'um with sandbags, we see 'um with all kind stuff over there. They ruining our beaches, okay. I lucky I get family in Molokai. My baby's graduation luau is coming up in one month but I get to go on that land, you know, go get fish like that. Okay, we used to have 'um here in Kahana now the thing all gone. We used to have 'um here in Kahana, but we're trying to get 'um back. Uncle Clayton Smith them, Uncle Felimon them, they still doing the culture, they still do the fishing. They the one you guys should talk to for how for fix this thing. They live the ocean. The ocean is in their blood. Why you guys no go ask these buggas like they said nobody when call them, nobody had call us. You know what I mean? Sometimes just common sense no build the damn near the water you know what I mean? Okay, thank you. And if get one other meeting like this try let us know early so we can get, I can get one hundred other people for come.

Ms. Tiare Lawrence: Aloha Commissioners. My name is Tiare Lawrence and I was born and raised in Lahaina. I am here in opposition to build a 400-foot seawall in Kahana. I believe allowing them to do this will open a Pandora box for future development of seawalls from Honokowai to Napili. History shows that seawalls have devastating impacts to coastlines and I fear the impacts that more seawalls will have on our ecosystems, our fisheries and that Pohaku Park. I've seen dramatic changes since I was a child. I know the Sadangs. They fish, that's their life and Uncle can speak for himself and say that the impacts that these seawalls have done to Kahana alone is devastating. And I also believe that this process is flawed and there should have been public meetings held in Lahaina. And I just wanted to share a couple of facts before I go, but you know, seawalls make beach erosion worse. Hardening of the shoreline with seawalls is not in the interest of the public in general. Special approval of a seawall for Hololani condos would set precedent for the entire stretch of beach in Kahana and all of Maui. Losing our beaches on Maui to protect a few property owners is bad for economy and our environment. The beach nourishment project and erosion mitigation process should have been initiated decades ago when the problem began construction of a temporary seawall while they put plans together to replace the sand is not a responsible option. As a community we should focus on mitigating beach erosion, but we should be doing it for the betterment of the public...of the beach and the public trust. Sand replenishment actually benefits everyone, the condo owners and the public. So please no walls. Enough. Say no to seawalls on Maui. Mahalo.

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

Chair Tsai: Seeing no one else, public testimony is now closed.

Mr. Buika: Shall we proceed?

Chair Tsai: Yes please.

Mr. Buika: Just with the recommendations. Okay, you have the revised recommendations report in front of you dated June 14<sup>th</sup>. What I will do is I will just quickly summarize some points from the conclusions of law for the Special Management Area Use Permit and the Shoreline Setback Variance and then I'll go into the recommendations. We can review those.

So regarding the Special Management Use Area Permit conclusions of law according to Section 12-202-12(e), in consideration...in considering the significance of potential environmental and ecological effects the Department has found that following an evaluation the potential overall and cumulative effects of the proposed action in evaluating every phase of the proposed action its potential primary and secondary consequences and its potential cumulative short and long-term effects, the sum of the potential effects may adversely affect the of the environment and the ecology unless adequate mitigation to minimize the identified environmental impacts is implemented.

The Department finds that additional mitigations beyond those conditions currently listed in the conditions for the project approval, those are referencing the seven standard conditions and the two may be necessary to avoid significant adverse effects on the environment because of the proposed action. There are...I listed the criteria in the SMA right there on Page 2, I won't go through those. So the Department does offer four extra conditions agreed upon jointly between the Department and the applicant beyond those now listed in the conditions for the project approval which may be necessary to determine that the Special Management Area Use Permit application will comply with the applicable guidelines for the Special Management Area and is addressed under the section entitled, Special Management Area Significance Criteria in the accompanying April 26, 2016 Maui County Planning Department report to the Maui Planning Commission as Docket No. SM1 2014/0001 and SSV 2014/0001. So I wanted to make those statements for the SMA criteria.

As far as the Shoreline Setback Variance conclusions of law at this time the Department believes that the Shoreline Setback Variance application does not comply with the shoreline variance criteria listed above and as addressed in the section entitled, State and County Shoreline Rules Analysis for the Shoreline Setback Variance in the accompanying April 26, 2016 Maui County Planning Department report to the Maui Planning Commission unless conditions of mitigation to minimize the identified environmental impacts are imposed. So those are the additional four that we would like to add in that are not in front of you now and we will share those with you.

Chair Tsai: Jim?

Mr. Buika: Yes?

Chair Tsai: I think we don't have what you're reading off. We have partial...

Mr. Spence: Let's go with the—

Mr. Buika: I'll go with the conditions.

Mr. Spence: --standard stuff.

Mr. Buika: That's okay that was for the record anyway. That's was conclusions of law. I think you do have it in front of you. I was just paraphrasing from it. So okay, the conditions, we do maintain the original recommendation of deferral for the April 26, 2016 meeting until results of the County study are concluded for the regional beach nourishment preferred alternative that can be fully reviewed by the Commission. But we are also willing to alternatively recommend that if the Commission inclined to approve the Hololani project that the approval be conditioned on the seven standard conditions and the two project specific conditions requested by the Commission and the extra conditions referred herein which have been discussed with an agree to by the applicant. Of course you don't have them, I haven't handed them out yet.

Chair Tsai: Thank you.

Mr. Buika: So initially we'll look at Page 6 where it says, standard conditions. We'll just go through the conditions one by one. So these are rather than the green sheet, the white sheet beginning on Page 6, everyone have that handout there? So these would supplant or replace the conditions in the green sheets. That make sense to everyone?

So looking at the standard conditions there are listed 1, 2, 3, 4, 5, and 6. These are standard with most SMA, all SMA conditions. I think you are familiar with them. What we did do is share with you track changes, the red, the red there. These are the modifications to the standard conditions, and yeah, I think has all of these here too if you need a copy. So the only one that was changing of the standard conditions is No. 2 and I'll just read it, "That to the satisfaction of the Department the construction of the Hololani project shall be completed within two years after completion of the regional beach nourishment or at an earlier time should the Department and the applicant agree that the regional beach nourishment project will not be completed."

So condition 1 talks about the initiation of the project basically standard condition. Condition 2, generally the one that we're on refers to the conclusion how long you have to, you usually have three years or so. So we changed the...this one has two years or until the regional beach nourishment project is concluded unless the regional beach nourishment project does not happen for some reason. He could complete it at an earlier time. So we're just modifying the end date of the permit. Number 3...that's for your information.

Number 3 is the standard insurance clause during construction. I won't read that. You can read through that if you like. Number 4 just states that the applicant will construct the project in substantial compliance with how it was represented to the Maui Planning Commission at the time on April 26<sup>th</sup>. Number 5 actually addresses the actual, the sheets within the construction engineering drawing sheets, halfway down there you could see Sheet C-2, 3, 4, 5, 6, G-1 and

G-2 as how the project was represented. Number 6 deals with filtration, drainage filtration. So those are standards that we place. And the applicant is fine with those conditions as stated there. Any questions on those so far?

Chair Tsai: Yeah, Jim—

Mr. Buika: Yes?

Chair Tsai: Standard Condition 1, you're giving them three years after now from the start of now why is it such...since we have such a dire straight situation there why is three—

Mr. Buika: Well, that's just a time period for compliance with beginning the project. Every project we generally give projects now...we used to give them two years to begin now we give them three years. By the time they'll get a permit and they didn't do anything for 10 years or they just drag it out. So with this, this creates an initiation period. They still have other permits to finalize. They won't be able to construct right away. It may...they have summer months usually when they can do it. Hopefully they can begin next summer. It may have to delay to the following summer hopefully not or however they plan on doing this but there are better times to work on the shoreline than others. So that is just a—

Chair Tsai: So they have to start by June 30, 2019, but...and they once they start they have to complete it in two years according to the next.

Mr. Buika: Yes. Or completed within two years after the completion of the regional beach nourishment. They changed the language in there to give them a little more leeway. Yes sir?

Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: Okay, so I'm not following this. Is if I look at Condition 2, it says they have...if we're gonna do the beach nourishment which is really what you're recommending—

Mr. Spence: Correct.

Mr. Buika: Yes, that's a preferred alternative.

Mr. Carnicelli: And we're also, and we also were leaning towards okay you can do this, but if the nourishment happens and you gotta rip it out, so I'm not following that we're saying, okay you have...if we're doing the nourishment and you're gonna rip it out after the nourishment why do you still have two years to complete it after the nourishments happening? Isn't...aren't we kind of just like circling back and forth over the same exact, you know, I mean if we're two years into nourishment they should be ripping it out. It's the timing part that I'm not getting.

Mr. Buika: Okay, I'll let the applicant answer that question the reasoning behind that.

Mr. Carnicelli: Okay, I mean, it's our condition now.

Mr. Buika: Pardon?

Mr. Carnicelli: I mean it's our condition. I mean, okay, I'll hear what she says. Okay.

Mr. Buika: For an explanation this is Pamela Dunn.

Ms. Pamela Dunn: Yes.

Mr. Buika: Pamela Dunn attorney for Hololani.

Ms. Pamela Dunn: This was really and I was just coming up to remind Mr. Buika--

Chair Tsai: Pam, can you speak into the mic?

Ms. Dunn: Yes.

Chair Tsai: Thank you.

Ms. Dunn: It's in order to comply with one of the special conditions. And so what the Planning Department did here which was really very thoughtful was to try and incorporate the ultimate removal within the permit. So the scope of the permit is going to cover both the installation of the project and the ultimate removal of the project so we don't have to go in for new permits. And that's why the timing in the standard condition was changed. Otherwise, we had this very anomalous...otherwise we just had timing inconsistencies and that is what we came up with.

Mr. Carnicelli: Okay, that makes sense to me then. So okay, thank you.

Chair Tsai: Commissioner Hudson?

Mr. Hudson: Hi, I sense a certain urgency with this project am I wrong?

Ms. Dunn: There is quite a sense of urgency, yes.

Mr. Hudson: I'm...I know that you explained it and I understand the dual thing so we can rip it out if we have to half way through it, that's fine. My concern is five years, that's a long time. That's a maximum amount of time you can take that's...here's my question after making my statement here's my question. Is there any possible way you guys could move quicker on this?

Ms. Dunn: Commissioner that's, that's one of the things that we've been trying to address in these timing things because part of it if the scope of the permit is to include the removal after the beach nourishment is done that part of it is not within our control. I mean, we don't know how long it's going to take for the beach nourishment. So it's a way to try and work with something that's right now contingent and it's our understanding that it might take five years for the beach nourishment project to be completed. So I'm sure we're all open to suggestions on other ways to do this, but that was the only way we could think of to accommodate both of those concerns.

Mr. Hudson: Thank you.

Mr. Buika: So then moving onto beyond the standard conditions to the next one is Condition No. 7, this is a condition that is placed on the project within our shoreline setback variance rules that these...that there be...every project that we impose these conditions that there shall be lateral public access to and along the shoreline, to minimize risk of adverse impacts on beach processes, to minimize risk of structures failing and becoming loose rock or rubble on public property, to minimize adverse impacts of views to and along the shoreline, and then to comply with both the flood and the sediment control, Maui County Codes better...both the Planning Department and Public Works. So that is a standard condition that we put in also No. 7.

And then to the two project specific questions which were requested by the Commission on April 26<sup>th</sup> Project Specific Condition No. 8, I'll read through it and you can see that there is just a slight change on that one. "That to the satisfaction of the Department the Hololani AOAO shall actively participate on a prorata basis with all nine condominium projects on Kahana Bay in a funding...in funding a beach nourishment project in which 50,000 cubic yards to 100,000 cubic yards or more of sand would be dredged from Kahana Bay in an environmentally friendly manner and distributed over 10 contiguous parcels from S-Turns Park at the south to Kahana Stream at the north and contained within a configuration of multiple parallel rock groins most likely in a T-Head configuration". So this would be known as the regional project. The regional project would include but not be limited to completion of an Environmental Impact Statement document and all needed studies and engineering drawings as well as project management and physical construction. Evidence of progress on fulfillment of this condition shall be submitted with or prior to the preliminary compliance report annually thereafter and with the final compliance report. So this condition specifically addressed the request for Hololani be an active financing partner with others in the bay to begin the regional beach nourishment parcel. Any questions on this one? On the wording?

Ms. Duvauchelle: I think when we visited this back in April when Mr. Hedani we did the conditions about them participating. I don't know if I specifically thought it would be putting the burden on them fund and now it's basically, it's funding of. Is this hui already in place? Do you have the other nine members and if so who governs the spending and the approvals?

Mr. Buika: We know who they are. We've talked with them. We've met with the general managers, Royal Kahana is here, Valley Isle is here, Pohailani was at the last. We've met with all of the managers. They're aware of this project. We've had three public meetings with them. This hui is not a public nonprofit at this point, but that would be the direction or some financially managed organized entity. It's not fully in place yet, but we wanted to get through this hearing and the condition in place to promote this. There is a lot of interest and that would be our next steps in July to continue down that path.

Ms. Duvauchelle: I think it's a great idea. Is there...but if say you don't get all nine members, is there an escape clause for Hololani to not have to fund or I mean are we burdening them with something that...Director?

Mr. Spence: One of the things that...if for some reason there can't be a hui, there...you know the whole thought of regional beach nourishment falls apart and there's no funding and I don't know whatever could happen the applicant can come back to this commission and get it

modified, get the condition modified. It's not a, you know, it's whatever conditions the Commission puts on permits it's your kuleana to change them or remove them. So that's...I mean, you could delegate that to the Director, but you know, I would think in this kind of condition you would want to know about it and you know, be able to consider it. It's not a public...It would not be a public hearing item. It's not as burdensome as getting a permit. It's a communication item to come back and just say Commissioners, we can't do it for this reason or you would like to change something and go forward from there.

Ms. Duvauchelle: So there is another avenue?

Mr. Spence: There is an avenue to change the conditions. But it takes your permission or if you wanted to delegate that to me or whichever director at such time.

Mr. Buika: And we could propose, you could propose some sort of condition there. But the Department has thought of that also to have an escape clause of sorts as you're talking about because as you said, because there's no guarantee that will go forward, but the situation at Royal Kahana next door and Valley Isle right now they are as some of the testifiers alluded to about Royal putting in some shotcrete, they've lost decking, it's approaching their pool, it's undermining a building there, it was a last gasp permitted measure to prevent further damage there. It's far up as possible. It's...you know, we're trying...Valley Isle the County just permitted a large sand bag revetment structure out there right on the beach and so did the State. So the State and County have been working very closely with these neighbors. Obviously neither neighbor or Hololani want to continue with the condition of what's going on out there so we do need to do an environmental assessment for Royal Kahana and Valley Isle to come up with a solution for these two properties next door. So there's momentum. It's the entire beach cell I mean is, it's on notice by the waves everyday as the testifier talked about. It's not a good situation at all. These buildings are threatened and I think because of finding that sand out there there will be a tremendous interest amongst everyone. Whether or not we can get everybody to contribute financially those are mechanisms that we have discussed with various people and I think Hololani will help with Royal Kahana, Valley Isle and others, Pohailani to explore those options so, yeah. Good question though. So the applicant is—

Chair Tsai: Commissioner Robinson?

Mr. Robinson: I'm gonna continue on that note of people chipping in. You have an estimate of what you think the project would cost and then we in our head we can divide it by. Is the County thinking about doing 50 percent or is this a 100 percent funded by the homeowners, the...(inaudible)...owners?

Mr. Buika: We...most likely I don't have, we don't have estimates yet. We do have some probably as low as 10 million, maybe 15 million for the entire project. Those are just broad brush estimates. We are working with the U.S. Army Corp of Engineers now that we have a little more time within in this budget cycle with the County. The Army Corp of Engineers is very interested in working with us and contributing Federal funds. So if we can get some funds to match with what Corp needs we can proceed along the lines of developing an Environmental Impact Statement. There are a couple of avenues now with the Corp where they could contribute up to \$5 million for all of these pieces that would obviously lower costs, still raw costs

and there are some congressionally authorized avenues that I've been speaking with the Corp about. The State does have a Beach Management Fund that is fully tapped this year. I think it's up to about \$3 million a year because the Legislature realizes there are, there are dire needs for managing our shoreline out there. Kaanapali Operators Association has benefited from that Beach Management Fund over the past few years. So we, the County will work through the condominiums to potentially tap State funds. If the Director is so willing we potentially as this project goes along we may ask County Council for some amount of money. We always can. So anyway there are different way of subsidizing this, the overall cost that we are exploring and would like to continue explore. I don't wanna speak out of turn for the Director.

Mr. Robinson: And there is public access, right, on this beach so it's a public beach?

Mr. Spence: Correct.

Mr. Buika: Yes.

Mr. Spence: And just to so you know we did request money from the County Council. You know to be honest they declined. There's a lot of competing projects, not shoreline projects necessarily but a lot of competing community interests and they declined to fund this at this time. So there could be next year. You know, I'm sure this isn't gonna end with at today with you know, with the commission's decision. So it will continue to be an issue and we'll continue to bring it up.

Mr. Buika: So we have positive hope that there would be some subsidize...subsidiary to this potentially from the Federal Government also, so thank you for your question. So the applicant is happy with Condition No. 8, correct? Okay. So we can move on.

Condition No. 9, on the back of that page there is the second condition, specific condition that was requested from the April 26<sup>th</sup> meeting. So we...I will just read it. Condition No. 9, "that to the satisfaction of the Department at the time when the regional project is approved and implemented for the area fronting the Hololani AOA shoreline the hybrid seawall revetment authorized under this variance as described in Condition No. 5 above shall be dismantled and removed by the Hololani AOA in its entirety and entirely at the expense of the Hololani AOA. Removal of the hybrid seawall revetment installed under this permit shall be completed within a 180 days after the regional beach nourishment project or the regional project is complete. This dismantling action is authorized under this Special Management Area Use Permit and the Shoreline Setback Variance. The applicant may request a modification of this condition from the Commission." That concludes Condition No. 9.

Chair Tsai: Additional conditions?

Mr. Buika: Any...we good on that one?

Chair Tsai: Keep on going.

Mr. Buika: Wonderful and the applicant is okay with No. 9 so we're in sync so far. So we have another sheet on the backside here, everyone see Page 2, not the green sheet but the white

sheet on the backside there, everyone have that? There are four additional conditions, we call them A, B, C and D. I will end up numbering them probably 10, 11, 12, 13 in the approval letter.

So the first one is fairly straightforward it just is reassurance to Hololani. I'll read it, "that to further protect the Hololani AOA structures until the regional beach nourishment preferred alternative is fully permitted to construct the Department will cooperate with the Hololani AOA to expedite permits for additional temporary protection based on engineering drawings, best management practices and with the concurrence from the State Department of Land and Natural Resources, Office of Conservation Coastal Lands." So we put that in there just to make sure that Hololani knows that between now and when the revetment is in there that we will do everything we can to expedite any additional protection out front that they require. Any questions on that one?

Mr. Robinson: Yeah I do. I have a question.

Chair Tsai: Commissioner Robinson?

Mr. Robinson: Why do we need...why are we putting the County as we have to do something and put us liable for a possible delay in case, you know, is the County will expedite? I mean doesn't the County already do that anyway?

Mr. Buika: Yes we do. We can strike that condition if you want.

Mr. Robinson: I'm just, just...

Mr. Spence: It's not really a condition. It's sort of a reassurance.

Mr. Robinson: You're not gonna block them or something once we give them an approval.

Mr. Buika: This is for additional emergency temporary protection out front if something happens that we would add that in. B, "that as a supplement to Standard Condition No. 3",...oh regarding insurance, the insurance policy shall remain in full force and effect until the permitted work has been completed and accepted by the County for the time period to meet all the project conditions to include dismantling the hybrid seawall revetment authorized under this variance as described by the construction plans as referenced in Condition No. 5. And that is to protect the County from...on a liability perspective until the project is fully completed.

C, that...I'll read it, "that to the satisfaction of the Department the applicant shall provide and maintain vertical public access to the shoreline and the public beach transit corridor along the shoreline shall be kept passible with visible signage from Lower Honoapiilani Road indicating public beach access. Additionally clear signage with language approved by the Department shall be posted along public beach transit corridor abutting the Hololani shoreline hybrid seawall revetment at the north end and at the south end. In order to protect health and safety of all persons accessing the public beach transit corridor access will be permitted across the lawn in the location fronting the rock revetment during high tides and seasons of no beach. During all times individuals who cannot safely laterally traverse the rock revetment will be permitted to traverse the shoreline across the Hololani lawn in the same area. Evidence of this condition

shall be submitted in final construction plans and site plans as part of the preliminary compliance report.” Any questions on that?

D, “that to the satisfaction of the Department the Hololani AOA will special assess the Hololani owners for the cost of removal of the hybrid seawall revetment once it is finally determined that the structure will be removed.” So that provides a funding mechanism and a reassurance to the County that the Hololani will follow through with Condition No. 9 with the removal of the seawall revetment.

Chair Tsai: Thank you, Jim. We understand this correctly, the standard conditions and additional conditions all being blessed by their AOA?

Mr. Buika: Yes. This is Stuart Allen.

Mr. Stuart Allen: Yeah, Stuart Allen president of the AOA. Yes, we have agreed to all of these conditions that are presented to you.

Chair Tsai: Thank you.

Mr. Murai: Excuse me Jim, quick question on No. D, the last part of it regarding cost removal of hybrid seawall revetment once it is finally determined that the structure will be removed. Who’s gonna make that determination? Is that a joint or mutual decision or is that a decision of the Department?

Mr. Buika: I guess it’s a decision of the Department, to the satisfaction of the Department. It’s not specified.

Mr. Spence: It goes back to No. 9.

Mr. Murai: Okay.

Chair Tsai: Commissioner Keaka?

Mr. Robinson: Can we clarify No. 9 and No. D, please? Because it’s important to me that they will be responsible for the removal not the Department will assess them.

Mr. Buika: No the Hololani will do a...from my understanding that is a special assessment to the...not from the...it’s Hololani internally. Once we determine that the revetment is gonna come out, the Hololani AOA will assess their own people the funds to do that, to fund the removal. So it’s...that’s nothing to do with the County. It’s just a reassurance to the County that that step will be taken.

Mr. Spence: So you actually could, you actually could put D and No. 9, but it does say, No. 9 says the hybrid seawall revetment authorized under this variance as described in No. 5 above shall be dismantled and removed by the Hololani AOA in its entirety and entirely at the expense of Hololani AOA. No. D just like Jim said, says, the association will assess its members for the cost.

Mr. Robinson: I know but why do we care how Hololani...I get what we're saying but that's Hololani to decide how they're going to...(inaudible)...for it and it's part of our condition. I think we just cross it out. I mean, I don't know why we need that when we got the payment for the County. County is...I'm sorry...(inaudible)...

Mr. Buika: It's basically a reassurance to the County that the funds will be available to remove it.

Chair Tsai: It's not gonna be a burden for the County.

Mr. Robinson: I mean, I guess I understand that but I mean, then we should assess the owners themselves instead of assess the AOA because the AOA you know, gets defunct or something then the ...(inaudible)...pass this through. So I mean, I—

Mr. Spence: Jim was, Jim was involved in the discussions with the applicant. Why is it worded this way and why do we need a separate condition rather than from No. 9?

Mr. Buika: Well we could. It doesn't have to be a separate condition. We are just adding in these four. So we could, like you said, we could add that part, you know that it will be...I mean it is the responsibility of the AOA to assess...have some comments?

Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: Okay, so then I'll just go ahead and ask the question so you can answer it because being in this world I understand there's a difference between regular AOA dues, maintenance fees whatever you wanna call them, and a special assessment, right 'cause this is going to take a special assessment. This isn't gonna just be, okay we're going to pay for it. This is going to be something that's going to be additional funds there too. So to what Commissioner Robinson is saying, I mean, really in No. 9, where it says in its entirety...at the expense of the Hololani AOA period, before it says, removal of, we can just put, expense of the Hololani AOA as assessed...as agreed to as assessed in a special assessment or something to that, you know, just one little sentence in there that says they agree to special assess their people for this. You know, just to kinda encapsulate yourself, but you're the president go ahead and address that if you would please?

Mr. Steward Allan: Yes, Steward Allan, AOA president again. Yes, it would be fine to change the drafting of it that way. You have a document in front of you which has been through multiple iterations and a lot of discussions and it sort of looks like something it was drafted by a committee a little bit and there's ways that you're catching onto where the editing of it could make it better. But the commitment of the AOA is to cover the cost of removal if and when removal is the decided course of action.

Mr. Buika: So at the...if the Commission wants me to combine those I can.

Chair Tsai: Yeah.

Mr. Buika: Yeah, okay.

Chair Tsai: You get the gist of it?

Mr. Buika: Yes, I'll combine D and I'll work with the applicant to combine that.

Chair Tsai: Any other comments?

Mr. Robinson: I have questions.

Chair Tsai: Question?

Mr. Robinson: I have a bunch. I wanted to wait till you finished it all before I asked questions.

Mr. Buika: Yeah, thank you.

Mr. Robinson: I first wanna start with testifiers earlier this morning where one of them testified that some procedure wasn't followed a law through the Governor, I'm not aware of that. I just wanna make sure of that.

Chair Tsai: Director?

Mr. Spence: Mr. Ke`eaumoku Kapu mentioned the Aha Moku system that was signed into law. It's a long complicated thing and I don't wanna go into all the details that some of which I don't understand. But the Aha Moku committee was formed to advise the Land Board, the State Land Board under DLNR on matters of natural resources. This...the EA for this project went to that board and they obtained a conservation district use permit for that, for this project. And so the Aha Moku was supposed to advise, I don't know if they did or not but they were supposed to advise the Land Board on the permitting on the State's side of this project. The Special Management Area and the shoreline area are by State Law are the kuleana of this commission. The State Law delegates it to the counties, the counties on Oahu it's the County Council that does SMA permit, on the other counties it's the planning commissions for the final authority in the SMA and the shoreline setback areas. So as far as I know nothing has been breached. Mr. Kapu could come forward and...I mean, he testified today as a citizen, but the whole Aha Moku thing is supposed to be for the Land Board.

Mr. Robinson: State not County?

Mr. Spence: Correct. I mean just like any other citizen can come testify, everybody's welcome.

Mr. Robinson: Chairman, I have a couple but stop me any time when someone wants to, I don't wanna hog it, but I'll for expedition wise I'll go ahead. Yeah, we got our...(inaudible)...time. Okay, Jim I'm sticking with testifiers and you know I listen strongly to testifiers because we're volunteers but you know if it's important enough for them to come out and say something and there is a reoccurring thing where it seemed like they were applying for 10 years and this permit has been held up or waiting and it's like you know, something stopped but all the paperwork that I read it was the exact opposite where they were sort of the ones that really didn't get on the ball

and do this sooner maybe the last you know, year and a half they started accelerating it. But I just wanna know the facts of that. I mean is...and this goes back to A, it goes back to A, ...(inaudible)...comfortable with A where if we've been holding up this project for 10 years then I think yeah, we gotta hold up and stay there and if we haven't, then I don't see a reason for A.

Mr. Buika: Well, I mean, they I don't go all the way back to the very beginning when they authorized the initial sand bags in 2007, but the condition of the beach obviously was...it was alarming and they put in the sand bags this was in 2006, 2007. They did have a...Hololani did have a...gain an emergency permit from the State for three years and a emergency permit from the County for 180 days and one condition in the County permit did require the applicant to come in with a long-term permanent solution for the project within 60 days. So that was a...there's a document in your...the planning report, June 22, 2007 that required a permanent solution be submitted and it indicated that the County felt that this was a situation that needed to be remedied. Well, they did not, they did not come in for a...I wasn't part of it then, back then in 2010, 2011...I think 2009, the end of 2009 they came in for a permit to repair their temporary bags. You know, they were kinda following but they should have come in with a...so they lost time there. They lost basically they lost over three years early on on the permit to begin the process but it wasn't as dire back then. You know, we tend to see this on the shoreline unless it becomes an emergency people don't tend to plan ahead. Well then things got worse and finally in 2011 they did send in I think in March 2011, they got a permit underway. So there was a gap between 2007 and 2011. So for the Hololani unit owners, the board of directors they need to understand that there was a gap. It wasn't the County. They County never held it up. We had pushed for doing this early on. Ever since the Environmental Assessment came in we had been pushing for the applicant in 2012 to begin looking at regional beach nourishment. That...the seawall revetment that came in as the preferred alternative was not what the County would like to see go in there and that all the alternatives should be explored especially regional beach nourishment while it wasn't investigated to the level, to the satisfaction of the Department. And that's when in 2014 I think as the process went along, the permits went along the Mayor asked, we requested through the Planning Director seek funds to look for the sand too because the applicant was not looking at that option even though we had asked them to in multiple letter to investigate that alternative, they did not. So we got County Council funds in 2015 and that's why Russ Boudreau and Moffatt and Nichol are here because they are reporting on the sand survey that took place in April of 2016. It took them a week to find the sand. But we could have...so those are kinda some of the sequences so we didn't...we asked you know we wanted a solution at the beginning. We had hoped for a regional beach nourishment, look at sand earlier but those things didn't happen and we are in the situation but those are the situation. So it wasn't the County that—

Chair Tsai: Thank you, Jim.

Mr. Robinson: I have another question.

Chair Tsai: ...(inaudible)...

Mr. Robinson: Question?

Mr. Buika: Yes.

Mr. Robinson: There's sand bags out there now, our renourishment is to bring sand from off shore onto the shore? Why can't we put 40 feet of sand bags? Just...

Mr. Buika: I guess we can. You mean in front of Hololani or—

Mr. Robinson: Well, Royal Kahana, Valley Isle...I mean if we're gonna do nourishment. If they're spending a lot of money to put this wall for a couple years you know.

Mr. Buika: Right.

Mr. Robinson: I mean and you know it's—

Mr. Buika: Oh as an alternative to building the revetment you're saying?

Mr. Robinson: Well, I'm just...I mean...yeah, I'm just saying you know, water wise if you put 40 feet of sand bags is it going to disappear like it does with five feet of sand bags that's happening now?

Mr. Buika: With the beach or the property?

Mr. Robinson: The sand bags. Well, the sand...if we put 40 feet of sand bags and we make this false 40 feet of land beach that's just to protect to the...it's not...'cause if we put a wall we're not gonna have a beach anyway. So we're just trying to protect the Hololani and all the buildings—

Mr. Buika: Right.

Mr. Robinson: -- and the beach is gone because we have a wall—

Mr. Buika: Right.

Mr. Robinson: --so if we put in all sand bags is that an alternative to protecting the building instead of building a seawall for a million dollars, three years of permits and maybe having to wait to protect it or can we do that temporary till we bring the nourishment in?

Mr. Buika: Yeah, I mean, there are, there are alternatives to protecting Hololani. I mean we could put rocks out there, we could put a steel plate, we've had these discussions. We could put more sand bags et cetera.

Mr. Spence: They've been doing temporary for a very long time. That's the whole idea, they're here for a permanent and if a better project comes along with regional beach nourishment then they'll take out the one just protecting them.

Mr. Robinson: What I saw is we've been putting five and ten feet of sand. I'm saying if we really put some sand bags to fortify it. I mean, I don't know if it's ever been looked at. I'm just, you know, I wanna ask the question now before we start going down this road of seawalls.

Mr. Spence: They may have to do some other temporary things while they're getting ready to do—

Mr. Robinson: Because sand bags can be, can be internally from the County, can be approved, correct? It doesn't have to take one to two years of permitting?

Mr. Buika: Well it would work with the State but no we can do it on emergency basis.

Mr. Robinson: Emergency basis.

Mr. Buika: Yeah.

Mr. Robinson: Which we probably—

Mr. Buika: I mean, we—

Mr. Robinson: --you're probably gonna do anyway--

Mr. Buika: We can.

Mr. Robinson: --depends on far.

Mr. Buika: Right. I mean, probably we will have to authorize additional sand bags between now and when it's built, but there are options. There are options to further protect Hololani.

Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: So along that same line that's...you know, this whole thing is I still keep trying to get the timing of everything. Like you know it's almost like I ...(inaudible)...like okay, here's what revetment is and here's you know, the timeline to each one of these. So as I understand it even if we just give thing the thumbs up today chances are it may not even be built until the summer of 2018? Well, no you're saying it's gonna be built in the summer. Okay, the Director's scratching his head.

Mr. Spence: I'm scratching my head. I'm just, I'm just saying these people have an interest in getting it started much sooner. They've been waiting for their permit. They wanna get their permit so they can start. How long it will take that's not up to us, but they wanna start construction as soon as possible.

Mr. Carnicelli: I get that. I get that. But if I'm like following the dominoes because it may not. So at best case scenario it's next summer, it's summer 2017, possibly summer 2018. What are we doing in between now and next summer or the summer after?

Mr. Buika: Well, that gets to that Condition No. A, letter A that we will provide additional protection. That's all we can do.

Mr. Carnicelli: And I get that.

Mr. Buika: That's all we can do.

Mr. Carnicelli: We are trying to help as much as we can, but the people that are sitting there in their houses and they have a vested interest in this what are they going to do in between now and then and how is it gonna be any different if it's an additional year of 40 feet of sand bags rather than 20 feet sand bags waiting for revetment. ...just like okay, if we're gonna do something temporary for the next year why not make it 36 months instead of 12 months and say okay, the sand's coming? I mean, like how...you know, what's our timelines 'cause we're gonna do something temporary no matter what we do. No matter what we do there's something temporary that's going to happen in between now and that thing that happens.

Mr. Buika: Right, and the last thing we wanna do is I mean speculating further on what you're saying, the last thing we wanna do is build the entire thing at a large cost to the Hololani and be ready with the beach nourishment the following day and take it out. I mean that's not a cost effective solution. So—

Chair Tsai: Commissioner Duvauchelle?

Ms. Duvauchelle: But that's not really our decision. That's Hololani's decision and in my opinion if they're willing to take that, I mean to get some peace to take that risk that's, that's on them. That's not our decision to make.

Chair Tsai: Right. And I think the point what I'm hearing even the Director can echo what I'm trying to say is we're here to approve the process, a permit. I think it's to get the ball rolling for them. So whatever they do with the ball it's up to them and that they're willing to take risk of whatever it needs, it needs to happen.

Mr. Spence: Right, that's correct. Once, I mean assuming this Commission grants the permit today it's up to Hololani what they do with them. If the... if there are some unforeseen delay we will continue to participate with them on temporary measures whether it's 10 feet of sand bags or 40 feet or whatever, it doesn't really matter. They're looking a permission from the Commission to do a permanent...(inaudible)...solution for them.

Mr. Buika: Correct.

Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: I get what you're saying Commissioner Duvauchelle, I really do. But it's not just that simple because if you look at our conclusions of law...(sound system feedback).... So if we look at our conclusions of law, the shoreline setback variance it doesn't comply with the applicable standards. So they're asking for something over and above and just saying, hey listen if this was within the standards and it's the same thing with the SMA Permit, it goes, it goes, what is it, I can't remember the percentage of the feet goes into...65 feet or not it can't be 65—

Mr. Buika: Sixty-five percent.

Mr. Carnicelli: Sixty-five percent of it is beyond the shoreline so it's not just that hey listen we're doing this to protect our property which they are, but it's not just as simple hey lets them do what they want and if they want to spend the money, they spend the money is the other part of what we're doing is there's public trust involved in this too is how I look at it. You know, and I haven't flip flopped back and forth on any decision in my life I think as much as I had sitting here listening to this because one moment I'm one side and the other moment I'm on the other side. It's this is really confusing and I think there's just so much to consider in all of it.

Chair Tsai: Director?

Mr. Spence: The way that the finding says, the application does not comply, blah, blah, blah, blah, unless conditions of mitigation to minimize the identified environmental impacts are imposed. That's what these conditions here are for.

Mr. Carnicelli: Okay.

Mr. Spence: So they...if they follow these conditions which granted a permit they must do, it's following the criteria for the shoreline setback variance.

Mr. Carnicelli: Okay.

Mr. Spence: It's an awkward way to say it, but they're okay if they followed the conditions set down by this Commission.

Chair Tsai: Right. I think we're...again, I believe the conditions from what I'm seeing here is pretty...very specific. We're guiding them as closely as tightly as we can possibly on our part. And I think we just gotta give them the chance to run with ball. Commissioner Robinson?

Mr. Robinson: I have compassion for the owners I really do, but one testifier said that you know, who's responsible if their building falls in, well it's not us. If you buy a property on the beach, you buy a property by a river, a like, tsunami zone, flood zone, it's, it's always your fault. But that's not saying we're not going to try and help you to mitigate it and try to save your property. We're not gonna do that. But my concern is we're gonna dig up four to five feet of our beach which probably isn't even there, just the public beach and then we're gonna have, make 'em dig up that four to five feet of public beach again, you know to take it back out. You know, it's not like we had the wall at Paia where the applicant went into their own property. Now maybe if we did this five years ago when they that lapse it would have had enough square footage to go back into their property and eat up theirs and take the water. But we're not doing that, we're...and actually with this, with this variance we're allowing them to go into our beaches, our waters, everybody waters and to go and put a rock wall there and to dig down five feet and then after we're gonna then disturb it again. And I'm not saying it's an impossible plan but there gotta be a better way, you know? And when it goes to the timing, I wish I could if the engineer is up here about the timing because I know there's some disagreement about how quickly we can get this done and I wish it could be done in a year but all the facts I've heard before, could I ask him a question Mr. Chair?

Chair Tsai: Yeah.

Mr. Buika: Jim Berry, applicant, coastal engineer.

Mr. Robinson: Hi Jim welcome back.

Mr. Jim Berry: Thank you.

Mr. Robinson: So the last time you were here you testified about how long it took at Iroquois Point and you did the application and we also talked about the sand nourishment and how long you thought that would take. And I believe both times you told me it was three to five years is that correct? Do you remember that testimony?

Mr. Berry: Yes. No, Iroquois Point took nine years. Well, to build it was less than a year the actual construction, but it took nine years from design to implementation through the whole environmental process.

Mr. Robinson: My question is from the permitting process from the State. We're one step. You still have to the Department of Health is my understanding as well?

Mr. Berry: Yeah, we're well on our way with that and that's our, the last big permit we need to get.

Mr. Robinson: So you've already applied for that?

Mr. Berry: Yes, we've applied and they sat on it for three years, but we finally got...they put some comments on it and I'm in the process of revising it. And we have the Conservation District...all everything you're talking about that is seaward of the shoreline is the responsibility of the State and they've given us, we have a permit to make the structure when you're saying on the beach that's the State and we have that permit.

Chair Tsai: Commissioner Robinson, can I have the Director speak to this. I think we may have a little bit confusion going on between next agenda item which is actually also—

Mr. Spence: Maybe not the next agenda item. What I'm hearing the discussion with the Commission, we're talking about two different things and we're muddling them together. We're talking about this particular project for a particular property. It's going to be tied a larger regional project, but those are two separate projects. We're just trying to get these people going today. The larger regional beach nourishment projects with T-groins and all that stuff that has another whole environmental process to go through and we really shouldn't mix them up too much except to say that these property owners will participate in a larger project in the future.

Chair Tsai: Correct. Commissioner Carnicelli?

Mr. Carnicelli: But if I could Mr. Director is, is they have to be muddled because recommendation from the Department is deferral and so the recommendation of deferral means, you know, let's then what are we going to do?

Mr. Spence: We're past that. We're past that already. The direction of the commission was to for you...we're asked to give you recommended conditions for approval and that's what we've done. So I think...I mean our preference would be yeah, let's do the larger project and we still want that to happen. But for the purposes of granting permits today that's what we shouldn't mix the two together too much other than to say that Hololani will participate in a larger project. There's a really pretty ...(inaudible)...

Chair Tsai: Yeah, it was the last session back in April when we decided that was the route path that we're gonna go.

Mr. Carnicelli: You see, I...my recollection and I wouldn't put, you know, a whole lot of credence in that we wanted an alternative. If it wasn't going to be deferral then what? It was kinda like okay, deferral well if we defer then what? So you know, and if it's already just okay it's a done deal that we're approving this it's just a matter of what the conditions are then I guess I didn't realize that that's where we were going.

Mr. Spence: That was the direction we were given ...(inaudible)...

Mr. Carnicelli: I guess I didn't. Okay.

Chair Tsai: You recall because you're the driving force behind it.

Mr. Robinson: Well, I pushed for a deferral but I didn't push for the approval because we're just going to decide how to make this work. We gotta make sure that it does work, you know. And again, I'm not gonna say that it can't work. I'm not saying that, but I'm trying to go through these process because we're still talking about doing other things that are still allowed. Their building of the hybrid wall has not changed.

Mr. Spence: Right.

Mr. Robinson: So we've added a couple, a couple things to make sure that they help us remove that hybrid wall. But my concerns were never addressed the first time because we did defer about building that hybrid wall and to make sure...again, I wanna help Hololani but it may not be exactly they want me to help them because, because what we're looking at is the SMA it's not to say, okay well, since we got no other ideas let's go put in this wall. This is the best we came up with, we got 30 days and the sky is falling. It's, it's we're digging coastline that they don't own. They don't own it. So it's in the SMA and that's why they're here, we're digging up this coastline and we're saying that this is the best we can do because otherwise they might lose their building.

Mr. Spence: Well, we're responding to the direction we given, we were told go draft standard conditions and these two other conditions that's for approval. Okay, there is a larger, there will be a larger project that will affect a lot more properties up and down the beach but that's, that's

gonna go through its own approval project process. It will have to go through probably EIS. It will go through Army Corp. It will go through OCL. It will come back to this Commission for its own larger permitting. In the meantime, I mean, and that was the alternative we were looking at and we were hoping for but that's...didn't happen. That will happen sometime in the future. So what we're faced with today is a specific permit, permits for a specific property and so what's before us now is a decision on that particular project.

Mr. Robinson: I understand that.

Mr. Spence: It will be in the future additional work on this, in this area.

Mr. Robinson: I understand. But this, but this project for this property also affects the property next to it and we're still talking about that. So we're still talking...I mean, is...we still got more to go. So it's not well...Yeah, I mean, I guess my feeling is I'm not here to make it okay for Hololani. I'm here to make sure it's okay for everybody. Am I not understanding my position?

Chair Tsai: Yeah, I think we understand exactly what you're saying but the way I'm seeing this right now and correct me if I'm out of line on this is I think I'm seeing two issues. One we have a micro and macro issue. Micro issue is we have a specific issue at Hololani that we need to address to fix a urgent issue. And we have a bigger issue, a macro that deal with the whole coastline which we'll also address. So as much as we like to have, as I'd like to have one solution that solves it all, we're probably...I don't think we can.

Mr. Robinson: Can I ask my question then, please? Thanks. Hi Jim, please, please expand on the mattress that is gonna be 30 feet at Royal Kahana at the end of this 375-foot seawall, hybrid seawall?

Mr. Buika: There's a...it's called a Tensar mattress. It's a plastic mattress about eight inches wide. There are examples of it out there right now. So rather than bringing the seawall all the way down to the Royal Kahana property it will wrap around 30 feet from the end so there will be native soil on that last 30 feet. I think it's protected right now, but so what they plan on doing is draping mattresses over that land at a sloped...you know at a fairly steep, but still a slope out into the water or down towards the water around that corner to minimize the end effect to Royal Kahana and it protect erosion there otherwise there would be probably loss of that land there. So basically they're moving the seawall back onto their own property away from Royal Kahana but they're attempting to put in something that can be moved, modified and that's more of a temporary nature that they can protect that...the land between Hololani and the north end of Royal Kahana.

Mr. Robinson: Why wouldn't they extend their seawall another 30 feet to guarantee protected?

Mr. Buika: Well, then it would create, most likely would create an end effect onto...if Royal Kahana, right there if we went down to the Royal Kahana property it would create an end effect mostly likely, some level of end effect, the scour behind and onto Royal Kahana property.

Mr. Robinson: So the mattress will absorb some of that, of that end effect is that?

Mr. Buika: Yes, yes, hopefully yes.

Mr. Robinson: Why don't we have 375 feet of mattress? You're recommending this wall, I'm asking you. Why don't we have 375 feet of mattress or 400 feet of mattress?

Mr. Buika: It wasn't considered. Jim do you wanna, I'm sure Jim Berry has thought of this so he can maybe address that.

Mr. Berry: Can I go back a little bit? I mean there's a lotta issues that you raised here. One is why are we putting this in? Why are we recommending this hybrid seawall revetment? We went through a very long design and environmental process where we, you know, we thought about different, how are we gonna protect the shoreline. There's not that many tools available to us that we can use. And I do take exception to the Department saying we didn't look at beach nourishment, we didn't look at beach nourishment with structures. It's just in our mind that was not the preferred alternative. We saw problems with them and I presented this all at the last time we were here that you know, that beach nourishment by itself without structures is not a viable solution. With structures you're gonna find a lot of environmental problems. You're gonna have to convince a lot of people that this is really what you wanna do here. And it's fine and we can support that

Mr. Robinson: Jim, to that point in your report you said that it wasn't an option not a preferred option that sand nourishment wasn't available in the area in your report that I read back in April. And so to say it wasn't preferred compared to say it wasn't an option because it wasn't available. And then when the County did their study they found out that it was available.

Mr. Berry: I don't we ever said there was not sand available. I mean we pointed out, we had some correspondence with the Department but we pointed out the sand deposits. The exact sand deposits they found we said here there's sand. You know you can see it aerial photographs. It's not like there was anything magical about it. We didn't know what the quality was. You could guess it's pretty nears shore, it's found to be, you know better quality.

Mr. Robinson: So is...I understand the seawall will work and protect Hololani. I understand as an engineer you guys did that to save it so I'm not questioning that the seawall is gonna work or not gonna work.

Mr. Berry: Right.

Mr. Robinson: But I guess was we sit here today and we see the cubic feet of sand that's available is your opinion still that the preferred, the preferred action that the County should take not Hololani, that the County should take is not beach nourishment but it's to build the wall for just one of nine properties?

Mr. Berry: You're getting into a huge thing here.

Mr. Robinson: Well, it's just—

Mr. Berry: And I'll just tell you my...I mean, I think you're gonna have problems with the T-groins. This is just my opinion with the environmental. You're gonna have to get 'em through the State, you're gonna have to get 'em through Fish and Wildlife, NOAA, Army Corp, paddlers, surfers, fisherman, you know some people are gonna like them, some people aren't. So you've gotta a big hurdle to get across to and this is not me saying they're good nor bad. This is just what you faced to get them implemented.

In my mind it's a lot easier just to do twenty or thirty thousand cubic yards of sand, sand alone and you've got good sand, you know, that was beneficial to the shoreline but it won't protect the properties. And these properties you know, they've gotten much worse since I was last here. They're at a very critical point and if you don't do something, you're gonna start losing. When you lose one building everything here is gonna change. I mean the impacts of losing a building will all of a sudden become apparent. So it's just I don't wanna, you know Cassandra, whatever, I mean you've got a major problem here. And one option, one alternative that the County will have to put forward in their environmental impact statement or assessment is to put walls on these structures and do beach nourishment. To me that's a better way to go and it's not just my opinion and the County sees it differently and that's, that's fine.

Mr. Robinson: And I have a question about removing the seawall. So I...you know, you guys are gonna put the seawall in, it's gonna be fortified pretty well on the bottom and I'm assuming that's it's not gonna be that easy to take out. Is there a way of your design to where the base would stay but the top four feet would be removed to where nobody would see it anyway because it's already submerged?

Mr. Berry: Yeah, you can do that, sure.

Mr. Robinson: Is that something that you could probably engineer to make something easier or they're just... 'cause it has to be something to where you know if it ever was to erode again, you couldn't have sharp edges. You know what I'm trying to say for the liability of it?

Mr. Berry: Yeah, the base of the seawall, the toe will we hope will be buried especially if you get the County project goes forward. You know basically most of that structure will be buried if this thing is working.

Mr. Robinson: But Hololani is agreeing to remove the...delete 100 percent?

Mr. Berry: Well, I mean you can say you know 50 percent, we'll be fine with that, but I mean, we're just trying to—

Mr. Robinson: Are we allowed to amend it later when they come back to us again? Yeah, right? That's part of the conditions they're able to come back.

Mr. Berry: We can modify it.

Mr. Robinson: Reduce it?

Mr. Berry: Yeah. So and that's why we're okay with it. I mean, it gives us the option of not removing it or removing it partially. Things may change you know in five years or ten years. How whatever happens. And you know, we can address it at that time.

Chair Tsai: So James as a final question obviously, your professional opinion this route is still the best approach for the immediate needs of Hololani?

Mr. Berry: This route, yes. Yes.

Mr. Robinson: But he's the applicant.

Chair Tsai: Oh I'm sure you would. I mean on your engineering part of it.

Mr. Berry: Yeah, I think you know, they just need...the thing with...why I originally came up here you're asking why can't we put 370 feet of Tensar mattresses.

Mr. Robinson: Yes.

Mr. Berry: Now you know these, these are not structures we can stamp as an engineer. They're not, you know, basically I came up with those and, and...but you can't design it to a certain wave height. You know we've designed our structure to a 50-year storm and there's ways to do that and we can't do that with the Tensar mattresses. In fact, they recommend a wave height limit of five feet I think it's probably, in reality probably less. So they won't, they're not adequate protection and as I said, our tools are...you know, we're inundated with people asking us to how to put in temporary protection all the time and you know, it goes all we have are sand bags and Tensar mattresses. We've been asked to ...(inaudible)...drawings, the Kaanapali Alii at one point put in road plates in front of their, their...you know they were just desperate and we could not recommend doing that because it's a liability and I don't think they're effective. So we've come down to sort of two options that we think are effective and that's all we have. And they're limited into how much protection they give.

Mr. Robinson: And the last 30 feet you think you're gonna just absorb some loss because you have to, to help not giving more loss to Royal Kahana is that why you're...you say you can't protect you anyway but that 30 feet is sort of like you guys are gonna give up something?

Mr. Berry: Yeah, well they'll get damage and they'll get replaced. You know, we know they work pretty well, you know. And that side of the Hololani doesn't take as much of the impact as the north end. The north end is what really gets hammered and that's where the building...we're protecting the buildings with our hard structure and then 30 feet is basically to absorb all the end effects from our hard structure and that's replaceable if it gets damaged or just deteriorates with age.

Mr. Robinson: And, and you didn't, you didn't design a end turn too instead of having that 30-foot mattress an end turn couldn't have stopped that waves coming across and taking some of Royal Kahana?

Mr. Berry: Well, that's the standard way you end a revetment is to do what they call a return which basically you bring it in 90 degrees and the trouble with that, you know, we considered that but we thought that the end effects would be a lot worse because you've got big length of hard structure that's facing right into the Royal Kahana. Also you have to excavate. You're excavating back into the land and we wanted to avoid any kind of excavation because you can't...once you excavate it you can't put it back. I mean, you can try but it's not as resistant and so that area would be...you know, we have to excavate all the way out to the toe so that's 20 feet of excavation and so that'll be soft, it will erode, again it puts the Royal Kahana property at risk and this is all, you know, as I've been telling the Department we've considered the Royal Kahana from day one. It was a big part of our design. We were talking with the vice-president in charge of shoreline issues at the time and so you know, the mitigation that we came up with was after a lot of thought.

Chair Tsai: Thank you, Jim. Can we have the recommendation of the Department please?

Mr. Buika: So we've discussed the nine conditions, seven plus the two specific ones and then four additional ones so we have 13 conditions in all, A thru D are those additional ones. So with respect to those 13 conditions that were agreed to by the Department and the applicant in consideration of this foregoing discussion and the recommendation report that you have in front you the Department recommends approval of the Special Management Use Permit and the Shoreline Setback Variance and at this time the Planning Department recommends that the Maui Planning Commission adopt the Planning Department's report prepared for the April 26, 2016 meeting and the Department's recommendation report prepared for the subsequent June 14, 2016 meeting as its finding of fact, conclusions of law and decision and order on the SM1 and SSV Shoreline Setback Variance and to authorize the Director of Planning to transmit said written decision and order on behalf of the Planning Commission.

Chair Tsai: Thank you. Commissioner Hedani?

Mr. Hedani: Move to approve as recommended.

Mr. Hudson: Second.

Chair Tsai: Moved by Commissioner Hedani, second by Commissioner Hudson. Discussion regarding the motion? Commissioner Hedani?

Mr. Hedani: I'd like to thank Jim for his diligence in pursuing the Commission's request for this particular project. I think he has done an exemplary job in terms of addressing the immediate needs for the Hololani as well as the wider longer term needs for the entire area, the regional solution. I think Jim has moved the concept of regional beach nourishment faster than I've seen any government entity undertake a project of such magnitude and that's a compliment to him in terms of pursuing it.

That being said, I think the needs of the Hololani in the immediate term are for a solution that would be lasting and that can solve their problem of immediate threats and that I'd like to compliment the Hololani on their commitment. We now have one-ninth of the funding needed for the regional beach nourishment project with the T-head groins. That's a commitment that

they've already made. The commitment that they already made to remove the structure once that project is completed is also an amazing commitment. It's to say we're going to remove our permanent protection which could protect them forever in favor of the option of the regional beach nourishment and that's a tremendous step in the right direction I believe. I've never seen any condominium go that far, but they've done it and I'd like to thank them for that.

I think there was a lot of misinformation this morning from people that did not get the complete gist of the project itself and didn't realize that they were willing to take out the revetment once the larger project goes in. I think when they get that information they'll see the project differently and I think the process is moving in the right direction.

Chair Tsai: Well put. Thank you. Commissioner Robinson?

Mr. Robinson: I'm not sure that this T-groin is the best option that will be approved in five years or whatever it is 'cause it's gonna go through a lot of changing the whole landscape like this wall is of Kahana. You know it sounds good but just sand is what we want not T-groins so I understand that's why there needs to be a seawall to be built because this might be taking too long. I wish there was a better alternative. I don't know if there is, I really don't. I do think that Hololani was complacent in taking too long to find this and maybe at that point we could have instead of hybrid seawall we could have maybe had a regular seawall which incorporated your property and was a natural flow instead of this hybrid which we hope it's gonna work like normal ones do.

I am, I do have a concern about usually when you go on top of a State land you usually have to pay rent for a dock or something like that. I don't, I didn't see any of this where us being a State land where who owns the wall if it's on State land. Is State land selling this property? I don't know...but there's always been something.

Chair Tsai: It's not State land.

Mr. Spence: It's on their land.

Mr. Robinson: So the 65 percent of the wall that's going onto State land is not...is their land now?

Mr. Buika: It's beyond the State certified shoreline, so it is the State's land. There will be an easement that Hololani will be required to purchase I do believe to answer your question.

Mr. Robinson: Purchase or lease like they do, couple cents or whatever.

Mr. Buika: Leased, yeah right, right.

Mr. Robinson: So that is part of this?

Mr. Buika: They do that all the time and just as a little tidbit of information many of the easements for seawalls and structures in State land I think, I'm not positive but I think approximately half of them are from Maui Island here and that money that goes from those

easements goes to this beach management fund. So something I'm pushing for is to recapture some of these easement dollars that go to the State to help renourish and improve our beaches here. So that's just...that's a side point but there are easements involved in this project also between the applicant and the State of Hawaii, DLNR.

Chair Tsai: Thanks, Jim. No other comments. Call for a—

Mr. Carnicelli: I, too wanna thank you Jim for your hard work. This hasn't been easy. You know it's been a long process and so I think everybody's complimented you on your professionalism and your hard work so thank you for that. I appreciate it.

I'm concerned you know to put in a permanent structure that's kinda sorta temporary that has very lasting effects concerns me. I've spent a lotta time on that beach. I've surfed out in front of that, you know, there. I've surfed S Turns a lot. I've seen the changes that have happened. I understand the need to protect the Hololani and what's going on to then also kind of put our eggs in the basket of a government entity to complete something in a timely basis is kind of a you know, that's crap shoot. So you know, the thought that we're gonna do beach nourishment and T-groins in an expedited way I don't see that necessarily happening. Anyways, it just is something does need to be done and I ...(inaudible)...appreciate that. Like I said, I'm just sort of concerned about the domino effect and what happen to that beach 'cause the worst thing could happen is, you know, the beach goes away. Because if it's, you know, this one and then we don't do the beach nourishment then Royal Kahana comes, Valley Isle comes and you know, next thing you know we end up with a seawall. So just because of that I think we have the votes to get this passed I'm gonna vote against it just because I think that I just want to because I don't want the, I don't want the precedent to be set for it because I do feel as though the Hololani kind of dragged, drug their feet a little bit on this. Should it come down to it and we need my vote, I will, I will change that, but in the meantime, I'm gonna stand against it. So that's just for the record.

Chair Tsai: Thank you. Director, you wanna repeat the motion?

Mr. Spence: The question is, the motion is approval of the SMA Permit and the Shoreline Setback Variance subject to the conditions that have been discussed.

Chair Tsai: All in favor raise your hand?

Mr. Spence: That's four ayes.

Chair Tsai: Opposed?

Mr. Spence: Two opposed.

Chair Tsai: My vote is yes. Motion passes.

Mr. Buika: Thank you.

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

- VOTED: To Approve the Special Management Area Use Permit and Shoreline Setback Variance as Recommended by the Department with Conditions.**  
**(Assenting – W. Hedani, L. Hudson, S. Duvauchelle, S. Castro, M. Tsai)**  
**(Dissenting – L. Carnicelli, K. Robinson)**  
**(Excused – J. Medeiros, R. Higashi)**

Chair Tsai: We're gonna take a five-minute recess.

A recess was called at 3:22 p.m., and the meeting was reconvened at 3:30 p.m.

Mr. Spence: So Commissioners we're on Item E-1, the Adoption of a Written Decision and Order for the denial of petition to intervene. The Commission may go into executive session if you so do. We also have a request for testimony on this and I don't know where Kai went. But anyway...Kai Nishiki.

Chair Tsai: Well, she's not here, so we're gonna bypass that or ...(inaudible)...

#### **E. ADOPTION OF WRITTEN DECISION AND ORDER**

1. **Having voted on April 26, 2016 to deny the Petition to Intervene request from DEBORAH K. WRIGHT, KEITH D. KIRSCHBRAUN, and DOUGLAS R. WRIGHT of WRIGHT & KIRSCHBRAUN, attorneys for the ASSOCIATION OF APARTMENT OWNERS OF ROYAL KAHANA dated April 12, 2016 on the following application:**

**MR. JAMES H. BARRY of SEA ENGINEERING, INC. on behalf of the HOLOLANI AOA requesting a Special Management Area (SMA) Use Permit and a Shoreline Setback Variance for the Hololani Shore Protection Project consisting of the proposed development of a 370-foot combined steel sheet pile seawall and rock revetment and related improvements at 4401 Lower Honoapiilani Road, TMK: 4-3-010: 009, Kahana, Lahaina, Island of Maui. (SM1 2014/0001) (SSV 2014/0001) (J. Buika)**

- a. **Proposed Findings of Fact, Conclusions of Law, and Decision and Order Denying the Association of Apartment Owners of the Royal Kahana's Petition to Intervene on the Special Management Area Use Permit and Shoreline Setback Variance Applications for the Hololani Shore Protection Project prepared Pamela W. Bunn of Alston Hunt Floyd & Ing, attorneys for the Hololani AOA received on June 2, 2016.**

**AN EXECUTIVE SESSION MAY BE CALLED IN ORDER FOR THE COMMISSION TO CONSULT WITH THEIR ATTORNEY ON QUESTIONS AND ISSUES PERTAINING TO THE COMMISSION'S POWERS, DUTIES,**

**PRIVILEGES, IMMUNITIES AND LIABILITIES PURSUANT TO  
SEC. 92-5(a)(4), HRS.**

Mr. Spence: I don't know if Corporation Counsel, I'm not quite sure the procedure. Commission can vote to adopt. I'm sure you reviewed it.

Mr. Murai: So Commissioners you have with your materials you received a draft of the proposed findings of fact, conclusions of law and decision and order that was as a result of the hearing on the petition by the Royal Kahana Association to intervene in this matter. After hearing testimony and hearing evidence on the petition to intervene, the Commission voted to deny the intervention. So after the denial, the prevailing party in this case the Hololani was instructed to draft a proposed decision and order. So that's what you have before you. A copy of this I believe was served upon the Counsel for the Royal Kahana and as far as I know, no objection or no alternate form of the decision and order was submitted.

So what you will be doing today is reviewing this and if it fairly and accurately represents the facts or the evidence upon which the Commission based its decision and if the conclusions of law are an accurate application of the facts to the law, and the decision is consistent with the decision that the Commission rendered then you'll execute. If not, then you can either advise the drafter, in this case the Hololani, you know, what...you know which ones the board has accepted or will be rejecting or you could instruct Staff or even me to draft a decision and order that is consistent with the record that you created on April, was it April 26<sup>th</sup> at the hearing on the petition to intervene.

Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: So this was received on June 2<sup>nd</sup>, how long does the Royal Kahana have to respond?

Mr. Murai: Well, by today.

Mr. Carnicelli: So there's not a timeline. It's just okay, we're gonna show up today. They didn't respond by today then...it's not like they have 12 days or 14 days and that's gonna be two days from that.

Mr. Murai: No.

Mr. Carnicelli: Well so if they haven't responded and we pass this their chance to come back and revise this is pau?

Mr. Murai: Well, you know they can still...if they disagree with the decision of the Commission they do have the option of appealing the decision to...well, they have appeal rights under Chapter 91-14. They could take...they could take this to Circuit Court if they wish.

Mr. Carnicelli: No, no, that's not my question. My question isn't about their ability to appeal. Is their, their chance to refute this as written by the plaintive?

Mr. Murai: Is today.

Mr. Carnicelli: Is today, period.

Mr. Spence: Yeah.

Mr. Carnicelli: Okay, that's all.

Chair Tsai: Yep. I don't know if you guys had a chance to review this. It's just standard language if you wanted to make any changes we can. Otherwise...Commissioner Robinson...or you can just vote as the way it is.

Mr. Robinson: It's...me personally I don't feel comfortable with anything that wasn't part of our, part of our hearing. It has that I'm aware that the petitioner mailed letters, you know, so on and so forth, some other legal stuff which, which, which might of, I might have been privy to but I don't see where I need to you know, you know, ...(inaudible)... you know...

Chair Tsai: I mean the thing is we made a decision as a whole, as a commission rejected—

Mr. Murai: If I may? Typically a findings of fact, conclusions of law and order is has...it's broken down into, you know, four parts. There's like a introductory paragraph that will explain you know, what, what the nature of the hearing was, who the parties were and it will contain typically a procedural history and those are not necessarily findings of fact, but you know they're just you know, the petition was filed on this date. Well, you may make a finding of fact that the petition or conclusion of the law that the petition was filed timely and that the response was filed timely and that a hearing was held, but now as far as findings of fact, typically findings of fact are based on evidence that was presented and that the Commission found to be, was found to be competent or proven to the satisfaction of the Commission. Then the next section will be the conclusions of law which would be an application of the facts that the Commission was convinced of to the administrative rule which is what, 12-201-39 ...(inaudible)...the Commission's administrative rule on intervention.

So, now Commissioners you know as I read this you know what...and I think when read this I thought back to that hearing and what that hearing was was it was a public hearing on the application by the Hololani as well as a hearing on the petition to intervene. And I think it, you know, I think Commissioner Robinson I think hearing what you're saying I suppose you might conclude that some of the, some of the matters that are raised were really part of the public hearing part of it. And if you, if the Commission is...does not agree that some of these findings of fact were proven to your satisfaction then you're free to accept, reject or modify them. And as I said earlier, you know, if you prefer that after today's review if you gave, if you were to give either Staff or me instructions of how, on what findings you wish to adopt then we can do that.

Mr. Robinson: Am I able to just cross off the ones I don't want to adopt and hand it in?

Mr. Murai: Well, I would...I think we'd all prefer...well, this is the time, this is when we deal with it.

Mr. Robinson: Okay.

Chair Tsai: Yeah, go ahead.

Mr. Carnicelli: So you're Corp. Counsel?

Mr. Murai: I am. I'm a Deputy Corp. Counsel.

Mr. Carnicelli: What's your recommendation? We sign it as is?

Mr. Murai: No. I'm not—

Chair Tsai: Making the decision for you.

Mr. Robinson: Exactly.

Mr. Carnicelli: No I mean you're our attorney.

Chair Tsai: Yeah, but the facts are what—

Mr. Murai: But I'm not the tenth commissioner.

Chair Tsai: That's right.

Mr. Carnicelli: So you can't give a recommendation as Corp. Counsel.

Mr. Murai: Well, I gave—

Chair Tsai: Commissioner Hedani?

Mr. Hedani: I think what we're trying to do is just determine that the findings of fact, conclusions of law are based on what we discussed.

Chair Tsai: Exactly.

Mr. Hedani: And that it accurately reflects what we discussed.

Chair Tsai: It's basically our decision put on paper. We're just gotta verify what's on paper is what we agreed to or said.

Mr. Robinson: Maybe in a page, break it down to a page, we voted and agreed or disagreed and that's it.

Mr. Murai: Well, here's the thing you know...well, first of all I want commissioners to, and Commissioners may recall that we had this discussion on April 26<sup>th</sup> where I asked Commissioners to take a look at Section 12-201-39 to 46 of our administrative rules because they set out the, you know, the procedure and the elements of an intervention. So real briefly

you know it talks about how much time you have to file your petition, how much time the applicant has to respond. It lays out the...who may intervene and the conditions upon intervention may be granted or denied. For example it allows all persons who have a property interest in the land that's subject to the Commission's action could move to intervene. It allows people whose own property will be directly affected by the project to intervene. It also says that the Commission may deny intervention if the petitioner doesn't these rules, in other words, they file it too late, they don't you know meet the criteria. And some of the criteria upon which the Commission may deny the intervention would be that the intervenor's interest can be adequately represented by other parties who are already involved in the application. That admitting the intervenor would be, would make the proceedings inefficient or unmanageable or that intervention will not aid in the development of a full record and will overly broaden the issues.

So now as I read you know the Hololani's proposed order, you know I could tell that what they were trying to aim at was that, and I believe what the Commission did when they denied was one of the things was that they felt that it would not aid in the development of a full or a full record and would overly broaden the issues. So I as I read you know, the proposed findings that's what it seemed to kind of point to. In other words, that's why they had said that you know it appears the Royal Kahana didn't really understand what the project was about. They, you know, they were...they seemed to have been had some basic misunderstandings about what the scope of the project and...anyway that's how I read it. Now so it's up to the Commission to determine whether yeah okay, that's...those are facts that we base our decision on and that's the section of the rule that we found applicable. Now...of course this is all based on the record, we can't you know take new testimony now or we can't change our reasons. You know we're looking at this as if a, you know that this was frozen in time. We're basing this on the record that was created.

Chair Tsai: Thanks Corp. Counsel. I mean I reviewed this a few times already and see that's pretty straight forward reflecting what happened that day. I don't see any red flags and I'm okay with this, signing it and basically just documenting ...(inaudible)...with sequence of events that occurred. Commissioner Hedani?

Mr. Hedani: Are you open to a motion?

Chair Tsai: Yeah.

Mr. Hedani: I move to approve as presented.

Chair Tsai: I have a moved from Commissioner Hedani, second from Commissioner Duvauchelle. Discussion on the motion?

Mr. Robinson: Guys it seems simple, but I'm not gonna sign until I review it and cross reference it with the minutes. I don't wanna get stuck in a one little thing sentence where it says that we were aware of the applicant mailing the testifier, I mean the petitioner, you know. It's stuff that we didn't talk about inside the meeting. It's probably true, but when it's findings of facts and when I have court stamps on it it makes me uncomfortable. And if you guys have enough for

five without me that be great. I just, I just hope there is 'cause I don't want to put my name to something that I don't fully—

Chair Tsai: How does it work if he doesn't...I mean any commissioner decide not to sign?

Mr. Murai: Well, if a commissioner feels that it's not accurate, you know it's perfectly within Commissioner Robinson's right to say no, I don't feel this accurately represents what happened.

Mr. Robinson: ...five you don't need my signature.

Chair Tsai: No you still...how does that work with signing it? You still have to have or do you ...(inaudible)...omit one of the signatures.

Mr. Murai: ...(inaudible)...five people are signing. All the people.

Chair Tsai: Oh okay. So...Commissioner Hedani?

Mr. Hedani: I think if you do not concur with the findings that are in there, you can sign I do not concur.

Mr. Robinson: That's why I was asking if I could just cross out that were...or is it just...there's concur and not concur?

Mr. Hedani: You cannot change the document, but you can say I do not concur with the findings.

Chair Tsai: Basically you can come back and say well this is what I see not accurate, I wanna see changed or you basically say I don't concur.

Unidentified Speaker: What you need five concurs or you need five signatures?

Chair Tsai: We need five signatures. Well, we need to pass the motion to right now we need five, so...This is something we do every facts and findings.

Mr. Robinson: I remember signing another one but it was this many pages, two pages you know?

Mr. Spence: The Hololani attorney is—

Mr. Carnicelli: All right if I could? To me, I don't know, I mean like say unless you cross reference it with the minutes is it a 100 percent accurate I don't know. To me, that's kinda why I wanted you know recommendation, but if the Royal Kahana is the only one that would object to this—

Chair Tsai: Right.

Mr. Carnicelli: And if they haven't objected to it till now, then I guess I'm not gonna object to it either.

Mr. Murai: I do wanna point out though that I am aware that the counsel for Hololani requested the transcript or at least the tape so it's not as if it was...and of course, most of the time these are written based on the attorney's notes and ...(inaudible)...memory, but it's my understanding that counsel did obtain...(inaudible)...

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

Chair Tsai: Well, we're in discussion so let's call for...we have a motion to approve.

Ms. Duvauchelle: ...(inaudible)...

Mr. Murai: You know what, he wasn't here so he's not gonna vote.

Ms. Duvauchelle: Oh, okay.

Chair Tsai: So and we have quorum right now so you wanna call for a vote.

Mr. Robinson: Call for the motion.

Chair Tsai: Yeah. All in favor of the motion to accept? We have four, number five passes.

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

**VOTED: To Adopt the Proposed Findings of Fact, Conclusions of Law, and Decision and Order.  
(Assenting – W. Hedani, S. Duvauchelle, S. Castro, L. Carnicelli,  
K. Robinson)  
(Excused – J. Medeiros, R. Higashi, L. Hudson)**

Mr. Murai: Okay, just for a record so the record is clear, Max you need to excuse yourself and the Vice-Chair Hedani will take over the—

Chair Tsai: He's not the Vice-Chair.

Mr. Murai: Oh, I'm sorry.

Mr. Spence: Jason's not here.

Mr. Murai: Okay, you know what we need to do elections for a Chair Pro Tem.

Mr. Robinson: Well, aren't we like five minutes and we're done?

Chair Tsai: I gotta go. I'm gonna go right now. Sorry guys.

Mr. Carnicelli: We need Larry back.

Unidentified Speaker: Yeah, we need Larry back.

Mr. Carnicelli: No we still have quorum, we have five.

Mr. Murai: No, but well, I don't know where he went.

Mr. Robinson: Just take a vote to approve SMA.

Mr. Murai: Okay, I guess I'll take over. Now we need to elect a Chair Pro Tem. Do I hear any nominations?

Mr. Carnicelli: I recommend Commissioner Hedani?

Mr. Robinson: Second.

Mr. Murai: Okay any other candidates, any other nominations? If not, I'll close nominations. All in favor of Commissioner Hedani acting as Chair Pro Tem please raise your hand. Larry we need to elect a Chair Pro Tem, in other words someone to stand in for...

Mr. Hudson: And who's?

Mr. Murai: Wayne Hedani?

Mr. Murai: All right, congratulations Commissioner Hedani.

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

**VOTED: To Elect Commissioner Wayne Hedani as Chair Pro Tem.  
(Assenting – L. Carnicelli, K. Robinson, L. Hudson, S. Duvauchelle,  
S. Castro)  
(Excused – R. Higashi, J. Medeiros, M. Tsai)**

Mr. Murai: Commissioner Hedani, I believe we are item number what is it Will?

Mr. Spence: It's Acceptance of the Action Minutes of the May 10, 2016 Meeting, Regular Minutes of January 26, 2016 and Portion of March 8, 2016 Meeting, that was Item C-2, and Action Minutes of the May 24, 2016 Meeting.

**F. ACCEPTANCE OF THE ACTION MINUTES OF THE MAY 10, 2016 MEETING, REGULAR MINUTES OF THE JANUARY 26, 2016 MEETING AND PORTION OF MARCH 8, 2016 MEETING (ITEM C-2) (previously circulated with the May 24, 2016 agenda packet.) and ACTION MINUTES OF THE MAY 24, 2016 MEETING**

Mr. Carnicelli: Move to approve.

Mr. Hedani: Moved by Commissioner Carnicelli. Is there a second?

Mr. Castro: Second.

Mr. Hedani: Seconded by Commissioner Castro. Discussion? All those in favor signify by saying, "aye".

Commission Members: Aye.

Mr. Hedani: Opposed, nay? Carried. Thank you.

**It was moved by Mr. Carnicelli, seconded by Mr. Castro, then**

**VOTED: To Accept the Action Minutes of the May 10, 2016 Meeting, Regular Minutes of the January 26, 2016 Meeting and Portion of the March 8, 2016 Meeting and Action Minutes of the May 24, 2016 Meeting.**

**(Assenting – L. Carnicelli, S. Castro, L. Hudson, K. Robinson,  
S. Duvauchelle)**

**(Excused – J. Medeiros, R. Higashi, M. Tsai)**

Mr. Hedani: Director?

Mr. Spence: So Item G-1, I, William Spence am notifying you I intend to process a time extension its request administratively and Candace can tell you all about it.

## **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:**

**PACIFIC WAREHOUSE, INC. requesting a two (2)-year time extension on the Special Management Area (SMA) Use Permit condition to initiate construction of the Kihei Town Center and Exterior Renovations at 1881 South Kihei Road, TMK: 3-9-003: 012, Kihei, Island of Maui. (SM1 2008/0014) (C. Thackerson)**

Ms. Candace Thackerson: Aloha Commissioners. So the request is to waive review and allow the Director to grant administratively a two-year time extension request to Special Management Area Permit SM1 2008/0014. As it is written now construction of the proposed Project shall be initiated by June 30, 2016 and the applicant is asking for an extension so that the construction of the proposed project shall be initiated by June 30, 2018. And you have before you just a couple brief elevations, the prior approval permit, site plan showing the expansion of it. It says the Kihei Town Center Expansion and Renovation, but it's mostly focused on the Foodland and

you can see the warehouse and the extra space. This was approved back in 2008 and as the applicant has stated in their request letter, you know that was not a really a great time economically and they're doing much better. And since they finished up the Maui Lani Foodland they can now focus their resources on moving forward with this project. So they feel confident that a two-year time extension would be able to let them move forward. They're also here if you'd like to ...(inaudible)...with questions.

Mr. Hedani: Okay, is this something we have to take public testimony.

Mr. Murai: Yes, you should probably call for public testimony.

Mr. Hedani: Is there any public testimony on this item, if so, please step to the microphone and identify yourself? Seeing none, public testimony is closed. Commissioners, what's your pleasure.

Mr. Robinson: Move to take your recommendation and give approval for the—

Mr. Hedani: Waiver.

Mr. Robinson: Waiver to the Director.

Mr. Hudson: Second.

Mr. Hedani: Moved by Commissioner Robinson, seconded by Commissioner Hudson to waive review of the time extension request. Any discussion? All those in favor please signify by saying, "aye"?

Commission Members: Aye.

Mr. Hedani: Opposed, nay? Carried. Thank you.

Ms. Thackerson: Thank you.

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

**VOTED: To Acknowledge Receipt and Waive Its Review of the Time Extension.**  
**(Assenting – K. Robinson, L. Hudson, L. Carnicelli, S. Duvauchelle, S. Castro)**  
**(Excused – J. Medeiros, R. Higashi, M. Tsai)**

Mr. Spence: Okay, G-3, we missed 2. Minor Permit Report was distributed to you, No. 4, the SMA...Oh, we missed the last one from last meeting approval of that. You have a new SMA Minor Permit Report and an SMA Exemptions report from the previous meeting and a new one for SMA Minor and Exemption Reports. That's for your review and any questions on it?

3. **SMA Minor Permit Report distributed with the May 24, 2016 agenda (Commissioners: Please bring your copy with you.)**
4. **SMA Minor Permit Report**
5. **SMA Exemptions Report distributed with the May 24, 2016 agenda (Commissioners: Please bring your copy with you.)**
6. **SMA Exemptions Report**

Mr. Carnicelli: Move to approve all.

Mr. Castro: Second.

Mr. Hedani: Moved by Commissioner Carnicelli, second by Commissioner Castro to accept. Any discussion? All those in favor signify by saying, "aye"?

Commission Members: Aye.

Mr. Hedani: Opposed, nay? Carried. Thank you.

**It was moved by Mr. Carnicelli, seconded by Mr. Castro**

**VOTED: To Accept the SMA Minor and SMA Exemptions Reports (Items 3-6).  
(Assenting – L. Carnicelli, S. Castro, L. Hudson, K. Robinson,  
S. Duvauchelle)  
(Excused – J. Medeiros, R. Higashi, M. Tsai)**

7. **Discussion of Future Maui Planning Commission Agendas**
  - a. **June 28, 2016 meeting agenda items**

Mr. Spence: Okay, Commissioners, next meeting June 28<sup>th</sup>, we have Mr. Anthony L. Marletto requesting a Short-Term Rental Home Permit, and Mango Surf Short-Term Rental. You have two Communication items for the Wailuku-Kahului...for the Maui Lani District and the Kehalani Project Districts to adopt subdistrict maps. We'll get into what those are at that time. We have a request by an applicant under the Director's Report by Ms. Leona Wilson of Lona Ridge LLC requesting that the Planning Commission come out on a site visit up at the property subject to a permit. And then also to notify, and then No. 2 under Director's Report notification of a transfer of a SMA Permit from Paradise Ridge LLC to Paradise Ridge Limited Partnership. Okay, former clients of mine, I will probably recuse myself out of that one altogether. So that's it.

Mr. Hedani: For the Commissioners information because I signed a petition relative to that particular item, although I may be present for the meeting I'll probably be recusing myself from voting on that item on Lona Ridge.

Mr. Hudson: Actually I have a question on that too. I was called, but never testified in front of the Ethics Commission. Did they make a determination as to who can vote on that?

Mr. Hedani: I received a letter from the Ethics Commission after I appeared before the Commission because there was a challenge to my signing the petition as a Ethics Violation and the commission ruled, the Ethics Commission ruled basically that there was not a basis for a violation.

Mr. Murai: You know what Commissioner Hedani, you know I wrote all those orders. I don't necessarily agree that you need to recuse yourself. I think the Board of Ethics found that you did not breach the Code of Ethics but they recommended that you disclose that you signed that petition, but they didn't say you needed to recuse yourself. I think that was something that they left to you and possibly your colleagues could decide.

Mr. Hedani: Right. They basically said think about it. I've thought about it and that's probably what I'm gonna do.

Mr. Spence: I will work with Corp. Counsel on the agenda.

Mr. Robinson: What about Richard?

Mr. Murai: He got his own advisory opinion. So you know, he got guidance from the Board of Ethics.

Mr. Robinson: Won't have a quorum.

Mr. Murai: I'm sorry?

Mr. Robinson: Don't have a quorum.

Mr. Spence: We will have the discussion on the record, but I will work with Corp. Counsel to put it on the agenda properly however we need to do it and bring it up.

Mr. Hedani: And for the good of the Commission what you all got is a copy of Ordinance 4315 and that deals with Short-Term Rental Homes, anything and everything that you wanted to say about that, please read this carefully and bring us your best ideas.

Mr. Murai: Isn't this coming up before Planning Committee? Is this the one on Thursday.

Mr. Spence: It has an ordinance number, that's adopted. That's already been adopted.

Mr. Murai: Oh, okay.

Mr. Carnicelli: So this is just FYI is all this is?

Mr. Spence: Yes. This is what Council ultimately...

Mr. Carnicelli: Okay, okay 'cause I thought we were gonna have to make a discussion about this.

Mr. Robinson: And it was unanimously by the Counsel.

Mr. Carnicelli: Right, and I had all kinds of notes and I highlighted stuff.

Mr. Hedani: I had a motion for repeal.

Mr. Carnicelli: Second.

Mr. Hedani: Okay, if there's nothing else for the good of the Commission then our next regular meeting date is June 28<sup>th</sup>. This meeting is adjourned. Thank you.

**H. NEXT REGULAR MEETING DATE: JUNE 28, 2016**

**I. ADJOURNMENT**

The meeting was adjourned at 3:57 p.m.

Submitted by,

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

**RECORD OF ATTENDANCE**

**Present**

Lawrence Carnicelli  
Stephen Castro  
Sandy Duvauchelle  
Wayne Hedani  
Richard Higashi (excused at 11:51 a.m.)  
Larry Hudson  
Keaka Robinson  
Max Tsai, Chair (excused at 3:48 p.m.)

**Excused**

Jason Medeiros, Vice-Chair

**Others**

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