

**MAUI PLANNING COMMISSION
REGULAR MINUTES
MAY 10, 2016**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Vice-Chairperson Jason Medeiros at approximately 9:03 a.m., Tuesday, May 10, 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.)

Vice-Chair Jason Medeiros: ...come to order. 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 and will not be allowed to testify again when the agenda item is discussed. Please note that we run a tight ship here so if you have a telephone please put it on silent or pause so if you phone rings I warn you right now you will be laughed at.

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

Vice-Chair Medeiros: Do we have any testifiers?

The following individual testified at the beginning of the meeting:

Mike Moran, Item E-1b, Wailea MF-7, SMA Time Extension Request

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

Vice-Chair Medeiros: Is there any other person that would like to testify early? Seeing no one, public hearing...(inaudible)...

Mr. Spence: Commissioners, we are on Item C-1, Public Hearings, Mr. Allen Yap of Kamaole Pointe Development, LLP requesting an SMA Permit for a 129-unit workforce housing project in Kihei. Is our Staff Planner this morning is Mr. Keith Scott.

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

1. **MR. ALLEN T. YAP of KAMAOLE POINTE DEVELOPMENT, LLP requesting a Special Management Area Use Permit for the Kamaole Pointe Project consisting of a 129-unit workforce housing condominium complex with associated improvements in the H-2 Hotel District at 2443/2445 South Kihei Road, TMK: 3-9-020: 010, 011, and 012, Kihei, Island of Maui. (SM1 2015/0009) (K. Scott)**

Mr. Keith Scott: Good morning, Chair and Members of the Commission. Next under consideration is the Special Management Area Use Permit for construction of a 129-unit condominium workforce housing complex on Liloa Drive in Kihei. The proposed project was presented to the UDRB, Urban Design Review Board on March 1st and the board recommended approval with one condition which was incorporated into the project as it is presented today.

The project consists actually of three parcels of land, all of them of course, in the Urban Districts. Community Plan designation is Multi-Family and it's zoned for Hotel development. At this juncture, Jordan Hart of Chris Hart & Partners will lead the presentation for the applicant.

Mr. Jordan Hart: Good morning, Chair and Members. My name is Jordan Hart of Chris Hart & Partners here to present the project. As mentioned the Kamaole Pointe project is 100 percent affordable multi-family development. The development team is Mr. Eric Ong and Allen Yap who are here today. At Chris Hart & Partners we have our landscape architect, David Sereda, Raymond Cabebe our lead planner and myself. Maui Architectural Group is the project architect, Mr. Peter Niess is here. Otomo Engineering is the civil engineer. Mark Matsuda is also here as well as our traffic engineer, Phillip Rowell who's in attendance today.

This is a regional location map. Project site is here makai of the Piilani Highway. This is a tax map key identifying the three parcels comprising the project site. It's 3.2 acres in size. There's access via easement to South Kihei Road and the project is proposing its primary access to the existing improved north-south collector in this location. This is an aerial location of the project site. North-south collector road which is currently in place in this location. Kealii Alanui, South Kihei Road, Kamaole I, II, and III.

The community plan designation for the project site is Multi-Family. The project is proposed as a multi-family development. It's also within the State Urban District. The zoning for the parcel is Hotel. It's H-M which is the medium density hotel and H-2 which is the highest density hotel throughout the entire project site. The multi-family use is consistent with the Hotel zoning designation.

This is a zoomed aerial that identifies the project site being infill development in relation to other similar nearby developments, multi-family developments with commercial developments makai and then single family developments mauka. This is a photograph towards the project. The existing north-south collector road. This is a photograph looking south. The project site is on your right. These are typical project site photographs. This is one looking makai, this one is looking mauka. This is a photograph from the makai edge of the parcel looking east and this is a photograph, these two here are along the access easement that will bring you to South Kihei Road. Neighboring property, some of the access easement.

The project is a 129 units, 100 percent affordable. Thirty-nine of those units are gonna be below moderate, 65 units will be moderate, and 25 units will be above moderate. There's already an executed Residential Workforce Housing Agreement with the County of Maui. In the five buildings there's gonna be 27, one-bedroom, one-bath, 84, two-bedroom, two-bath, and 18, three-bedroom, two-baths. All units will include balconies, Romeo and Juliette balconies.

Some area amenities or sorry, onsite amenities include barbeque pit, restrooms, community restrooms. There's going to be 265 parking stalls. There'll also be bicycle storage. The main vehicle access will be off Liloa Drive as mentioned. One thing I would like to bring up at this time and you'll see it on the project site is that because this project is zoned Hotel there's a requirement for two loading zones per building. That's normally not a requirement of the Apartment District and we're trying to work with the Planning Department to see if that could be eliminated in the context of this being an affordable housing project, but you'll see that basically there is, because there is two per building we actually have 10 loading zones you know consuming what would be common area for the community.

This tables identifies the density of the project site in relation to its nearby neighbors. As you can see the project site is kinda in the lower middle of density of surrounding properties and then well below the lot area or sorry, floor area ratio and lot coverage for the Hotel Districts both H-M and H-2. I should note it's also below the density allowances for the A-2 District which would be most closely related to this use.

This is the project site plan. Two buildings makai and then carrying up mauka. As you might have seen in the project site photos there is an existing ocean view in this location approximately. The project is proposing to be developed with this linear parking lot not obstructing any views in that area. At this time I'd like to bring up David Sereda from Chris Hart & Partners to talk about the landscape architectural plan.

Mr. David Sereda: Good morning, my name is David Sereda. I'm a landscape architect with Chris Hart and Partners. I'll take you through some of the site features. The site has 51 shade canopy trees which shade all of the 265 parking stalls and they consist of three different species. There's the native Milo Tree, Shower Tree, and Pick Tecoma and all of those are chosen because of their characteristics which are good for parking areas which means that they don't have a lot of litter and they also don't have intrusive roots. Throughout the property sprinkled here and there there's about a dozen or so different citrus trees which could be harvested by the residents or others or even collected and donated to nonprofits. So those would be fruit bearing citrus trees throughout the property. We have hedge screening around the property where the parking occurs to alleviate any headlight or light intrusion from the parking areas to the neighboring properties. There's three barbeque amenities featured on the property. You can see at the top left there's a little plan of one which typically include picnic tables, park grills, tables and chairs, umbrella, trash receptacles as well as a hot ash bunker. There's on the east side of the property there's a connection to the north-south collector which has been constructed. There is bicycle storage as Jordan mentioned so there's seven different bicycle racks throughout the property. And there's two ground signs, one for each frontage road on either end of the property. Some of the water conservation components for the irrigation system would include rain sensors, smart controllers and as much drip irrigation as is necessary for the ground cover areas to conserve on water. Here's some of the plantings as to what would be featured on the property. You can see that some of the native plants include Ilima Papa, Ice Plant and the Beach Vitex. And here are the ...(inaudible)... trees and palm trees. Two major palms would be the Coconut and Foxtail Palm. Thank you.

Mr. Peter Niess: Good morning. I'm Peter Niess of Maui Architectural Group. We did a couple different site layouts putting the buildings staggering them so the driveway meandered through

the site. We tried an orientation with the buildings turned so that they were parallel with the oceanfront and none of those were as beneficial for the neighbors as well as the residents of the site as this final layout that we came up with. This preserves the most mauka to makai views and the residents the way the site works it starts up high and it slopes down. They'll have views anyway when they look out of their units.

There's also, the way that we've laid it out there's stacked parking on the north side of the property so that puts the residents of this new proposed project 60 feet plus from the existing condo on the north side. We also played with the buildings themselves. Instead of just making a solid façade we staggered the units, pulled some in to create some variation and make it more interesting have some shadow lines. Also shade, use the shade to our benefit. We varied the exterior materials. There'll be a stucco and hardy, hardy type product again, to create some more interest in the elevation. The roof, after our last meeting with UDRB they wanted us to add shade elements over the windows so we've added that with some eyebrow roofs and it does...it looks better and it will block the sun especially on the south facing sides of the building, but we would probably need to switch it from the concrete tile to at least a nice asphalt shingle because of the weight because it's literally bolted onto the side of the building. So that would be one thing that we'd be looking to possibly change. We have five-foot overhangs which due to the height of the building it's three stories you need to have a big overhang or else it just...it doesn't work and it looks funny. The approximate height is 34 feet. There's mansard style roof so it's the look of having a roof but there's also usable space up there for mechanical, electrical equipment possibly.

This is the building elevation. So we've revised some of it. The bottom two buildings on the property have exterior walkways. This is beneficial because it allows cross ventilation to work better. The upper buildings are double loaded so there's a hallway down the middle. That gives you more density but it prohibits the cross ventilation working as well as on these ones. Since this...since these renderings we've changed it some a little bit just adding the shade elements over the windows. I think in this down here you might be able to see it. They're pretty simple little eyebrow roofs over the windows awning style. We looked at a couple different types and that seemed like it would work the best.

These are the upper buildings. The ones that are double loaded they have the hallway. Again, it's three stories. The balcony...Romeo and Juliette balconies are pulled back in to create some interest. We also played with the colors as well as the materials to break up the mass of the building. Again yeah, this is just a rendering showing what it will look like missing some of the shade elements over the window.

Again, just another to give you an idea of the context in the surrounding neighborhood preserving that view corridor and...yeah,..an overall feel of what it will, what it will be like this this workforce housing for the people.

Mr. Jordan Hart: This is Jordan Hart with Chris Hart and Partners. This is the depiction of the ground sign. Again, as noted by David Sereda there's gonna be two for the project site at the mauka and makai edge. To cover some of the utility components of the project site there's approximately 73 or 72....72, 240 gallons per day of domestic demand. Sewer output or wastewater output is approximately 32,895. There is adequate remaining capacity in South

Maui. Post development runoff increase is approximately 11.6 cubic feet per second and that's gonna be accommodated onsite by subsurface retention basins. And then as noted previously main action is off Liloa but there is a available access on south Kihei Road.

As I mentioned earlier, our traffic engineer, Phillip Rowell and he'll be available for the question and answer component of the presentation but I'll just go through the traffic right now. So the counts were taken in September of 2014. That was when school was in session. That's a standard state of... Department of Transportation requirement. The project will put out 55 trips on Liloa Drive in the A.M. and 8 trips on South Kihei Road in the A.M. And then on the P. M. It will put out 60...well, in or out 66 trips on Liloa and 8 trips on South Kihei Road. And the total A. M. trips will be 63. Total P. M. trips will be so 74.

This graphic shows a little bit of the existing level of service. Well, first of all what the levels of service mean by grade and then the existing level of service at the project intersections. So the project intersections consist of the private drive at South Kihei Road and Liloa Drive. The north south through lane shown there as being uncontrolled that's just traffic traveling past the driveway on South Kihei Road. So in the A.M. for the west left and right there's basically a level of service B based on the counts in the A.M. and a level of service D based on the counts in the P.M. And then the southbound left turn is taking a left into the project driveway that's showing operating as A by the counts.

So under existing conditions there's 775 vehicles passing the project driveway in the A.M. and 1,083 passing the project driveway in the P.M. So based on background traffic projections for the region including this project site in 2020 it's anticipated that there's gonna be 893 vehicles passing the driveway in the A.M. and 1,237 vehicles passing the driveway in the P.M.

Some of the construction mitigation measures that are being proposed with the project as best management practices are the preventing of leaching of cement products, oil, fuel and other toxic substances. Proper disposal of loosened and excavated soil, retention of groundcover until the last possible date, stabilization of denuded areas, early construction of drainage facilities, minimizing the construction schedule overall, control of dust, watering graded areas at the end of the day and on weekends, erecting dust fence and limiting construction to normal daylight hours.

These are some of the sustainability features that will be built into a urban infill development. This circle represents a half-mile radius and in the pedestrian context that's approximately 10 minutes of walking. And so basically you can see all of the amenities that are existing and then there's four additional planned County bus stops that are shown. I'm sorry, the green bus symbol are existing bus stops and then those grayed out ones that are mauka are currently County planned bus stops for the area. You have Kamalii Elementary School, you have all three Kamaole Beach Parks, you have commercial services, you have medical, business.

As noted by David, the mauka end is gonna connect to the existing north south collector road. The north south collector road currently has sidewalks on both sides in that location. One other thing I would like to add that we didn't touch on but I think is an important addition is that there's gonna be approximately one dozen citrus trees within the landscape area so that will be an amenity for the residents in the future to be able to participate in.

In the context of water conservation, again native and climate adapted plants, automatic irrigation, rain sensors. All projects basically have a standard SMA requirement to be R-1 ready. That will be prepared to receive County's reclaimed water if the line crosses this location. We're gonna include sub-surface stormwater retention which is a standard requirement.

As Peter mentioned there's a number of components that were added to the project to minimize heat gain including significant overhangs and then adding additional eyebrow roof overhangs on the sides of the buildings. Open corridors for air flow. Individual unit metering for energy use accountability and high efficiency appliances.

So in conclusion, the project is in appropriate scale with existing development surrounding. And it is proposed to be 100 percent affordable. Thank you very much.

Vice-Chair Medeiros: So would you like to continue?

Mr. Scott: I don't have anything to add in terms of the presentation. You may wanna take testimony at this time.

a) Public Hearing

Vice-Chair Medeiros: Well now open testimony on this Item C-1. First person is Carole Eiserloh.

Ms. Carole Eiserloh: Good morning, Mr. Spence and Members of the Planning Commission. I appreciate your being here to hear me. My name is Carole Eiserloh and I own a unit Kihei Alii Kai, the adjacent property. I'm very much...first of all I wanna thank the developers for considering the needs of the community by building affordable housing. This is a nice change from what's happened previously and I also am here however to speak about the effects on the property next door, Kihei Alii Kai. That complex has about 128 unit, roughly 64 of them will be facing where the construction takes place. Those units, many of them, since it is a vacation rental property a good portion of those are used as vacation rentals. During the period of construction which I'm assuming is going to be at least two years the people who live...who are using it for that purpose will not be able to rent. The noise and the dust and all the other things that take place under construction will really almost completely shut them down in terms of their income producing as a property. The other people who live there on a year round basis are also profoundly affected by that. And we are concerned about when the construction is going to take place that the developers consider for example when they do their grubbing, when they do some of the other things that take place that have a profound effect because most of the people who own that use it as vacation rentals or in fact use it personally for themselves it's during the winter months. And if the folks that are doing this work consider that and perhaps do some of their serious construction work during an off season that would certainly help the owners who do use their units during that other time period. So that's one big factor.

The other factor that we're concerned about is that we...even through they're showing that there's going to be shrubbery along the side of the property the parking spaces face directly into

the Kihei Alii Kai property. It will take some period before those trees and other things, other shrubbery grows. Currently there is shrubbery all along that fence. It's bougainvillea. It goes all the way down and it was our understanding that was going to be removed. It straddles the line between the two properties and that they will then put new plantings in place. Well, we're concerned about the length of time that's gonna take to provide that kind of shelter or space between parking lights are just going into our property directly. So that's another concern we have.

Finally we would appreciate if it was possible to have some kind of landscape barrier even though the...you know, instead of having the parking coming right up to the fence maybe have a gap of four to five feet that would allow a greater distance before the lights penetrated the property next door. I believe that that's pretty much covers the important issues for me. I think however the biggest one for us is going to be the construction itself and the effects of the construction on the owners residing in that part of the property as well as their use for economic reasons. There'll probably be a loss to the County alone just in taxes of almost a million dollars a year during that time period, the construction so it is a big deal not a small thing. Okay, thank you. Thank you.

Vice-Chair Medeiros: Any questions? Commissioner Robinson?

Mr. Robinson: Hi Carole.

Ms. Eiserloh: Hi.

Mr. Robinson: Which way does the parking face from Alii Kai does it go towards your building or will your parking also throwing light onto this new property?

Ms. Eiserloh: No, our parking is in the back of the complex and also under a tennis court so there's sheltered parking back there. The parking in the front is right behind the shopping center and it run it will be perpendicular to the other parking. In other words, there is no parking on that side at all. And on the other side of Alii Kai there's a road, there's a frontage road that goes all the way to the back, it's basically fire road and it's a private road. It doesn't go all the way through to the Liloa Road behind. It comes from South Kihei Road and goes to our parking lot.

Mr. Robinson: Thank you.

Vice-Chair Medeiros: Any other questions? Thank you.

Ms. Eiserloh: Thank you very much.

Vice-Chair Medeiros: These people write like me. Rick Walden? Oh, you pass, okay. Gerard Gifford?

Mr. Gerard Gifford: Good morning, ladies and gentlemen. I just have a couple of questions on Carole mentioned one about the specific hours of construction. I live in Unit B-103 in Kihei Alii Kai and that will be abutting if you will the new construction site. I live on the first floor so hours

of construction and the noise generated, the dust and so forth would affect me. So the hours of construction have been alluded to but not the specifics. I'd like to know what those are. Another question which is general. They talked about energy efficiency. I'm curious to know why there are no solar or PV panels being utilized to keep the cost down to the low income or the working family owners? That's a question. Third question is they alluded to the use of a primary road for access and also a secondary road and they did traffic studies based on a very high percentage using the Liloa side which is the north-south collector road and I don't understand why they think people will use that as a major access or exit from the property versus South Kihei Road. South Kihei Road as you probably know already in Kihei is a major traffic issue. At that exit there is no, that they're proposing there is no traffic light. There is a new pedestrian walkway that's put in but with the additional 130 units I think they're talking about and 250 car stalls there's gonna be as far as I'm concerned much of the traffic will go out that way. That's my own assumption. And is this place going to be handicapped accessible. I notice there's several walkways and stairs but I didn't anything or maybe I didn't see it from angle about elevators or access for handicapped folks That's about it. Thank you if you any of those questions could be answered I'd appreciate it from the builders and developers.

Vice-Chair Medeiros: Does anyone have any questions for the testifier? Is there anyone else that would like to testify?

Mr. Mike Moran: Thank you, Chair. Mike Moran for the Kihei Community Association once again on Item C-1 Kamaole Pointe Development. We commend Mr. Yap and his team for the proposed workforce housing project. With the guidance of Chris Hart & Partners, Mr. Yap brought his proposed project to KCA early in the game. He performed a highly rated, professionally prepared design review and offered several points he saw as ways for an improved project. Many of them were graciously adopted and the minority that were not adopted were addressed and explained. So while we do see a few items we would prefer that could not be achieved we realize that to finance a project of this nature potential spending cost must be cut to make the goal achievable. There's a vast difference as we all know between affordable housing and market housing. As you've heard there are some concerns, objections but we try and take an overall perspective and we see overall it's a good project for our community. Mahalo.

Vice-Chair Medeiros: Does anyone have any questions for Mike? Thanks Mike. Is there anyone else that would like to testify that has not signed up? Public hearing will be closed for this item.

b) Action

Mr. Scott: The project meets all of the goals and objectives of 205A and Special Management Area and the Planning Department recommends approval with the six standard and ten project specific conditions as presented in your packet.

Vice-Chair Medeiros: Is there any Commissioners with any questions? Commissioner Hudson?

Mr. Hudson: Jordan? Good morning, Jordan. I just got a couple of real quick questions. The location of the proposed dumpster is that the optimal location for it?

Mr. Hart: The short answer is yes. I mean, we did, we did locations but you know we're open to recommendations on relocating the dumpster if that's a critical issue.

Mr. Hudson: The second question is I have written down in my notes, an elevator? I didn't see an elevator shaft on top of the building. Would it be, would it be ADA compliant ...(inaudible)...

Mr. Hart: Excuse me, I'm sorry to speak over you. The ground levels are always going to be accessible but there is a proposal for an elevator.

Mr. Hudson: And the last one is, I'm staying away from traffic this time because actually understand that part. The PV, I didn't see any PV up there either and that is...if you guys are gonna go green, we're not looking for LEED certification, but if we were to go green then maybe was that a consideration?

Mr. Hart: It was a consideration and there is, there is an interest in doing it but we don't have a approval from MECO and so part of it is related to the timing of when you have a project with an SMA Permit and when you're filing your applications with MECO and then whether or not MECO's allowing new connections at that location. So I would say that the applicant would like to have the option but they're not able to commit to being able to get a deal with MECO to put those panels on the roof at this time.

Mr. Hudson: Until later perhaps?

Mr. Hart: They would love to be able to you know have the option of doing it so if they can get it done they would like to do that.

Mr. Hudson: The last thing and more of a note, thank you for putting up the thing about R-1 water before we got into it. I thank you kindly.

Vice-Chair Medeiros: Commissioner Robinson?

Mr. Robinson: Planning Director, where are we in the whole cycle of this with this project? Is this after this SMA it's just they go straight to construction or is there another step after this?

Mr. Spence: This is the last discretionary approval.

Mr. Robinson: The last one. They've been before this board before or is this the one and only?

Mr. Spence: Well the zoning is in place and I have a question about this.

Mr. Robinson: Okay.

Mr. Spence: The zoning's in place, all the entitlements are there, it's just a matter of this is the last discretionary approval through this commission and after this it's grading and building permits and the like, all the ministerial permits.

Vice-Chair Medeiros: Commissioner Lawrence? His name is Carnicelli but I call him Commissioner Lawrence.

Mr. Carnicelli: Jordan, my question, I don't know if you can answer this question or not, but my question is is we have a 100 percent affordable, 129 units if my rough math is right then that means 33 of them are mandated and we're left over with another 96. We have an additional 96 units. I mean roughly, I mean I'm not gonna hold your feet to the numbers.

Mr. Hart: Sure, okay.

Mr. Carnicelli: But my question is in regards to those 96 have they already been allocated to someone else? Have the credits been assigned to someone else at this point in time?

Mr. Hart: Oh, I see what you're saying. Maybe I could bring up the development team to explain any kind of situations they have with the proceeds of the development.

Mr. Carnicelli: Okay.

Mr. Allen Yap: Hello, Allen Yap. As far as the credits go we're receiving 96 credits from the County. Of those 96 we have partners involved, 51 will go to one of our partners, the remaining 45 will be on the other partner. We have two partners, 50 percent ownership. So one partner will get 51 credits and the other partner's side will get 45 credits. Those credits will be utilize I believe our partner is gonna utilize them for a proposed project that he's working on. And our credits will be banked with the County and at some point either utilized or possibly sold to another developer depending. Excuse me?

Mr. Carnicelli: I'm sorry, go ahead and finish.

Mr. Yap: Other than that if you have any questions about the credits it's conforming with the County and with the ordinance and you know our affordable housing agreement with the County. We're doing 129 units and only receiving 96 credits so...

Mr. Carnicelli: But that's the law. I'm sorry, Mr. Chair?

Vice-Chair Medeiros: Go ahead.

Mr. Carnicelli: Could you please share with us who the 51 credits, who your partners?

Mr. Yap: Our other, our other 50 percent partner is No Ka Oi Development and the developer is Dennis Blaine. I mean he is the principal of that partnership.

Mr. Carnicelli: And is that project in line already?

Mr. Yap: No. No, it's something they're working on. Whether it will come to fruition or not you know we don't know, but those credits will belong to him and he can, he can utilize those same as us, he can bank it with the County and utilize them or possibly find a developer that needs those credits.

Mr. Carnicelli: Okay, thank you.

Vice-Chair Medeiros: Commissioner Duvauchelle?

Ms. Duvauchelle: Mr. Yap while you're at the microphone. What is your anticipated start date for construction and are you going to phase the project or build it out?

Mr. Yap: We really haven't gotten into that portion of it yet. We've been trudging through getting our SMA. We are looking at...we're looking for a vertical partner so-to-speak for the construction side. We haven't selected anybody and we wanted to you know, get the SMA first. Once we have that then we will start looking around and determining what type of partner we need and what type of partners are available. We have to go through construction drawings, we have to get permits. We're looking at least if we went lickety split, we're looking at no less than a year perhaps a year and a half before we go vertical. So we're looking at the earliest probably next summer possibly at the beginning of the following year.

Ms. Duvauchelle: I mean once you get your vertical partner in place are you going to build the 129 units or are you gonna build it out based on the market?

Mr. Yap: We believe that at this time that it will be built, we'll be building them one by one, but we don't have any plans for phasing at this point. We need to reserve that to as we move forward we'll look at it and see if Phasing would be prudent or not. It just depends on the market. We're anticipating that there'll be a good demand for the affordable housing at these prices that we're going to be offering in the location. So we don't think that at this time that phasing is something we're going to do but we don't know for sure.

Ms. Duvauchelle: Okay, thank you.

Vice-Chair Medeiros: Commissioner Higashi?

Mr. Higashi: Mr. Yap, a couple of questions. One is I notice that your initial application was in 2005 and ten years that you're coming back in for completion of this particular project?

Mr. Yap: The project was originally entitled for, almost entitled...they never did get SMA. They had submitted with another group, Brett Sugars I believe was the owner at that time. That was sold to another developer, I believe was No Ka Oi or participant on No Ka Oi, and then eventually a couple of years ago, my group became involved. This was dormant. The project went dormant because of economic considerations. It was a market rate project. It had underground parking and some other cost prohibitive development considerations that just didn't work. Also, at this time you can't get water for a project. There's no meters on it so the only way that this project could be developed was as an affordable. So we looked at and it's very hard to make numbers work on an affordable but I believe we have, we have the ability to

do that. Fortunately, the design, a good portion of the design was there already, et cetera, so a lot of the engineering, the architecture we could overlap with that and it was a lot of cost savings plus timing. You know what kills you in this development game is the timing, the carrying cost on and on and on. So we've revived the project but it came instead of at a market rate, it came back as an affordable.

Mr. Higashi: Yeah, that's one of the concerns that I have is that during 2005 during that period I don't think the traffic was that bad on Kihei Road, but now 2015 we've had quite a few applications come in for development in that South Kihei Road and I's a major concern about how many you're talking about 100 and?

Mr. Yap: South Kihei Road is not going to be the primary access or the ingress or egress. It's going to be on the Liloa. If you look at how the project is the main ingress and egress to the project is off the Liloa which is the north-south collector. I...there is a access to...between Rainbow Mall and Kamaole Shopping Center. However, if you ever try to turn left on South Kihei Road down there it's mission impossible. I don't anticipate the bulk of the traffic going out in that direction. I believe that they're going to jump onto Liloa, they're gonna go down to the main thoroughfare...I forget the name of that, Alii Alanui and they'll go either down to the South Kihei Road from there or they'll go to the Piilani from there. So in our perspective, we doubt very seriously that the access to the South Kihei Road, and it's going to be very narrow, it's gonna be a narrow two-way that's going to be highly utilized. Now you know there will be utilization we believe but I don't think it's gonna be the major. I mean, you're gonna get stuck in traffic down there. The quicker way is to jump out on the Liloa and get going onto the main thoroughfare.

Mr. Higashi: Yeah, I agree with you that more than likely they will not go that route but there's no enforcement to demand that whoever travels on that road will not use South Kihei Road.

Mr. Yap: We can look into that. We've had discussion. What we will do is somehow encourage the residents to utilize the Liloa which we think is gonna be driven by just the convenience itself. However at this point we have no restriction. You know, we haven't put any restrictions in place although we could look at that, but I think that that's going to be difficult to do, you know, to restrict the ingress, egress. We've talked about putting a gate up, et cetera, but then you have you know you have Fire Department and this and that and I...it's just one of those things that I believe or our team believes that the access is going to be off Liloa, the majority.

Mr. Higashi: Final one question. You mentioned affordable. What is your interpretation of affordable when you're talking about cost?

Mr. Yap: We're required to follow the Affordable Housing or Workforce Housing Ordinance which in itself defines the prices ranges that we can utilize. We can't just choose a price and say it's affordable. They have guidelines, pricing guidelines depending on the family size, depending on the number of bedrooms, et cetera, et cetera. So the pricing will go from the mid-two hundreds all the way up to high three hundreds is our projected range. Now the upper three hundreds would be the large three-bedroom unit maybe on the top floor with the nice views et cetera, et cetera, and the lower two hundred, mid-two hundreds or so would be in the one-bedroom maybe ground floor units, et cetera. That would be the bottom of it. Average pricing

throughout the project will probably be somewhere between 350 to 370, and that means that you go from 250 all the way up to the high 300's. There'll only be a few of them that would be up in the upper category not very many. So it's gonna be quite affordable. We believe that it's going to fulfill a missing component of affordability especially the Kihei area.

Mr. Higashi: Thank you.

Mr. Carnicelli: Actually Mr. Yap I got another question for you, sorry. You just pinged something on me is within the Workforce Housing Ordinance is what type of a deed restriction will there be on these? Because I'm assuming they're not gonna be in perpetuity or is that not a fair assumption are you gonna put them in perpetuity?

Mr. Yap: The Affordable Housing Agreement which is already, we've already done with the County and it's a recorded document it will run with the deed and it has the restrictions in there. There are three different categories and I believe that those categories run from for the most affordable which is the 80 percent I think...I believe that runs for 12 years and then you have the mid-range which is the 100 percent median that runs for I believe 8 years and then you have the upper range, the 120-140 percent, the more costly units they'll run for a 5-year restriction. So it conforms, the County again in the ordinance gives the time frames that are necessary. With this new amended Workforce Housing it make it workable. The one they had before was not working.

Mr. Carnicelli: Right. Just a quick, one follow-up then is did you look into possibly partnering with someone like say Na Hale O Maui or someone like that to go in perpetuity?

Mr. Yap: We are looking at all types of things. Our first objective was to get entitled. If you're not entitled you got nothing.

Mr. Carnicelli: Sure.

Mr. Yap: People don't even want to talk to you until your entitled because the entitlement process is so difficult, it's very questionable whether you're gonna get it. So nobody really wants to move forward with a developer until they have at least the SMA in hand.

Vice-Chair Medeiros: Hedani?

Mr. Hedani: I'd like to compliment you on bringing the project forward. I think it's a nice project. I think it's well designed. I think it's well thought out. And I am happy that we're looking at a project that's beginning to focus on workforce housing. If I had a question it would be was there anything in the process that you went through that would make it easier for workforce housing to be developed?

Mr. Yap: Well, I think there's long list of things that could be applied. I'm not saying that the County hindering it but there are a lot of things that...and I believe that there are teams or committees that have reviewed this already and I think they've presented it to the County and I don't think the County has acted on it for various reasons whether they could or they couldn't. But the thing that you need to streamline or in my thing is the process itself. I mean when it

takes two years to bring this thing and you're carrying mortgages and you just escalate your costs. That's a primary. Maybe the County could also give some breaks to the developer on the cost of water meters and they do give some reduction. But I mean, the County wants affordable housing then they've got to become our partner. They've gotta participate with us. And that makes it easier for the developer. It's very hard to make the numbers work right now, you know, there's very little, very small profitability in it and the risk factor is the same. So you're working with a very small margin, yet you are working with the same risk factor and that's where developers are skeptical on affordable housing is that your risk factor remains the same but yet the profit margin is greatly reduced.

Mr. Hedani: Thank you.

Vice-Chair Medeiros: I have question. Could you come back up please?

Mr. Yap: Sorry.

Vice-Chair Medeiros: No, we like you. Okay, now it's zoned Hotel, okay and one of the biggest concerns with this Commission many of us anyway is short-term rentals. Now, how do we protect against people down the road you know just coming in buying a condominium, right as affordable housing, sell it and the next owner says I think I want to have a TVR here?

Mr. Yap: First of all under the...our zoning vacation would not be allowed on these even when they come out of the affordable program. Multi-family does not allow for affordable housing, I mean not affordable housing but for vacation rental. The enforcement of that would have to be to the association of the condo association and possibly the County. The County needs to enforce that the units are not being used for vacation rental which is in violation of the ordinance.

Vice-Chair Medeiros: So the CCA will prohibit vacation rentals?

Mr. Yap: Well, vacation rentals by I believe the County ordinance itself are not allowed on the multi-family...

Mr. Spence: But the zoning is Hotel and that's—

Mr. Yap: Yeah, I'm gonna let...if it's okay, I'm gonna let my planner do this?

Mr. Hart: This is Jordan Hart, Chris Hart & Partners. Just to clarify so what we're requesting of you is the SMA Major Permit to develop a multi-family development and so that is what restricts it. If we were requesting a permit to develop a condo hotel similar to like the Nani Loa Project that's being proposed in Kihei that has condominium use and short-term rental use so basically you have to disclose what you're asking for for your development and we're saying this is long-term development so that will be what it is. And then the County of Maui would have the ability to act on that.

Vice-Chair Medeiros: Yeah because I know there was a project in Lahaina—

Mr. Hart: I could hear a side discussion as well, I would also add that it's community planned multi-family so in the context of the special management area you know it's not Hotel community plan and Hotel zoned where you know it might be implied that you could just go straight into it. So it's...you're in the special management area. You're supposed to have consistency of all your land use layers. They do not have hotel consistency of all their land use layers so they're asking for a specific Special Management Area Use Permit, anyway it what would be the situation.

Mr. Hopper: Well, I mean, I think the potential problem is...is there a plan to record the SMA Permit on the property or any of its conditions where a future owner 10 years down the line would know I can't do TVRs even though my zoning would allow for it. That would be the only concern which is why the CC&Rs might be the best way of going about that. Now how this impacts the SMA maybe up to the Commission as to whether or not this actually will impact the SMA under the Goals, Objectives and Policies of the Coastal Zone Management Act and how it will affect that. But if the Commission's concerned about whether this would be used as vacation rentals because it's zoned Hotel I don't know if there's a way to record a document that would basically run with the land that would have that restriction because otherwise the zoning would allow it. I know the SMA if the SMA's being done with the representation that it is only for multi-family use then normally something like that would, you would want to see that recorded and have that run with the land otherwise I'm not sure how a future owner would have that knowledge. So I guess the question is still how would future owners...I mean because, and not to say that's a good thing or a bad thing but if the zoning is Hotel, then as I understand it short-term rental homes are permitted there unless I'm mistaken.

Mr. Spence: Being the one ultimately responsible for enforcement I have that same concern that the use, I mean regardless of whatever the representations are and all that the use is permitted and that's as by right.

Mr. Hart: Okay.

Mr. Spence: Okay, so we're having kind of a problem reconciling what's allowed by zoning versus what's being proposed as an affordable housing project you know for long term residential.

Mr. Hart: Well, as a person who documents permitted uses for people I don't think it's as easy to just open up a TVR in the SMA in a condo complex, but that's all right. I would also like to add that I don't want to encourage the Commission to start the requirement of recording all SMA Permits because as you may be aware that could be an additional complexity to deal with. So whether or not the project, this project is open to adding the restriction of short-term rental into their CC&Rs I'd like to bring up the project team,...(inaudible)...development team again to discuss that.

Vice-Chair Medeiros: Okay.

Mr. Hart: Okay, they're open to restricting TVR by their CC&Rs.

Vice-Chair Medeiros: Yeah, the reason I ask is there was a project that came before us in Lahaina. We addressed this concern and they guaranteed us through the CC&R on that there would be no TVRs allowed in perpetuity. You know, that's our concern not what's gonna happen next month, what's gonna happen in 10 years.

Mr. Hart: Yeah, that's no problem then and the developer is open to including it in the CC&Rs the restriction.

Vice-Chair Medeiros: And so it would be okay for us set that as a condition?

Mr. Hart: Yeah, he just acknowledged that he was acceptable to it.

Mr. Hopper: And then keep in mind, oh sorry, so that would perhaps be an enforceable SMA condition. The zoning enforcement, again if the zoning allows for the use, CC&Rs can be more restrictive than the zoning. So if the zoning allows for that use then the County wouldn't be able to enforce through the zoning ordinance. It would have to rely on the land owner through the CC&Rs and potentially through the SMA condition to require that that be a restricted use. But again that's what the concern is. Normally TVRs are not permitted without a permit anyway. This is just...I don't think this is gonna come up in a ton of cases for the commission because I don't know how many hotel zoned properties you're gonna be dealing with and generally if they're hotel zoned properties you are fine with them being used for short-term rental homes because that's the purpose of the Hotel zoning. But in this case you're looking at a long-term ownership and rental in the Hotel District. So I think this is kind of a rare case where you're going to see it's a normally outright permitted use to have the short-term rental and so you would need some sort of deed restriction to ensure that doesn't happen because that use is allowed. So I think that that's why that's appropriate.

Mr. Spence: I would also note Commissioners the Planning Department does not enforce CC&Rs. That's a private contract between other property owners so whatever the association has formed we are not gonna step in on that. If it's, if it's an SMA condition or something like that we can...or a zoning restriction or something Planning Department can step in on that, but we're...CC&Rs are private contacts and we're not involved with those. I mean when we go to enforce all we're gonna look at is what's allowed by zoning. And there are plenty of condos in Kihei that are short-term rentals, so...

Vice-Chair Medeiros: I just wanted to make it perfectly clear I like project, okay. But I do have some issues. Commissioner Robinson?

Mr. Robinson: I have a couple of questions so I'll go a couple and I'll look and see if anybody else and then I'll go a couple more, okay.

Vice-Chair Medeiros: Okay.

Mr. Robinson: First of all for the project, affordable housing fantastic. Thank you, thank you, thank you. I think everybody's for the project so I think now there's just maybe a some concerns that people have of you know I think some you know just some housecleaning things. One is the neighbors that we heard from earlier testifying you know with...during the construction time

and Commissioner Duvauchelle asked them if we're gonna do a build out portion wise or we're gonna do it all at one time and you're not sure yet because you don't have a vertical yet so I understand that. I hope that you guys take that into consideration. Taking away the barrier between the bougainvillea bushes hopefully you guys will put up a big enough silt fence, maybe put up one and 10 feet later put up another, have a dual stuff that's gonna be along construction process because as you're building that is a dry area to affect that. My question is is with South Kihei Road. We have a lot of things going on South Kihei Road. We have couple other things in front of our board that passed last year and is still pending and the cars I do believe with the developer that after, after a little while people are gonna know what time to go down South Kihei Road instead of sitting there and they're either gonna go to Keonekai or they're gonna go to the other one. My question is the people that live there and them starting to go to the beach and we have this problem at Launiupoko where people park across the street, they press that crosswalk signal and the added of that. Now I'm not 100 percent familiar but where is the...is there gonna be a walkway or is people gonna walk to the street for the light where do we see the pedestrian traffic for this project?

Mr. Hart: There's commercial development makai so you know they could walk through that business commercial developments are basically open to the general public, but the roadway access doesn't have sidewalks, but it's also not the closest route to the ocean. So I don't expect that people would be walking there. But you know, basically you're going off property at that point. So we can connect them to the north-south collector road two sidewalks but we don't have an option to connect them to sidewalks on the makai side like an existing sidewalk network.

Mr. Robinson: Yeah, Jordan I don't think it's your responsibility either, I'm just wondering you know it's gonna be low cost housing and people aren't gonna have a lotta cars and driving to the beach, they're gonna go to the beach like all of us do and that's why you know, everybody has timeshares in Kihei. So they are gonna go to the beach can you show me, I mean is it possible to show me a path of where you think they would go because people will find a way. 'Cause you said there is a entrance towards South Kihei, right, from that back zone.

Mr. Hart: There is yeah.

Mr. Robinson: I assume there's gonna be a fire lane on the road?

Mr. Hart: Off the southwest corner here is where vehicle access happens.

Mr. Robinson: And is that Keonekai?

Mr. Hart: No, Keonekai is down...this is, it's unnamed private roadway. So if I lived here I would probably walk through the commercial development just right down the middle right there, now. That is just what people do ...(inaudible)...

Mr. Robinson: And there's a stop light at Rainbow Mall?

Mr. Hart: No.

Mr. Robinson: And a crosswalk?

Mr. Hart: No. I'm not sure where it is. I'm not sure where the nearest crosswalk on South Kihei Road is at that point. Dolphin Plaza.

Mr. Robinson: Dolphin Plaza?

Mr. Hart: A crosswalk is what I meant to say, I apologize. And then another one in front the Kihei Kai Nani.

Mr. Robinson: Walk down that way. Okay.

Vice-Chair Medeiros: Commissioner Duvauchelle?

Ms. Duvauchelle: Hi Jordan. The roadway that you're talking about for pedestrian behind the Rainbow Mall I believe that's like a half road. It doesn't have any improvements whatsoever. Is it part of this project to improve that access at all?

Mr. Hart: It's not currently proposed in this project and I would like to clarify I was saying that I actually don't think that people will walk that direction because it's not the most direct route.

Ms. Duvauchelle: And there will not be traffic access to that road behind Rainbow Mall or there will be?

Mr. Hart: There is a vehicle access. There is vehicle access but I don't expect that people would take that time to walk south when they are seeing basically a existing parking lot of a commercial development that they could just walk into.

Ms. Duvauchelle: Okay thank you.

Vice-Chair Medeiros: Commissioner Robinson?

Mr. Robinson: Jordan I got a question about the project and the meters. Is this gonna be central meter, water meter where the tenants pay a certain fee or is each individual unit gonna have its own water meter and electrical meter?

Mr. Hart: Only the electricity is gonna be individually metered. It's gonna be a community...I believe that there's potentially three total meters for the project site but the water is not gonna be metered by unit only the electricity.

Mr. Robinson: As it relates to PV it's...if you're not looking for money to receive from MECO you can put a PV as long as you know it's always a negative the other way. I believe anything under...over 250 you're not allowed to send back to MECO anyway?

Vice-Chair Medeiros: Excuse me, introduce yourself before you testify.

Mr. Peter Niess: Peter Niess, Maui Architectural Group. We have been in discussion with Rising Sun Solar. That was part of the reason we did the mansard style roof. Structurally it will be designed to support PV in the future. We've been done renderings where there's PV in there. It would be...it's been discussed and we would like to do it but we don't wanna be forced to do it if it's cost prohibitive for some reason. We've also talked about putting shaded parking PV along that roadway but some of the neighboring residents didn't wanna have the PV in their view I guess, but we definitely have talked about putting PV with consultants.

Mr. Robinson: Okay, yeah. You don't need MECO's permission if you're not gonna wanna get money back from them.

Mr. Niess: Yeah, yeah.

Mr. Robinson: Thank you. I have one last question and this is it because you know everybody wants this project. No, and this important. You know it's...I have relatives that live condos all over Kihei an after the original buy out it all becomes rentals and they say that they have a hard time when people are moving in and moving after this 10 years because of this rental ...(inaudible)... and notice that there's no elevators of now, there might be later and I notice that you guys do have loading zones. But I notice that the loading zones aren't for every single purpose. Can you show the one of all your buildings, please Jordan? Okay, so I see where you have the loading zones and Building 1 and 2 and Building 5 and Building 5 that's correct? It's just, it's how do you foresee people moving in and out on a third story from a building? It's in your CC&Rs if you guys can sort of think about that you know for five years from now 'cause they're gonna and you might have already done it but again, I know you have to keep some loading zones but maybe if you spread one out you know in certain area it might, you might avoid people getting fined for just trying to move in and move out.

Mr. Hart: If I could say something? So the reason we are being instructed to add loading zones right now is because we are in the Hotel District. Actually apartments don't need loading zones so we actually have 10. If you see those shaded areas it's quite a bit of space that would be otherwise just common area element as opposed to what's now loading zones. So for affordable project that is not gonna be a hotel I feel it's wasted space to do these 10 loading zones so I understand what you're saying as far as the convenience of moving in and out and I think that you know my experience of living in condos in the past is you kind of just...it's a special event you're moving and you kinda just cockroach parking you know where you can. Now we happen to have 10 loading zones and I would really appreciate the Department considering allowing us to be consistent with the Apartment Zoning District and not having to do these loading zones. In response to your direct question on why they're not fronting all the buildings it's basically hard to—

Mr. Robinson: To put it all in.

Mr. Hart: --fit everything on the site much less 10 of these things that you don't actually...(inaudible)...

Mr. Robinson: Yeah, I don't think 10 feasible, but I think 5. It's just if you're gonna move into the third floor you're not...just it's gonna take a lot longer to move in and out and carry stuff.

You know you're gonna...it's gonna be a slow process it ain't going to be quick thing and I just hope you guys, you know, this about that without any elevators.

Mr. Hart: Well, if there's a way to free up space by potentially eliminating a bunch of that I think that would give us flexibility to relocate the remaining ones into more convenient areas.

Mr. Robinson: Thank you Jordan.

Vice-Chair Medeiros: Director?

Mr. Spence: Just a comment on that. We are...that's one of the next sections of the Zoning Code we're gonna reach into is the parking ordinance. We totally agree there are some things that could be improved on that.

Vice-Chair Medeiros: Could we get the recommendation? Oh, wait a minute forgot to check with the rest of the Commissioners. Okay recommendation please?

Mr. Scott: I could actually hear some discussion about not allowing short-term rentals and if you wish to have something in the conditions of approval I have something drafted with respect to putting that into the CC&Rs if you would like me to read that to you?

Vice-Chair Medeiros: Please.

Mr. Scott: That to the satisfaction of the Department the CC&Rs and we'll spell that all out will include a provision that short-term rentals would not be allowed.

Vice-Chair Medeiros: In perpetuity.

Mr. Scott: Okay.

Vice-Chair Medeiros: Director?

Mr. Spence: Could we add something that those CC&Rs be provided before the final compliance report?

Mr. Scott: Absolutely.

Mr. Spence: Okay.

Mr. Scott: In fact if you want I can have them required in the preliminary.

Mr. Spence: ...(inaudible)...

Mr. Scott: Okay.

Mr. Spence: I just wanna apologize we should have talked about all this long ago. Don't mean to ambush anybody.

Mr. Scott: Okay, so with that the Department's recommendation is approval of the project as presented to you with 6 standard and 11 project specific conditions including the one that I just read to you.

Vice-Chair Medeiros: Hedani?

Mr. Hedani: Move to approve as recommended.

Mr. Hudson: Second.

Vice-Chair Medeiros: It's been moved and seconded. Discussion? No discussion? All those in favor? Do you want to repeat?

Mr. Spence: The motion is to approve as recommended and amended with the additional condition.

Vice-Chair Medeiros: All those in favor?

Commission Members: Aye.

Mr. Spence: Okay, that's seven ayes.

Vice-Chair Medeiros: Eight, no seven. Congratulations.

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

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

Before we get started, Chair will call a recess for five minutes.

A recess was called at 10:18 a.m., and the meeting was reconvened at 10:28 a.m.

Vice-Chair Medeiros: Chair is calling the meeting back to order. We'll be addressing C-2.

Mr. Spence: Commissioners, we are on Item C-2, Dr. Sujata Bhatia and she can correct my pronunciation requesting a Change in Zoning from R-3 Residential District to B-2 Community Business District and an SMA Permit in order to construct the Kihei Wellness Center. It's located on South Kihei Road in Kihei and the Staff Planner this morning is Mr. Paul Fasi.

2. DR. SUJATA BHATIA requesting a Change in Zoning from R-3 Residential District to B-2 Community Business District and a Special Management Area Use Permit in order to construct the Kihei Wellness Center, a two-story approximately 21,958 sq. ft. building intended to house medical offices, clinics, and other medical related services for the South Maui region at 1488 South Kihei Road, TMK: 3-9-010: 077, Kihei, Island of Maui. (CIZ 2011/0003) (SM1 2011/0005) (P. Fasi)

Mr. Paul Fasi: Good morning, Commissioners. Before you today is an SMA Permit and a Change in Zoning from R-3 Residential to B-2 Community Business District. I'm just gonna basically go over the regulatory requirements and the applicant has their consultant here and they will go over the specific details of the project.

In regards to Chapter 205, Land Use Commission the property is in the Urban designated district. Urban Districts shall include activities or uses as provided by the ordinance or regulations of the County. So that means that once they get their change in zoning from R-3 Residential to Business they will be in conformance with this stipulation, Chapter 205. Also pursuant to Hawaii Administrative Rules Land Use Commission Rules, Subchapter 2, what determines an Urban District it shall include lands characterized by city like concentrations of people, structures, streets, urban level services and other related land use areas and as such that is why the parcel is designated as State Urban.

In regards to the Countywide Policy Plan the project is in consonance with the course them of strengthening social and health care services. In regards to the Maui Island Plan the proposed clinic is located in the Urban Growth Boundary and this is an allowable use in the Urban Growth Boundary. In regards to County Zoning Ordinance it's under the rules of the R-3 Residential designation and a medical clinic is not a permitted use in the R-3 District and therefore the need for the change of zoning to community business.

The Kihei Community Plan, and this is important designates it as Business Commercial and so the change in zoning from R-3 to Business would make it consistent with the community plan designation of Business Commercial.

I also wanna point out that on November 12th, I'm sorry, November 19, 2012 this Planning Commission recommended approval to the County Council of the adjacent parcel which the Kihei Veterinary Clinic sits on at the exact same change in zoning requirements. So this is the exact same request that has already been previously approved by the County Council with Ordinance No. 4065 which is Exhibit No. 30 of the Department's report.

On December 1, 2015, the design was unanimously approved by the Urban Design Review Board as presented. That concludes the Department's regulatory overview of this project. If you have no questions I'm gonna turn it over to the applicant, Bryan Esmeralda from Munekiyo Hiraga and Mike Munekiyo from Munekiyo Hiraga to do their presentation.

Mr. Bryan Esmeralda: Good morning Commissioners and Staff. My name is Bryan Esmeralda from Munekiyo Hiraga. I'd like to thank all of you for being here this morning. I appreciate your time. I'm here on behalf of the applicant, Dr. Sujata Bhatia to present information in regards to

the applications for a Special Management Area Use Permit and Change in Zoning for the Kihei Wellness Center Project.

Just like to take a minute to recognize the project team all of whom are here today to take any questions you may have following the presentation. The applicant and landowner is Dr. Sujata Bhatia. The project's architect was Ron Agor, civil engineer Dominic Crosariol, landscape architect Russel Gushi and the planning consultants were Munekiyo Hiraga, myself and Mike Munekiyo are here this morning.

Just to quickly point out the project location. This is a regional location map of Kihei and the proposed property is located on the makai side of South Kihei Road, the block between Lipoa and Welakahao Streets. The property is identified Tax Map Key (2)3-9-010:077. It's approximately one acre in size and it is owned by the applicant. This is little bit more detailed map. As Paul mentioned it's adjacent to the existing Kihei Veterinary Clinic along South Kihei Road just past Waiohuli Street here.

So the project consists of a two-story building of approximately 22,000 square feet in size. The current design features 17 office spaces ranging in size from 800 to 1,300 square feet and they're intended to house wellness-related services for the South Maui region. Onsite parking will be provided and will comply with applicable parking requirements. And the project consists of landscaping and other onsite improvements.

In terms of land use designations the project site is designated Urban by the State Land Use Commission. As Paul mentioned the Kihei Community Plan designates this property as Business/Commercial and the current zoning designation is R-3 Residential and it is within the Special Management Area. So again, for development of this project the project will require an SMA Use Permit and a Change in Zoning to B-2, Community Business which would make the property consistent with the community plan designation.

The applications for the SMA Use Permit and Change in Zoning were originally filed in 2011. After that the Department requested additional information to be provided on the project. That information was provided in October of 2015, and since then the project has moved forward, before you this morning.

Again, the applicant is requesting this body's favorable consideration of a SMA Permit and favorable recommendation to the Maui County Council of a Change in Zoning request.

This is an aerial photo of the project site noted in yellow as you can see it is vacant and undeveloped and it does feature a large retention pond on the north boundary. These are existing site photos. I'm sorry it's a little dark but this is the site looking towards South Kihei and this is the site looking from South Kihei Road towards the back of the property. Again, vacant undeveloped lands. At this time I'm going to turn it over to the project's architect to go over the design specifics of the project.

Mr. Ron Agor: Good morning Chair and Commissioners. My name is Ron Agor for the record. This is the site here. These are the boundaries. And on the lower flows we got 8,000...approximately 8,000 square feet of office space situated, situated here. And note that

the front building is set back somewhat such that we have an open space area that was recommended by the Kihei Community Association to have an area where the project can integrate with the new walking community so to speak. So the building is set back and here we have, we have an open lanai, covered with the trellis where people can mingle. This area right here we have covered parking because the upper floor extends to this area here. Driveway is here, we've got parking all along the driveway and going in the back there and we've got an area here for the trash area where we could separate the trash for recycling. And then the upper floor is...okay this is the upper floor. We're repeating the same square footage on the street side and here you can see the trellis. And then we're continuing on with offices here and then the covered parking area entails these three additional three offices.

The challenge for us was to make sure that the design integrated with the residential community. So we developed a roofline, a Dickey roofline and the upper floor we've got board and batten which is typical for residences. And then we threw in some lanais in there to really give it the residential look and have it integrated with the surrounding community, residential community.

This is the Kihei Street elevation. This area here is the open seating area or mingling area I described earlier with the trellis above. Here you can see how the balconies protrude out. It really gives it a residential look. This is the rendering of the building and I might note that a couple of months ago the Urban Design Review Committee approved the color scheme. Really gives it the residential look here as you can see. This is the rear of the property. We're gonna have fencing on the rear of the property and the south side of the property. On the north face the soil is kinda unstable so we're gonna stay away from building a solid fence there. Right now there's a wire fence there and I think we should just leave it that way and this is a graphic representation of where the pond is.

This is an aerial rendering superimposing the building onto the site and here you can see the retention pond which will be explained more by our civil engineer but basically that retention pond was built to retain whatever runoffs that a development on the site would have so that there'd be no runoff going to adjoining properties or downstream. That's the purpose of that. And back here are condominium projects, two-story condominium projects, two-story condominium projects and down here are single-family residences, and in this area commercial developments. Our landscape architect will talk about the landscaping. Do you have any questions about the architecture, I'd be glad to answer?

Mr. Esmeralda: So again, the landscaping plan does feature landscaping around the retention pond area and along the front of the building as well as shade trees around the parking area per Maui County Code.

In terms of agency review the applications were made available to various Federal, State and County Agencies to review and provide comments. The comments that we received were considered to be nonsubstantive and anything that was provided in a comment letter was addressed in the design and responded to by letter. All those letters are found in your staff report. And again, as was mentioned the Urban Design Review Board did unanimously recommend to approve the project as presented at its meeting on December 1, 2015.

In terms of environmental impacts it's anticipate that there'll be no impacts to the topography of soil. It's noted that the project is located within FEMA Flood Zone AH and the tsunami evacuation area. However the grading and drainage improvements will be implemented to avoid any runoff to surrounding properties and again, the property does feature that onsite retention pond. There aren't anticipated to be adverse impacts on flora or fauna. Standard BMPs will be implemented throughout development. There are not significant archaeological sites or features on the site. The State Historic Preservation Division did accept archaeological inventory survey that was done for the project. There will be no long-term impacts to ambient noise or air quality as a result of the project and no impacts on scenic or open space resources.

In terms of socio economic impacts the project is compatible with the nearby developed commercial areas of Kihei. The project will expand wellness sources for the growing South Maui region as well as positively impact the local and regional economies by creating jobs and encouraging spending. The project won't have an effect on the capabilities of existing police and fire services and won't require the extension of services for the project. And there will be no effect on the capabilities of existing recreational or educational facilities.

In terms of infrastructure a Traffic Impact Analysis Report was prepared for the project and it did project an increase in vehicular trips both in the morning and afternoon. And the TIAR also stated that although after implementation of the project a few of the intersection movements are projected to operate at less than desirable levels of service. Those are attributed to background traffic conditions in the area and not to the project itself so mitigation measures were recommended in the TIAR.

Water will be provided by the Department of Water Supply's system. There is an existing 12-inch main along South Kihei Road that has the capacity to provide the project with water and also the required fire flow for the project.

Wastewater collection will be coordinated with the Department of Environmental Management. A new sewer lateral would be installed to convey the wastewater from the project to the Kihei Reclamation Facility.

And again, onsite post development stormwater will be captured and maintained or ...and conveyed to the onsite stormwater retention pond.

Just to summarize, the applicant is again requesting this body's consideration of the SMA Use Permit request as well as recommendation of the Change in Zoning to the Maui County Council. Thank you. We are open to questions at this time.

Vice-Chair Medeiros: Okay, Paul isn't here for any statements. So we will open this up to public testimony.

a) Public Hearing

Vice-Chair Medeiros: First one will be Karen Williams.

Ms. Karen Williamson: Good morning. My name is Karen Williamson. The sweet neighborhood adjoining this wetlands was my family home since 1970. I played in this area as my kids did while they were growing up. I've spread two of my family members' ashes at the beach there in that area. So the area is really dear to me and that's why I stand before you today. I strongly oppose the rezoning of this parcel from Residential to B-2. It's absurd to think that this proposed development which would cover 74 percent of the land with building and pavement will not overburden the ecosystem. I feel that the 22,000 square foot building with a 65-stall parking lot is way too much for this area and you can see by the pictures that he just showed how massive it is compared to what's around it.

From looking around Kihei and seeing all the commercial space sitting empty I do not think that this space will be able to be filled with medical businesses and my opinion would be that it may become...it may be filled with whatever they can fill it with. Many spaces that you see sitting in Kihei now have been sitting as long as 10 years empty and that's commercial.

Another point is that the area on South Kihei Road is already very congested. I strongly opposed such a large leap in zoning. In Exhibit A and I gave you guys some documents earlier, I called one Exhibit A. In Exhibit A you'll see the use for B-1 and B-2. B-2 has 65 more uses than B-1. It also allows for a six-story building to be built where B-1 allows for a 30-foot in height.

In 2012 when the owner of the subject property sent out letter to nearby homeowners notifying us of the intention to build and rezone, the zoning was proposed to be B-1. Why do they need B-2 now, I ask that. And I'm sure you're all aware that B-2 allows such uses as gas stations and bars, restaurants, drive-thrus.

I'm gonna quote from a letter now that was dated September 14, 2012, it was from the Fish and Wildlife Services. They remind the Planning Department that mitigation sites are required to be protected and maintained in perpetuity. It is also recommended that a wetland delineation be conducted on the entire property by a consultant familiar with Maui wetland resources and submit the findings to their office. In conclusion on Page 4 of this document the Fish and Wildlife Services recommend that the Maui Department of Planning withhold action on this permit until there is adequate alternative analysis and demonstrated effort to locate project in an area that will—

Ms. Takayama-Corden: Three minutes.

Ms. Williamson: --not result in ecosystem degradation. I ask you has the owner done any of this. In closing I'm asking you to please remember that this proposed development is one lot away from a lovely kamaaina neighborhood and on the other side one lot away from Maui Gardens, a residential complex. There are at least 150 families that will be affected negatively if this development were to occur. I'm asking you to please search your heart and do what is right for the community. Over 100 of the neighbors to this property have signed a petition asking that you not allow this zoning change. Your community does not support this zoning change—

Vice-Chair Medeiros: Please conclude.

Ms. Williamson: --or this project. Thank you.

Vice-Chair Medeiros: Any questions from the Commissioners? Thank you for your testimony.

Ms. Williamson: Thank you.

Vice-Chair Medeiros: Okay, second person will be Jackie Reimers.

Ms. Jackie Reimers: Good morning. I have never spoken into a microphone but I'll try. Thank you for this platform to express our opinions regarding the zoning change. I live one acre away with my family from the proposed Kihei Wellness Center. I've lived here since 1982 in a old neighborhood of Halama, Waiohuli and North Alaniu, the whole 24 years and we love our neighborhood. It's been a great place for our family to grow and feel safe. Our boys played in those fields. You see birds, quails, nene, birds I don't even know. There's currently six Hawaiian Stilts that live there. And I just think it's too big for that area 'cause there's a lot of existing commercial, sorry...there's a lot of...there's a surplus of empty retail properties for rent. Kukui Mall is nearly empty and there's a lot of similar wellness businesses too close in proximity in my opinion and I wonder why it couldn't be pushed down towards Wailea. I'm afraid maybe it would put the other ones out of business, it's too much competition. There's Kaiser, there's Kihei Physicians, there's orthodontics, there's dentists already existing within half a mile. And I feel we need to preserve a natural feel to Kihei for both the residents and the tourists. If we build on every available parcel what makes Maui different than any other mainland town or Oahu? People need nature. Maui needs the tourism dollars. And the wetlands like I said before home to many endangered species and in my one poster it shows the flooding in 2007 and 2011 which I have taken on my private...(inaudible)...I mean it floods deep. So deep you have to take your boots off it goes over your knees. So I'm just concerned that the infrastructure can't support if they pave over that entire acre. Or I hope if it does go through I just hope you guys really take into consideration and make sure that it can support it, the infrastructure can because we don't want the demographics of our neighborhood to change. We love it there. I got married on the beach there and we just trust you guys will zone it properly. Thank you for listening to me. Aloha.

Vice-Chair Medeiros: Any questions for the lady? Thank you so much. Dr. Valerie Simonsen?

Dr. Valerie Simonsen: Aloha and thank you for allowing me to speak this morning. I'm Dr. Valerie Simonsen. I'm a naturopathic physician. I've had the great pleasure of being hanaied by Papa Kaalakea, Kawika Kaalakea. When he was alive he used to take me down that street all around that area and he told me, he says Kauka it's your job when I leave to protect the children. Last night two people came to me in my dream. Aina Williamson and Kevin Williamson, they were on that street for a long time in that neighborhood. They told me call Karen. So this morning I called Karen and Karen says there's this meeting today. I hear Papa say, Kauka show up, come and speak for the children and that's what I'm here for today. Look at those children. Wellness has a very interesting background. Wellness comes from the root word wheel which means well. Wellness has become such a buzz word. What are we really thinking about? Are we thinking about tourism being in wellness, putting in more places for doctors to work? Are we thinking about our future and for our children? Our children need the land. When I was paddling with Na Kai Ewalu Uncle Boogie he says look the child, the keiki

was drawing a picture of a canoe on the beach and then he takes the stick and he goes over it, he raises it and he drives, drives a four-wheel drive pickup. Boogie starts to cry, we're losing the keiki. We will lose more keiki if we keep on covering up aina. This is the land of the Hawaiian people. This is where their families are. This is their ancestors. Those stones are their family. We can't just keep covering them up for the sake of wellness. So let's be here for the children. Let's give them places where they can learn about those birds, those sacred birds. They can learn about the land. They can learn about the stone. They can learn all of those things and I know you'll make the right judgment because you have the keikis. You have children coming in. You've got grandchildren and you're gonna have a lot more children. So let's think about what we're really doing with wellness. Are we looking for the keiki or are we looking money? Mahalo. Do you have any questions?

Vice-Chair Medeiros: Are there any questions for this testifier?

Dr. Simonsen: Mahalo.

Vice-Chair Medeiros: Thank you so much. Last one signed up Kelly McComb?

Ms. Kelly McComb: Hello. My name is Kelly McComb. I am a property owner maybe like three houses, four houses down from the proposed Wellness Center on South Kihei Road. My concern everything. I agree with everything these ladies have spoken of. They very strongly said it better than I could. So I'll just focus on my one concern is that I feel that area is so congested with traffic and he spoke earlier about how this is the exact same proposal as the veterinary clinic. Well I don't feel it is because that is already an imposed building. That was there already when they were going through that rezoning process. This is whole new entity. It's a whole new proposed building, proposed pavement parking lot. We have a full side street where we have a lot of parking and I had heard under the impression that there was supposed to be a park on that opposite side and it was going to be beautiful and not sure if that's still true and I feel that by allowing this building to be built covering up the land, the birds, everything that's supporting in the area we're setting precedent to just keep building, to keep mowing over everything and just till you have nothing pretty to look at anymore. I'm a nurse, so I should...sorry I'm a little nervous,...I a nurse so should support this, I should, and I do, I do support wellness of course, but I just feel that this isn't the spot that needs to go that it needs to be built. Jackie said earlier there's a lot of office space everywhere that's vacant and it has been for a very long time and I have seen that living in Kihei for 15 years now, I've seen that and a lot of spaces have remained empty over the years so thank you for your time and allowing me to testify. And I'd like to submit a letter of opposition. I don't...I've not done this before so I don't know.

Vice-Chair Medeiros: Thank you. Does anyone have any questions for this testifier?

Mr. Spence: You're asking how do you submit.

Ms. McComb: Oh I just...Yeah, I just have a letter I wanted to...

Mr. Spence: You can just submit it to the Department and it will be a part of the record and it will get transmitted to the County Council

Ms. McComb: Thank you.

Vice-Chair Medeiros: Any questions? Thank you so much for testifying. We will open up...yeah, we're going to open up for any public that hadn't...

Mr. Spence: Oh, I'm sorry.

Vice-Chair Medeiros: I'll be opening it up to anybody who hasn't signed up right now. Okay.

Mr. Scott Paleo: My name is Scott Paleo. I'm a doctor of physical therapy and I'm in support of Wellness Center because I think that it...there's a lot of focus on the community and there's a lot of talk about the zoning and I honestly have no idea when it comes to the zoning but the one thing that I do know is healthcare and I do know the overall importance of having this in the community. There's so much that can come with this with the space and all the interdisciplinary facets of healthcare all in one area. As we see over here we just have different planning, we have different staff over here all in one room all working together and I think that's the reason that this whole meeting is able to function, able to work together and integrate together. And if you apply that same mentality to healthcare and taking care of the community and taking of the people and that to me is what the future has in future and the future families and the future communities. They need health and the amount of healthcare in America and the people it's something that's in such high demand right now. And you can't put a price tag on it. You can't put a price tag on health. You can't put a price tag on any of that because when push comes to shove this is the community. This place will protect the community. It will protect the people. It will help the people. It will help them prosper because without their health and without all these medical staff working together there's nothing left. There's no one to, there's no one to take walks, there's no one to work the shops, there's no one to you know to go out the grocery store or there's no one to cook restaurant food like this is a very integrated social medical care where everyone can come together and work as one team just like how you guys come together and work as one team as well. And by taking that approach and having all these different specialties in healthcare come together and join as one team it makes it so that the patient, the person that as a medical professional why I got into this field to help people. It makes it easy for us to do our job and it makes us so much more effective. And for anyone that's been in today's society I'm sure not only speaking for myself but I'm sure I could speak for everyone in this room that at one point of time or another there has been a medical catastrophe in your family where you really want only to see the best for your loved one and that's what this is able to provide and it's able to provide it in a very centralized way where there'll be a consistent staff working with each other. There'll be no red tape, there'll be no boundaries because everyone will be there and they'll be used to working together just as you gentlemen and ladies are used to working with each here. Having that ability is...pays...I mean, I can't even put it into words how important that is when it comes to communicating, when it comes to planning a prognosis or a plan to care for these people because that is what this wellness center can provide. And be that as it may the spaces, the vacancies I can, I mean, I can attest that when these people come together and they join and they make their own medical community and then they can apply whatever they have to our loved ones and our community in order to preserve the people going forward and preserve the culture and preserve the lifestyle. You know, we –

Vice-Chair Medeiros: Please conclude.

Mr. Paleo: Excuse me?

Vice-Chair Medeiros: Please conclude.

Mr. Paleo: Well, what we need to do is we need to focus on the people. We need to put people together in order to help other people and this is what this wellness center can provide. And at one point of time or another in all of our lives we've always hit that feeling where we want something better for our loved one when they get or when they get hurt or when they get stricken with something that we can't personally help them with we put their faith into us and this is what we can provide for your and the community and the future residents of Maui. Thank you.

Vice-Chair Medeiros: Thank you. Mike?

Mr. Mike Moran: Thank you, Chair. I'm first on that signup list I don't know how I'm getting skipped. But thank you for your service, Mike Moran for the Kihei Community Association on C-2. This project is very unusual for KCA as no one offered information which is generally done by the developer, the planner or at the suggestion of the Department. I thought I heard Mr. Agor mentioned a community association suggested. We haven't talked to anyone about it so I'm not quite sure maybe I misheard. But I do wanna thank County Planner Fasi for providing the file for our examination at his office.

As he advised the Kihei-Makena Community Plan and Zoning do not match as the land is commercial/business in the community plan but R-3 Residential in zoning thus the request for the CIZ this morning. In zoning, we are not in favor of going from residential to commercial when we are in dire need of affordable housing. While there was a plethora of vacant business sites available throughout the area as well as the new downtown Kihei project almost ready to break ground and looking for tenants that's just up the street. Why remove potential housing when so easy to use existing spaces already zoned for business?

As far as the Kihei-Makena Community Plan while this area is business, the plan states on Page 18 it should conform to "limit commercial services to neighborhood business uses or other low key business activities with a residential scale of those properties which about the single family residence." Sixty-five parking spaces and 22,000 square feet of building does not qualify as residential scale in our opinion.

The most input KCA received concerned the area wetlands. While we understand the position that these are manmade wetlands on this plot but it is our understanding this area was in fact natural wetlands allowed to be filled in for building with these manmade wetlands set up in mitigation in specific locations which we see throughout this area. Now we see a proposed project seeking to build upon these wetlands as you can see, build...(inaudible)...after it was created to mitigate the original wetlands.

Last please see that picture that we furnished. We know to get approval the aforementioned Downtown Kihei Project which includes created wetlands behind Longs Drug and Azeka Mauka

they were required to create a natural boundary between commercial project and these wetlands to protect them and the creatures that inhabit them including endangered species. Not only could they not fill them in or build upon them they were required to protect them with a natural boundary.

Ms. Takayama-Corden: Three minutes.

Mr. Moran: Okay, last...other concerns brought to us by the community were traffic and flooding. We read the boilerplate analysis respectfully offered by Phillip Rowell of no impact but for a layman 65 parking spaces at a commercial facility in this region of South Kihei Road means expect a lot of traffic. In closing, we expect a lot of impact. We were unable to investigate the flooding issue but your other testifiers from the area expressed it. We wish you to please consider these factors as you deliberate to reach a decision. Mahalo.

Vice-Chair Medeiros: Thank you, Mike. Any questions? Commissioner Robinson?

Mr. Robinson: Mike I think you have some outdated information. Could you show Exhibit 8 or 9 on top of your screen for the testifier? I think they're reading something that must have been a old...thank you, 8 or 9.

Mr. Moran: I'm sorry so you're showing me that they're not building over the wetlands is that what your point is Commissioner Robinson, I'm sorry?

Mr. Robinson: Yeah, in front of us we have nothing with 65 parking stalls or the handout that you passed out in our paperwork. Just for your knowledge.

Mr. Moran: Well, I got that from Planner Fasi. I went in and took pictures of the documents and that's one of the pictures of the documents he had. Now I don't know why his file that he showed me didn't reach you.

Mr. Robinson: I'm sorry...

Mr. Spence: We can address that.

Vice-Chair Medeiros: We can address that at a later time.

Mr. Moran: Sure, okay thank you for pointing that out Commissioner.

Vice-Chair Medeiros: Okay, any other questions for Mike? Thank you for your testimony.

Mr. Moran: Thank you very much.

Vice-Chair Medeiros: Is there any other person that would like to testify? No one's coming up therefore public testimony is closed. Paul, recommendation please.

Mr. Fasi: I'm sorry, the recommendation?

Vice-Chair Medeiros: Yeah.

Mr. Fasi: The Department recommends approval of the project and just to make it clear that we're making a recommendation to Council on the Change of Zoning. It will come before the Planning Commission because then you need to review the SMA Permit. So we're requesting, the Department's requesting that you defer on the SMA Permit today. It's gonna go to Council with your recommendation and then it will come back to the Planning Commission to get definitive action the SMA. Just standard operating procedure.

Okay, so the Department is recommendation on the Change of Zoning only, we're not making any recommendations on the SMA we'll do that at a later date when it comes back, the building height shall be limited 45-foot maximum. They're proposing 30 feet so we're okay on that. And what the Department's trying to do here there's four conditions here that are identical to the Change in Zoning recommendation for the Kihei Vet Clinic. So since these two parcels are adjacent to one and other, we're just marrying the conditions so they have the same conditions as the Kihei Vet Clinic.

Vice-Chair Medeiros: Thank you. Any—

Mr. Fasi: And there's really nothing...they're nothing significant with the four conditions here.

Vice-Chair Medeiros: Discussion? Questions? Commissioner Hudson?

Mr. Hudson: Why did we go with the B-2 instead of the B-1? Wouldn't a B-1 had worked?

Mr. Spence: It probably would have. ...(inaudible)...Paul?

Mr. Fasi: There's a provision in the B-2 ordinance that says, excuse me I'm gonna get it...There's a provision in the B-2 Ordinance that says, under the Permissible Uses in the B-2 District it specifically says, "other similar businesses or commercial enterprises activities that are detrimental to the welfare of the surrounding area." And this was specific to the B-2 regulations. They don't have that wording in the B-1. If it was B-1 then they would probably have to go for a Special Use Permit since it's not a listed permitted use. So if you bump it up to the B-2 then we categorizing this project under that proviso that I just quoted.

Mr. Hudson: In the past I remember getting a Special Use Permit for a certain facility in Wailuku that wasn't zoned correctly. It's still functioning. Wouldn't a Special Use Permit be better than having a height limitation of up to six stories?

Vice-Chair Medeiros: Director?

Mr. Spence: No. First off, as stated the community plan designation as Business/Commercial. So when the community plan when through its big long process and then the public testified and the Citizens Advisory Committee et cetera reviewed the community plan and then this Planning Commission and ultimately the Council the recommendation probably it was for business use. So a Special Use Permit or even the Conditional Permit that's a really backwards way of implementing the community plan. The proper way to do it is through zoning. There is a

provision in (d)(1) because I looked it up is under Permitted Uses it says, "other similar retail business or service establishments," which this would be more of a service establishment kind of facility, "that provides goods or services primarily to the residents in the surrounding neighborhood." And I would certainly count that as the large Kihei area. So that's, you know there is a provision for I would say for medical services within, within the B-1 District. The B-2 provides some additional flexibility and as Paul pointed out just the property right next door was recommended for B-2 by this Commission and that's ultimately what the Council adopted with some...with the same restrictions that's being recommended. So it's being consistent with what was approved before.

Mr. Hudson: Thank you. One last question. Elevators. I guess that would be you Mr. Esmeralda? Do you guys have any elevators because it's a two-story building?

Mr. Esmeralda: Yes. I just pulled up the floor plan here. The elevator is located right here.

Vice-Chair Medeiros: Commissioner Duvauchelle?

Ms. Duvauchelle: So I am a little confused about the wetland mitigation and where you are in obtaining...you'll need permission from FEMA I'm assuming. Where are you in the process? And is there a mitigation plan in place that's been accepted?

Mr. Esmeralda: For the pond?

Ms. Duvauchelle: For the wetland.

Mr. Esmeralda: I'll defer to the Civil Engineer if you don't mind?

Ms. Duvauchelle: Okay.

Mr. Mike Munekiyo: Good morning, Commissioners. My name is Mike Munekiyo. With respect to Commissioner's question regarding the wetland the Department of Army has actually classified that body of water as a storm retention basin. It was created as a mitigation for what was previously a wetland area on the property and probably 20...early 90's is when that was approved by the Department of the Army and that...a pond was created and then the property was filled given that the Department of Army had approved the filling with their permit. And so at this point what the Army is recommending is that we or the applicant ensure that the functioning of that storm retention basin continues as it does today to receive storm water flows. And I think appropriately the Department has included a condition with respect to coordination with the DLNR to ensure that preconstruction we will be working with appropriate technical folks to ensure that we don't impact the, you know, wildlife in that area.

So basically with historically what has occurred is that the Army allowed that wetland or storm retention basin to be permitted. The property was filled and now there is gonna be a requirement because it's in the Flood AH Zone, a requirement for a special Flood Hazard Development Permit. So that's gonna be coming as part of the building permit process, but definitely yes as we go through the development process and construction permit process specific approvals for placing a structure on that site will be required.

Vice-Chair Medeiros: Director would you like to add? Thank you.

Mr. Spence: And similar to what Mr. Munekiyo is saying and there was a question earlier in testimony there was a Fish and Wildlife, I forget which exhibit it is, Fish and Wildlife letter dated September 2012 that talked about you know there should be a wetlands determination, et cetera. The Department of Army have...it's Exhibit 28 in your staff report, Department of Army writes dated June 2, 2015 so the applicant did follow up with Department of Army to do a wetlands determination and the third paragraph down it says, "based on the information contained in our submittal and within our records we have determined that the existing pond at the subject location is not a wetland or water of the United States." So it is a retention pond. It's not a wetland in accordance with the Department of Army.

Ms. Duvauchelle: Thank you. That's fine.

Mr. Spence: The FEMA stuff is separate and they're gonna have to deal with that too.

Ms. Duvauchelle: Well, the reason...I walked this parcel not too long ago for a different reason and I noticed that the veterinarian office next door has a fenced area for stilt birds and mitigation plan in place and then this is just right next door so I was curious why they did not.

Vice-Chair Medeiros: Commissioner Hedani? Commissioner Robinson?

Mr. Robinson: Commissioner Duvauchelle can you expand on that? I wasn't around when the other location was approved. They agreed themselves to do a wetland?

Ms. Duvauchelle: Well, I wasn't. I don't believe I was here also at that time.

Mr. Robinson: Oh, okay.

Ms. Duvauchelle: I just happen to be on the property not too long ago and noticed that the veterinarian had a wetland mitigation area for stilt birds and I couldn't get through the documents to find out why they did next door and this property did not so, which the Director explained.

Mr. Spence: I'm reaching back a couple of years, Dr. Kehler at that time, Veterinarian Kehler he constructed that wetlands next door I forget if it was mitigation or not, but he did so voluntarily and created that and that's part of his SMA Permit and everything is that must remain. It's not a naturally occurring wetland as it is right now.

Vice-Chair Medeiros: Commissioner Carnicelli?

Mr. Carnicelli: I guess the part that I'm still kinda confused here if I go back to this Department of Interior Fish and Wildlife, the conclusion is the service recommends that the Maui Department of Planning withhold action on this permit. The response basically says the recommendation appears to be overburdening the applicant for this small of a site. I then go here to Historic Preservation Division requests additional information. So it's to me...I am missing something?

Is there complete stuff here that I'm not getting because I got the Department of Interior saying that they want additional information, I've got Historic saying that they want additional information and I'm not finding.

Mr. Fasi: Basically this is...it kind of got...it morphed into a wetland because of the stilts and the birds that are attracted to the water. But basically what the Department of Army concluded was that it's just a retention basin and not categorically a wetlands per se. I think the water that you see in the pond from the overhead pictures is basically the water table from you know sea level. The retention basin is again, as we've mentioned it's manmade. It was built there just to retain the runoff from the acreage that was graded earlier. Dr. Kehler is currently under an agreement with I believe the DLNR with some mitigation plan that he is part of and mitigating the retention basin per his change in zoning. And so what I tried to do is make this particular application a party to that same agreement so you'll have two parties mitigating that retention basin.

Mr. Carnicelli: Can you point to me where the Army Corp says this?

Mr. Spence: Exhibit 28.

Mr. Carnicelli: 28 okay. Then if I could, just one other question then?

Mr. Fasi: Can I ask you what your concern?

Mr. Carnicelli: My concern is the wetlands and it's natural habitat, it's birds, it's I mean if I read through all the—

Mr. Fasi: Well, it's currently being mitigated and maintained by Dr. Kehler's Vet Center and apparently it's in better shape now than previous to him going on the property so it will continue to do so.

Mr. Carnicelli: Do I have to take your word for that?

Mr. Fasi: Yes.

Mr. Carnicelli: Yes. One other question I could Chair?

Vice-Chair Medeiros: Sure.

Mr. Carnicelli: It says here in the drainage approximately half of the runoff drains onsite to the retention pond while the other half drains southwesterly direction into undeveloped lots adjacent to the site. What are we doing to mitigate that?

Mr. Fasi: You know, I'm ... you're getting out of my jurisdiction here so I think we'll bring up the civil engineer.

Mr. Carnicelli: Okay.

Mr. Dominic Crosariol: Hello, my name is Dominic Crosariol. I'm with DMC Engineering and we're going to be drain it so everything drains to the retention pond. So it's not going to be draining offsite. It will be going all to the pond. Right now, yes some of it does drain offsite, about 50 percent. And that's essentially what's going to happen. So the pond's going to accept all the drainage.

Mr. Carnicelli: So I guess and that is because it's no longer wetlands and it's now a retention pond?

Mr. Crosariol: It is certainly not a wetland. It's not a compensatory mitigation site. It was...It was been filed previously and the retention pond to replace the flood storage volume so it is no longer a wetland and it is definitely considered a wetland by the Corp. And the Corp has listened to Fish and Wildlife's concerns. They've definitely given them a call and they still stick by their assessment that this is not a wetland. It's 100 percent. I actually suggest that you call the Corp. The numbers are actually on the same, maybe you can actually speak to them and they'll tell you all about it.

Mr. Carnicelli: Thank you for the recommendation.

Mr. Hopper: Yeah, and general just to point out that's something that if, that if the Commission needs more evidence of that it should do that formally as a group.

Mr. Crosariol: Sure.

Mr. Hopper: So yeah, individual members shouldn't be contacting. We can have even a call here or a letter of correspondence with them if you've got further questions for any of the commenting agencies so just a note.

Mr. Crosariol: If you'd like I could probably call and try to put them on speaker phone...(inaudible)...

Mr. Robinson: I have a question for you. What is the volume gonna be able to hold now that you are diverting everything into that retention pond?

Mr. Crosariol: Quite a bit. That pond is quite large. It's 9,000 square feet so even with six inches...if it even fills up to six inches that will be enough to cover the additional runoff. So I mean it's about three to four times what is required.

Mr. Robinson: Can you be, try be a little more specific instead of a lot—

Mr. Crosariol: Sure.

Mr. Robinson: So let me clarify my question because we've had some testimony that part of that pond is also sea level so please with your information that you, that you give to us above sea level and now that you're diverting all water to that pond which means more water could come, you know, is what is that, what is that fill up and then if it does ever do fill up where then which way would the water spill if it was to? And if you got a picture that would be great.

Mr. Crosariol: So yes, it would be about...conservatively 24 inches above sea level would be a conservative number for...assuming the bottom of the pond about two feet above sea level already. And then it can existing we have an extra two feet at least above that which would be four times what would be required as of now, as of right now. So even we left it exactly as is it will, if it goes above that four feet it will runoff into the property to the south which is essentially a wetland as of now, but this site is not a wetland and anything that goes onto that property will be clean. So we're going, yeah it will be, it will be fine. There's not going to be pollution going into the wetland, 100 percent guarantee. We're gonna use flow guard on the drain inlets so you won't have to worry about any pollution going in.

Mr. Robinson: So you don't have any volume just it's gonna handle it. You have any like numbers? Like it can hold so many gallons.

Mr. Crosariol: Okay, around 4,500 cubic feet would be required and right now since the pond is 9,000 square feet, six inches ...(inaudible)...9,000 will cover that 4,500, 4,600 cubic feet.

Mr. Robinson: It's not 9,000 square feet box, it's a slope isn't it.

Mr. Crosariol: The pond is 9,000 square feet, the retention pond.

Mr. Robinson: From the surface level—

Mr. Crosariol: Yeah, it's between eight and nine thousand square feet at the surface level, eight and nine thousand. Between eight and nine thousand square feet.

Mr. Robinson: But the pond is not a box.

Mr. Crosariol: No, it's not a box.

Mr. Robinson: It's a curved, right?

Mr. Crosariol: Right, you can see it on the map

Mr. Robinson: So your data is a estimate then?

Mr. Crosariol: No I use the area calculation on the...using my computer program and also if you just read the Army Corp of Engineer's letters it actually state that it's 9,000 square feet in the document and that's what they approved.

Mr. Robinson: The one in 1991, that one?

Mr. Crosariol: Yep, correct. And it's still 9,000 square feet. You could say conservatively. We're still very good even with 8,000, but 9,000...it's between eight and nine thousand guaranteed.

Mr. Robinson: I have a question.

Mr. Crosariol: Sure.

Mr. Robinson: Director, you were referring to letter F in the Army Corp saying that this is not a wetland but it is a ...this is a pond is that, what that the?

Mr. Spence: I was referring to Exhibit 28, the Department of Army letter dated June 2, 2015. Apparently they included all the other attachments with that from—

Mr. Robinson: From prior?

Mr. Spence: 1991 et cetera. In that third paragraph down based on the information.

Mr. Robinson: So by definition any area cannot become a wetland if it wasn't one to begin with?

Mr. Spence: Oh I don't know that, but I would think in less than a year's time doubt if the Army Corp would change their minds.

Mr. Robinson: Well, I don't know if I'm reading this wrong but the Army Corp is referring back to 1992, it's not referring back to 2015, just the letter is from 2015, am I reading this incorrectly?

Mr. Spence: It says based on the information contained in your submittal and within our records so it's already within their records, we have determined that the existing retention pond at the subject location is not a wetland or water of the United States. So they're stating it in the present tense as of June 2, 2015.

Mr. Robinson: All right. Thank you, Chair.

Vice-Chair Medeiros: Any other questions?

Mr. Carnicelli: Yeah, I got one. Is the applicant or anyone, or anyone associated with this part of the, one of the newly appointed medical marijuana dispensaries? No? Okay.

Mr. Robinson: I have questions. This is to the applicant. Do they have agreements in place to have, I know there's one testifier to have this place filled with doctors or types of doctors?

Dr. Sujata Bhatia: I'm so thankful I finally get to tell you what's in my heart. So yes, when I first came to Maui 10 years ago I was looking, I'm an orthodontist I was looking for a place where I could be with likeminded people and not be stuck in some retail shopping area where I am right now and couldn't find anything, nothing that I could maybe own, that I could be around people thought like me. And so here I am stuck in a retail area on a second floor and all day long we hand out bathroom keys to visitors, tell them where the beaches, immense waste of my staff's time. So to answer your question, this will be for my likeminded people that will...it was...when I first came up with the name it was called Kihei Wellness Hui and Hui is a group of devoted people and that is what I would like this to be and it will morph into a wellness hui where a group of devoted likeminded people will serve the community. It is the gold standard of care that, that you are able to banter back and forth with other professionals. You come up with a better

diagnosis, a better prognosis. If we're stuck in our own ivory towers across the town, across the community, by the time patient goes from one referral to the other referral a lot of detail gets lost. And so the gold standard of care would be to have likeminded people under one roof being able to discuss things for the wellness of a patient over lunch maybe, over just across the hall, so yes, the answer to your question is this place will be filled with people...a devoted group of people devoted to the wellness of the community that I am so integrally a part of. Thank you.

Mr. Robinson: One second please. Hi, it's me again.

Dr. Bhatia: Yes.

Mr. Robinson: So as far as the community aspect—

Dr. Bhatia: I'm sorry your last name is Robinson?

Mr. Robinson: Yes. Is...will you be accepting you know, UHA, HMSA, you know, Hawaii Dental Care, ...(inaudible)...is this going to be a community base where people with local insurance can come or is it going to be—

Dr. Bhatia: Of course. Absolutely.

Mr. Robinson: Okay, wanna make sure.

Dr. Bhatia: The whole purpose of existence that the local insurances are accepted that's the crux of our existence, yeah.

Mr. Robinson: Fantastic. Thank you.

Mr. Carnicelli: I have a question.

Vice-Chair Medeiros: Okay.

Mr. Carnicelli: Sorry it's me, Carnicelli. The deed that's in our package doesn't show when you purchased the property.

Dr. Bhatia: This is 2016, I wanna say, gosh my brain is mush when it comes to dates.

Mr. Carnicelli: Roughly five years ago, ten years ago.

Dr. Bhatia: My mother...if it was my 80-year-old mother she can tell me ten years ago I came on American Airlines, Flight 362 and I arrive at 10:32, at Gate 21. I wanna say 2008, 2009, 2010? Do you have anything?

Unidentified Speaker: 2008.

Dr. Bhatia: 2008, yes.

Mr. Carnicelli: I guess roughly where I'm going with this, when you purchased the property were you aware at the time that it was designated a wetland.

Dr. Bhatia: No sir, I was not.

Mr. Carnicelli: You weren't?

Dr. Bhatia: No, no. Yes, I was not aware of that. You know us...we're pretty naïve to the ways of the world in some ways because for me it was a place that was next to a veterinary clinic, could possibly be an area where an orthodontic practice could go and I was told that it was a very legitimate. I wanted easy accessibility for my patients, good visibility if they were trying to find me and that's seemed a very logical place for me to buy and go. And I know that it isn't a wetland because that's a mitigation device that sits there and I wish that all the properties on South Kihei Road would be required to have a mitigation device and Ms. Karen's concern would not be a concern because they would hold all their runoff into their own retention ponds. So I wish that all the properties would be required to have the mitigation device that this property has. This is already set up to contain its own runoff and we will make sure that it does that 100 percent and that the water is filtered that no pollutants that gets in there.

Vice-Chair Medeiros: Commissioner Robinson?

Mr. Robinson: One last question. Do you have any objection to us leaving it as a B-1 if your use is still allowed?

Dr. Bhatia: I am gonna go with the recommendation of Mr. Munekiyo. I think he said that it would stymie some of the things that we would...wellness related things because there were certain things that were not included and so I'm going with the recommendation of Mr. Munekiyo.

Mr. Robinson: Is that a no?

Vice-Chair Medeiros: Paul Fasi?

Mr. Fasi: Yeah, let me just...point of clarification. First of all, it was never delineated as a wetland.

Mr. Carnicelli: My mistake.

Mr. Fasi: Never. Secondly, the Department's looking for consistency in zoning. We don't wanna have spot zoning. This parcel here be B-1 and the adjacent parcel be B-2. It's very difficult for the Department sometimes when we have this patchwork of zoning so we're looking for zoning consistency and every time we have an opportunity to make the zoning consistent we jump on it because that's the intent of County zoning is to get consistency. And we can't have this patchwork of B-1, B-2 here, B-3 here. So the Department is strongly urging that this body recommend to the Council that it stay with B-2.

Mr. Hopper: I have a question.

Vice-Chair Medeiros: Go ahead.

Mr. Hopper: Just as a question. Which use is this listed under B-2 that it would be permitted as? What's the permitted use?

Mr. Fasi: Mike, there's a provision here in B-2, it's other similar businesses or commercial enterprises or activities that are not detrimental to the welfare of the surrounding area. And so when we did the Kihei Vet Center way back when that's the same proviso and rationale that we used for granting the change in zoning to B-2 for the Kihei Vet.

Mr. Hopper: And then it says no, after that...unless I'm looking at an outdated version it says, provided that such uses shall be approved by the appropriate planning commission as conforming to the intent of this article. So they're gonna have to along with their SMA Permit I guess get another approval from the commission stating that this use is allowed based on that section?

Mr. Fasi: Well, change of zoning is the purview of the Council and not this body so this body is making a recommendation and so if you, if you define that literally word for word for what it says it's not accurate.

Mr. Hopper: No this is...the change in zoning would be to B-2, but it appears that to do this permitted use they will in addition to that change in zoning need planning commission approval based on this section and I just wanted to have that, have that clear. B-1 talks about the planning director being able to approve those uses and I just wanna make sure that the Department looked at this. If there's an additional planning commission approval needed I'm not certain that that will change anything because they would need to get an SMA Permit at any point anyway after the change in zoning. So I'm not sure if that affects anything but I just want the record to be clear how this will eventually be permitted and for that to be worked out because I don't know if there's a listed use of medical facilities or something similar which normally is what you have when you have a change in zoning to allow that new use. So this one looked a bit unusual.

The other thing to advise the commission is that it's possible, not necessarily recommended but it is possible to recommend in conditions to the Council if there are certain permitted uses in the B-2 District that the commission does not believe this property would be appropriate for it can recommend that the change in zoning be granted with conditions that prohibit certain of the uses from being done. So if there's concerns with that that's an option for the commission to recommend as well. But it would be helpful to know exactly which of these provisions will be utilized if the commission's going to go down that route so that you don't have...I don't know if you didn't want to have a marina there or you know other things that would be a high impact use you could consider not allowing that.

Vice-Chair Medeiros: Okay, Chair recognizes the Director?

Mr. Spence: ...(inaudible)...

Vice-Chair Medeiros: Okay. He had his hand up first. Commissioner Higashi?

Mr. Higashi: Yes, as I look at the application itself starting with November 19, 2012 by Clayton Yoshida who's addressing the subject of change in zoning request for Kihei Veterinary Clinic which is adjacent to this particular parcel. The finding goes that Ordinance No. 4065, Bill No. 61 dated 2013, the Bill Ordinance changing zoning from R-3 Residential District to B-2 Community Business District has already been addressed and approved, recommended for approval. So initially I thought that this particular parcel was going to be a precedence for the rest of the area to be rezoned as Business. But the Kihei Veterinary parcel that is already there has already been designated as B-2 Business Community which means that this particular application now is following what ordinarily has been designed change from R-3 to Business Community which means that they are kinda in line with what the application stands for according this and as I look on Exhibit No. C, talking about the unilateral agreement, declaration of conditional zoning it says that that the Council recommends through its Land Use Committee Report No. 1392 that said establishment zoning be approved for passage on first reading subject to certain conditions pursuant to Section 19.510.050 of the County Code, Maui County Code. Whereas the declarant has agreed to execute this instrument pursuant to conditional zoning provision of Section 19.510.050 of the Maui County Code therefore the declaration makes the following declaration clear that until written release by the County of Maui, the parcel and all parts thereof is and shall be held subject to the covenant conditions and restrictions which shall be effective as to and shall run with the land as to the parcel. So to me it's kinda clear that the applicant is in line to follow what has already been set as precedence and that was the Kihei Veterinary Clinic which is a business.

Vice-Chair Medeiros: Commissioner Duvauchelle?

Ms. Duvauchelle: You know I like the use, I like the business, I think South Kihei Road I don't mind that at all and the B-2 to be consistent I will support that, but I am gonna go back with my recommendation would be to Council that they do ask for the wetland delineation report, the study and it might change the configuration a little bit but for my own comfort zone that would be my recommendation.

Vice-Chair Medeiros: Commissioner Hedani?

Mr. Hedani: My perspective is that the community plan was passed. It was passed after review by the community. The input came from the community to designate the parcel for future uses this area is gonna be business, this area is gonna be residential, this area is gonna be commercial. They decided in that process that these areas, the veterinary clinic, as well as this parcel was to be designated business in the future not single family homes, you know. And from my perspective what the applicant is proposing is to permanently set aside a portion of the parcel for essentially wetland purposes, a permanent wetland area essentially that could complement the area that was put in place next door at the Veterinary Clinic that the stilts have adopted or whatever. So it permanently sets aside an area for those species that would work as opposed to filling the entire site and covering it with single family homes. It's in compliance with the community plan and what they're trying to do is change the zoning to match the community plan which is what the community wanted.

We've had a little bit of misinformation you know that was given to us today with things like this map. The map doesn't show what they're proposing. You know the parking lot is doubled loaded in this map and the building has been pulled back so the area that's identified in white is encroaching. It's not encroaching anymore. So they've gone to the extra mile to try to comply with the conditions that were created previously which allows the development to move forward. So I'm supportive of...if we're gonna take care of the animals next door, we should take care of the people on this side.

Vice-Chair Medeiros: Which is exactly what, you know, I was gonna say. You know the Veterinary Clinic they went all out and they took a parcel and because they love animals they took care of...made a natural habitat for the birds and everything over there. And I see this as the same thing because they are gonna make, an artificial wetland or retention or whatever you wanna call it but it's gonna take care of animals, you know. I love animals and I love human beings and you know they've got a good thing going. You know I don't like change, you know. It really irritates me, but I remember once Commissioner Hedani said you know if it's more good than bad then go with it, you know, and this Wellness Center there's more in that than bad in my opinion.

Dr. Bhatia: Thank you very much.

Vice-Chair Medeiros: Any other questions?

Mr. Joe Alueta: Mr. Chair? Mr. Chair, I just wanted to clarify on the use, permitted uses. Personal and business services are allowed within the B-2 District which is the zoning category. Within the definition for personal and business services under 19.04 it means establishment that offers specialized services and services frequently purchased by individual consumers or businesses, examples include but are not limited to barber shops and/or beauty salons, medical, dental or similar healthcare services, massage services, et cetera. So that's where this project if it is a medical services would fall under as far as being a use. So there would not be another determination being made by the Commission at a later date.

Mr. Hopper: And that's not under B-1?

Mr. Alueta: I only looked in B-2, I did not—

Mr. Hopper: Yeah, I don't think that's in B-2. It's alphabetical and Parks and Playgrounds is the only one under ... (inaudible)...So that could be a reason why the B-2 District is being recommended. Keep in mind of course that if, if this does get changed to B-2 whoever owns the property if there's no conditions can do any of the uses in B-2. On the SMA...it's in the SMA so they'll be limited by the SMA Permit as to—

Mr. Alueta: Right..

Mr. Hopper: --as to what they can do potentially, but keep in mind that it will any uses in B-2 that the SMA Permit would grant. So either if the Council or this body puts conditions on here it would want to make sure if it wants the personal and business services only then it can specify that.

Vice-Chair Medeiros: So we can condition it?

Mr. Hopper: Yes, if you believe that it should only be used for this particular use intended...normally a change in zoning you get your zoning and then you can do any of the uses that are allowed in B-2. And I'm glad Joe spoke up because it's clear why the B-2 is being recommended because there's actually a medical services description of that use so you won't have to reapprove that use. And this is in the SMA so any additional, any additional buildings or anything like that is going to have to come to you as a specific approval.

Mr. Munekiyo: Mr. Chair, Mike Munekiyo again if I might just note that because the SMA is separated from the change in zoning process I think Commissioners recall that one of the standard conditions of the SMA is that the applicant shall implement the project in substantial compliance with representations made to the commission. So at the time of SMA action the representation made basically is for the Wellness Center and if anything different then is made by some other applicant of course it will have to come back to this board, this commission for review and action so I just wanted to this board, this commission for review and action. So I just wanted to point that out.

Vice-Chair Medeiros: Okay, thank you. Anybody else?

Mr. Robinson: So if this property is sold the SMA goes to you or the SMA comes back to the MPC?

Vice-Chair Medeiros: Recognize the Director.

Mr. Spence: The Special Management Area you have in your rules a provision that, oh I'd have to look up the exact thing, you would notified...at least notified if I have to review transfers of SMA permits. That being said what Mr. Munekiyo is pointing out is that those conditions of the SMA Permit still stay with that property no matter who owns it and in order to change any of those conditions it would have to come back to this commission. So if they're representing that this is gonna be a wellness center and there's gonna be a bunch of medical practitioners there, they can't just tear it down and open up a gas station if that's not in the representations made to this Commission. So it's going to remain a wellness center provided it is zoned and it gets some kind of SMA approval.

Vice-Chair Medeiros: Commissioner Hudson?

Mr. Spence: That's sort of a long way. Right, no they can't just do anything they want.

Mr. Hudson: To review then, we're actually not voting the SMA today. We're voting on a change in zoning?

Mr. Spence: Yes, that's correct.

Vice-Chair Medeiros: Yeah, recommendation.

Mr. Hudson: Right, the recommendation of the change in zoning. So an SMA is gonna come back here anyway.

Vice-Chair Medeiros: Yeah.

Mr. Spence: That's correct.

Mr. Hudson: At which point in time we can put conditions on that right?

Vice-Chair Medeiros: Yes.

Mr. Spence: Correct.

Mr. Hudson: All right. Thank you.

Mr. Spence: And we'll...at that time, we will know whatever actions that the Council has taken if there are restrictions or whatever.

Vice-Chair Medeiros: Okay, any other questions? Chair recognizes Hedani.

Mr. Hedani: I move that the Planning Commission recommend to the County Council the approval of the Change in Zoning as recommended by Staff.

Mr. Higashi: Second.

Vice-Chair Medeiros: Moved and seconded. Any discussion?

Mr. Robinson: Mr. Fasi brought up about the trying to be consistent with our zoning and I agree. But the applicant is asking for a change of zoning not the planning commission. If we wanted to be consistent we would stay with the way the zoning is but every week somebody is gonna want to change the zoning and we wanna stay consistent. This board or this commission did not make the B-2 and we don't know the reasons why they did a B-2 and I have 100 signatures that are concerned about B-2 instead of B-1 including myself, we're considers all the other uses that a B-2 has plus the extra three stories that can be built in a B-2 instead of a B-1 in a residential area. This is not against the wellness center, this is not against the profession, this is not against anything. It's a concern of like we just said, once you start going down a road and you have two B-2s instead of one B-2 that becomes the norm and this whole open lot that is all considered multi-family could be six stories all the rest because of what we decided and that is...and that is, and that is what another commissioner used to validate why it's gonna be B-2. I'm not in agreement of that, but my concern is and I'll definitely address it when it comes back with the SMA I don't like the 65 feet in the B-2, and other businesses it's too vague, it's too broad and I know that the County is trying to make things easier but when we have things that are 30 feet to 60 feet I think that's everybody's concern. Thank you.

Mr. Spence: Thank you and just to be clear what the applicant is proposing, I saw on one of the diagrams, 31 feet and so that's the project that's going to come back to this commission. The zoning would allow, the SMA if approved will not allow from the get go.

Mr. Hopper: The Commission though if it would like can place conditions to mitigate impacts and deal with those issues for...it wouldn't place the conditions but it could recommend the Council to place conditions so that is an option available to the Commissioners if they think it should be a certain height or something like that it can recommend that condition to Council if it would like.

Mr. Robinson: Also the SMA.

Mr. Hopper: Yeah, well SMA is gonna be your final approval. Zoning is gonna be the Council's approval. Generally though there is a broader number of issues that you can deal with in conditions in a change in zoning application than in an SMA. SMA is concerned with coastal ecosystems and environmental issues. A change in zoning is a much broader array of concerns that the Commission can look at because that's what the Council can look at. It's a legislative act and the Council can consider whether or not to change the zoning. So generally its scope of approval will be broader. The scope of authority to impose conditions will be broader than an SMA Permit would be. So that's you know something to keep in mind. It's certainly not required that you place conditions but that's an option the Commission has.

Vice-Chair Medeiros: Chair recognizes Commissioner Hedani?

Mr. Hedani: I was concerned about the signatures from all of the residents in the area, you know signing this particular petition. My perspective on that is that if you look at all of the signatures that are on this list and you look at the maps that have been presented of the residential area around this particular parcel at one time that entire area probably was considered a wetland. All of those parcels that are complaining about wetlands filled in their lots 100 percent and built their homes on top of the wetland so it's kind of, it's kind of arbitrary for them to say you know, they would like to preserve this land instead of the land that their houses are sitting on. You know, none of their properties have a permanently designated area within in their property for the preservation of species that are endangered. This particular applicant is proposing to do that with a permanent section of the property which to me is a plus.

I don't think it's the Planning Commission that creates zoning, it's the community that creates zoning through the community plan process and then through the County Council.

Vice-Chair Medeiros: Commissioner Robinson?

Mr. Robinson: Commissioner Hedani would you consider putting a height limit on this project on you proposal?

Mr. Hedani: I think those kinds of things is stuff that you can consider at the next step if you wanted to restrict the height?

Mr. Robinson: You think we could do that in the SMA instead of here?

Mr. Hedani: But I think you know I think you take it one step at a time. If the community plan said we as a community think this is what it should be then you follow whatever the law is

relative to that, you know. And if there's a reason to restrict it beyond that then we can cover that at the SMA permit.

Mr. Robinson: I understand that. I guess I just thought, since we're not...we're only recommending here—

Mr. Hedani: Right.

Mr. Robinson: I think that if we did a recommendation now with the height, the Council could look at it. Just trying to be more, more consistent in this area as it goes forward instead of just taking this one thing and if we recommend something that they vote on, they might be more consistent with the whole area and that's the only reason I was bringing that up.

Mr. Hopper: It's a good point. The Commissioner to my left though apply pointed out that there is actually a recommendation. The recommended conditions, the standard conditions and the project specific condition for the change in zoning the Department's recommending, one of them is that the building height shall be limited to a maximum of 45 feet. So there is a recommendation for a limitation of 45 feet on the building height. Now I'm not sure where the Department came up with that number of what the significance is but if you approve it, if you approve it then that's gonna be the...that's gonna be part of your recommendation as a condition.

Mr. Robinson: Yeah, I was looking at 35 feet so it's always two-story instead of three-story that's all. I saw the 45. I was trying to keep it in a residential two-story.

Mr. Hopper: So you could by motion to amend, amend the recommendation if you like, yes.

Mr. Robinson: Well, that's ...(inaudible)...

Mr. Spence: And just by way of explanation. This is the...from what I understand it's the same condition as next door on the...where the vet clinic is, but also so we're being consistent in that recommendation. Second thing about that is the 45 feet is half of what the zoning would allow. The B-2 would allow 90 feet. The recommended 45 is half of that. So that's paring it way down from what it could have been and we would not support anything that's super high there at all. This is with recommended conditions on zoning so it's a special...they're taking the special exception to this particular project.

Vice-Chair Medeiros: Commissioner Hedani, you may request for an amendment to reconsider that at this time. I mean, I personally feel we can deal with that at the SMA, but it's your motion.

Mr. Hedani: I would prefer to keep the motion as it is just to follow the recommendation of the Staff and make that recommendation to the Council.

Mr. Hopper: Just to be clear and we'll go over this in Robert's Rules later today during the training but if a member would like to amend the motion, once it's been made and seconded it's part of the whole body's motion so a member can move to amend whether friendly or not and if they get a second then the Commission can vote on those types of motions. So it's up to any

Commissioner if they want to make a motion to amend and alter the proposal by either adding conditions, subtracting conditions or adding on anything else that you would like to add in your recommendation.

Vice-Chair Medeiros: I stand corrected. So what would you like to do?

Mr. Robinson: I'm fine. It's another way of counting votes.

Vice-Chair Medeiros: So you're making?

Mr. Robinson: No.

Vice-Chair Medeiros: No. Okay, I guess...

Mr. Spence: So the motion is to recommend to the County Council approval of the change in zoning to B-2 Business as recommended by Staff.

Vice-Chair Medeiros: Okay all those in favor of the motion say, "aye"?

Commission Members: Aye.

Vice-Chair Medeiros: Oh, raise your hands.

Mr. Spence: That's five ayes.

Vice-Chair Medeiros: All those opposed?

Mr. Spence: That's two opposed.

Vice-Chair Medeiros: Motion passes five to two.

Mr. Esmeralda: Thank you very much.

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

VOTED: To Recommend Approval of the Change in Zoning from R-3 Residential District to B-2 Community Business District to the County Council and Defer the Special Management Area Use Permit Until Action is Taken by The County Council as Recommended by the Department.
(Assenting – W. Hedani, R. Higashi, L. Hudson, S. Duvauchelle, S. Castro)
(Dissenting – L. Carnicelli, K. Robinson)
(Excused – M. Tsai)

Vice-Chair Medeiros: Okay, we will recess for lunch and be back at 1:10 p.m.

A recess was called at 12:11 p.m. and the meeting was reconvened at 1:20 p.m.

Vice Chair Medeiros: Back in session. Mr. William Spence, Planning Director?

Mr. Spence: Okay, Commissioners we're on Item D-1. This is in regards to the Council Resolution 15-139 for a bill proposed...proposed bill relating to transient vacation rentals in planned developments and the Staff Planner is Mr. Joseph Alueta.

D. UNFINISHED BUSINESS

- 1. MR. WILLIAM SPENCE, Planning Director, transmitting Council Resolution No. 15-139 referring to the Lanai, Maui, and Molokai Planning Commissions a proposed bill relating to transient vacation rentals in planned developments. (J. Alueta) (Public Hearing conducted on April 12, 2016) (Commissioners: Please bring your Department Report with you to the meeting.)**

Mr. Joe Alueta: Good afternoon, Commissioners. Again, my name is Joe Alueta. I'm the Administrative Planning Officer. As I indicated before, the last time the two ways in which you can amend Title 19, one is by an amendment done by the Administration or by the Director which I will come...draft an ordinance and bring it before you. The other methodology is a Council initiated through a resolution and that's what you have before you today. At the last, I guess last month we brought three bills before you, we were able to get through two. You deferred action on this item dealing with planned developments which older planned developments that were approved prior to a certain date and consisting of certain zoning as well as construction of certain dwelling types would be allowed to operate short-term rentals or TVRs or would be grandfathered into allowing for transient vacation rentals. Again, this ordinance doesn't specifically name any planned development. About a couple years ago we had one that we called unofficially it was called the Puamana Bill because basically based on all of the set criteria that was outlined it applied only to Puamana. This time with some tweaking of the language right now we believe that the only planned development that would be impacted or will be allowed to do it that met the criteria that the Council has narrowly crafted in the language would be Alaeloa which is the thing. I believe it was Commissioner Robinson who wanted to know where it was because that's the kind of information when you deal with, primarily when you're dealing with STRs or B&Bs and surrounding properties and whatnot. Again, this is not per se that type of permit. This is a bill to amend Title 19 but I have provided you with some aeriels as well as some maps for that I've provided you.

So this is a community plan map so you can see that it's zoned...community planned for single family. The project's Alaeloa. Again, the bill doesn't specifically list any project but this is the only one that we think would be impacted deals with these two properties that's actually one project. It's probably better to see it on the aerial photo. Provided you with two different aeriels. You can see that it is a shoreline property. It's pretty well spaced out. You can see lots of open space as a requirement of the planned developments, 20 percent open space. You can see that they do have...there's two, two parcels that connect to it and they have like a little pool...I'm not sure if that's a single...somebody's house or but they have ocean front property pretty well set back on a rocky shoreline with one small rocky/sandy bay there.

Other questions with regard to...that were brought up. Is why the reso? Again, I do not know the purpose. Again, there was no committee report which explained that. So that would require a little more ESP skill sets than I have so I don't know what the rational was.

Other questions with regards to notice, whether or not there was any notice of violations or notice of warning? Yes, we still have one notice of short-term rental enforcement. A case that is open that was opened in May of 2015. That case is still open. No work has been really been done on it because there is again a current resolution that potentially would resolve...does not necessarily resolve the violations. The comments from KIVA which is our tracking system which are enforcement agencies, enforcement arm uses to track and record their information basically all it says is that this RFS is encompassing all of Alaeloa, two RFS already exists for the units for in the complex they will be added to this for extra information. So they added the certain...from RFSs from 2014 'cause they have a 14 number. In doing the research on these other RFSs I found that there are multiple short-term rentals in Alaeloa complex. AOA has been sent notice of warning based on this evidence. So the association has been sent the warnings.

The other information you requested with regards to beach access that's why I was trying to bring up some type of Google street view. Based on our research the only access that we found right now is off of Hui Road E which is to the south, just south of this property. It might also be indicated on your map. So there is a beach access on that side. I did, again, street view, I was not...I did not have time to drive out to the west side.

A shoreline access study that was done as part of our General Plan and Community Plan process, the research firm that conducted the study indicates that there is a shoreline access at this Alaeloa complex. Google...when I used Google Street View I do show gates but all of them are...all of the access points to this project is a gated community. That doesn't mean that there's No shoreline access there appears to be a pedestrian gate so there could be that there is a...but there is no per se, I did not indicate any sign that says shoreline access. There wasn't a County of Maui shoreline access one. Again, on the one just to the south of this in the area there, there is a shoreline access sign as well as you can see there's a gate there but there's a sign there that shows that you would be able to pedestrian. The public would be able to access the shoreline. But again, it's south of this project, just south of that project. That's the nearest shoreline access I can confirm based on the signage, but again, the study does indicate that there is one. I would again, this bill is just a generic bill. It is not property specific. So it would be nearly impossible or it would not be recommended to try to attach any type of condition regarding shoreline access to this type of building at this point in time. That's just my own, again, from a planner aspect I think that would be...it's gonna be a little cumbersome to do so. The other three commissions that did review it just passed it on with no comments. That's what Lanai and Molokai basically did because again, it does not impact them at all.

So again, the Resolution primarily we just bring it to you for your comments and recommend to you. I think we've previously went over this extensively at the last meeting as a refresher course. We don't like to target project specific resolutions. However, from the aspect of does it have an impact on purely affordable housing not really. Does impact housing units? Probably how it trickles down from an economic standpoint it probably has a minor trickle-down effect on as far as rentals goes, but again, this is just dealing with grandfathering in or allowing for short-

term rentals at planned developments and that's how the Council has chosen to draft this bill at this time. Do you have any comments or questions at this time?

Vice Chair Medeiros: We will now open this for testimony if anybody would like to speak on this? Seeing none, recommendation?

Mr. Carnicelli: I have a question.

Vice Chair Medeiros: After the recommendation.

Mr. Carnicelli: Sorry, sorry.

Mr. Alueta: The Department is recommending approval of the proposal to the County Council. The Commission has the following options again is to approve the bill to the Maui County Council, recommend approval of the proposed bill with amendments to the Maui County Council, recommend denial of the proposal to the Maui County Council or vote to defer action on the proposal in order to gather more specific additional information.

Vice Chair Medeiros: Okay, Chair will entertain a motion before the discussion. Oh, question?

Mr. Carnicelli: So just for clarification this even though it's a broad resolution it's really only affecting the Alaeloa?

Mr. Alueta: Based on our research that's yes, yes.

Mr. Carnicelli: Okay, I mean I'm ...okay.

Mr. Alueta: It doesn't open it up to any new planned developments. It doesn't allow someone to change their designation. It basically have to meet the criteria and one of them is like it has to be built prior to 19 like 80 something and—

Mr. Carnicelli: Right. Does it matter if it's leasehold?

Mr. Alueta: If it is leasehold, yes there is no language like that...(inaudible)...

Mr. Robinson: Can you repeat the recommendation on what we're going to approve?

Mr. Alueta: We did recommend approval of it.

Mr. Robinson: No, but what are we recommending approval? I know it's accepting—

Mr. Alueta: The bill.

Mr. Robinson: ...(inaudible)...but what is the ...(inaudible)...

Mr. Alueta: The approval of the resolution as the Council has presented. Basically as on the Exhibit 1, if you look on Exhibit 1 of the memo report.

Mr. Robinson: I don't have my paper from the last meeting.

Mr. Alueta: Oh okay. Basically there's a minor...this is amending 19.32 of the Maui County Code which is the Planned Development section. It does some minor language changes but the main crux of the amendment is to add the language of...include duplexes to Criteria C and to...a combination of single family dwelling and duplexes or multi-family dwelling units. And so basically Section 2 of 19.32 (i)(2) and it says, planned development shall meet all of the following criteria. Planned development received a final approval or as provided in this chapter and at least one unit in the planned development was operating as a vacation rental on or before April 20, 1981. The planned development is located on a parcel with a least some residential district zoning. The planned development consists only of (i) duplexes or multi-family dwelling units or (2) combination of single-family dwelling units and duplexes or multi-family dwelling units. And so based on this language that's been added, the only two complexes that meet that criteria right now would be Puamana and now Alaeloa.

Mr. Robinson: And Alaeloa right now has been operating as a TVR but we told them to just stop until this is passed or previously it was let's say like Puamana ...(inaudible)...

Mr. Alueta: Yeah, it was not an allowed use and there was always a argument of whether or not and so therefore, there was some RFSs back in...RFSs in 2014 notices of warnings went to the condominium complexes. As you indicated it was a leasehold property therefore it went to the property owner which technically the property owner is the condominium association has the long term lease. They were sent the notices of warning or violations. And then no action has gone forward because I guess this resolution came down as to whether they have stopped I don't know. I don't think so. I think if you go online you will find that they continue to operate as a TVR or some of the units operate.

Mr. Robinson: Just to verify there's no applicant. It is the Council itself decided to just to make a resolution without these people asking for it?

Mr. Alueta: I'm not touching that one.

Mr. Robinson: There's no applicant.

Mr. Spence: These people did ask, talk to their council members and that's why this reso is here.

Mr. Robinson: Instead of applying they just went to the Council?

Mr. Spence: Yeah, and the argument is is they're arguing that they've always...they were grandfathered in. They've always been renting since the day it was built. And things changed, that the law changed on them they should be allowed to continue it and so that's why...that's what happened with Puamana. So Puamana was...it really was short-term rentals at one point with some residences there, residents living full time there and Council passed an ordinance, actually looked back into some things and essentially they're recognized grandfathered in and

that's what this reso is saying for Puamana and now it's being extended to any other planned unit developments that meet this criteria.

Mr. Carnicelli: If I could just opinion, they should have been at the table when we did the Puamana thing and they kinda just blew it off? And so now it's kinda like oops, we should be included as well it's essentially the same as Puamana, it's been residential, it's always been TVRs. It's, you know, I mean it's kinda like they just sorta missed and now it's kinda coming back full circle and that's my opinion.

Mr. Spence: Yes.

Mr. Alueta: I think and I was there at Puamana and primarily what happened was it was bantered around to have it included. At the time, not every single resident at Alaeloa was in favor of it, but as time goes on people, ownership changes and I think that's where those who were opposed to it are no longer there and so that's where now they're able to get some kind of consensus to get this cleared up for them because I mean, there was an amendment on the floor two, three years ago and then they pulled it back and so and it only allowed for Puamana. So this will basically clarify that they are allowed to do it.

Vice Chair Medeiros: Chair recognized Hedani.

Mr. Hedani: Joe does this affect Wailea? Wailea is a planned development.

Mr. Alueta: Correct, the date doesn't, the time frame doesn't grant Wailea in. The dates does not allow for...grant Wailea to be in 'cause this is for prior to 81. I think Wailea started like 88 is the first developments.

Mr. Hedani: The request for service that came in, those came in from residents of Alaeloa?

Mr. Alueta: I don't know. I don't know who filed the complaint. It was in 2014 is when it came in.

Vice Chair Medeiros: Chair recognizes Robinson.

Mr. Robinson: Director it's not that I have...I don't have a problem with this development. I'm just trying to get what's happening here. So does a normal...say person who moved to the mainland 10 years ago came back and go gee, I didn't know you guys changed the laws about TVRs, can he go talk to a Council person and get a resolution to try to figure out his or is the path supposed to be through the Maui Planning Commission? I mean is this a, is this a left-turn instead of going straight?

Mr. Spence: First off, I think they're going...they went and spoke to their Council members as a group, not certainly not just one I don't think the Council would support that. If...they're arguing that they've always done this so why change it? And that's not answering your question I know.

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

Mr. Spence: Well, the thing...when the Council, they're proposing to change law to put these specific dates in which part, which ordinance ...(inaudible)...

Mr. Alueta: 19.32 the planned developments.

Mr. Spence: Okay, so they're planning to put...to change that section of Title 19 to include language that planned unit developments built within this certain time period they can continue to do vacation rentals. So the way the Charter reads all land use ordinances, proposed...all land use ordinances are supposed to go to the Planning Commission for review and comment. Okay, and then you make a recommendation to the County Council on that. So when they pass a reso saying we wanna change this law, they send it down for your review and Lanai and Molokai and you make a recommendation and we send it back up.

Mr. Robinson: But we know that this is specifically for a certain group of people?

Mr. Spence: Well we know for...

Mr. Robinson: Because it's post-dating anybody that could be included in this. So people in the future can't follow this law because it says, it's retroactive law.

Mr. Spence: Yeah. Yeah, it's very narrow. It is general. There's a possibility there's another planned unit development that we don't know of that that's the reasoning behind the wording of the reso. And I see Mr. Hopper—

Mr. Hopper: So the whole purpose behind this is that one point this was allowed and then it became not allowed. I think 1981 is the date that's picked 'cause that's when it became no longer allowed. The issue with these, it was with Puamana at least is that they're already established, you're entitled to operate as a nonconforming use. Each unit has to establish that they didn't...did not cease that use for 12 consecutive months. So you basically have to show that every year since 1981 you operated continuously as a short-term rental home and that burden became difficult for people at Puamana so I think as a legislative solution they proposed to have the area say if you operated prior to 1981...rather than saying every single unit is gonna have to prove that they continuously operated, that they're gonna say the whole area can operate as a TVR. It's a legislative issue that you can, you know, consider. It would allow this area to be used as TVRs in perpetuity going forward as an outright permitted use. The justification for it would presumably be that the law changed. They were using it as TVRs and the law changed and now it's very burdensome for them to prove that they continuously operated during that entire time. It's a legislative option for the Commission to consider. Or they could eventually come in and get a change in zoning to Hotel or they could come in and get permits on a per unit basis. So there's a variety of options, but I think this is something that the Council and I'm not gonna advocate on their behalf because I don't know exactly what their justification was but that's I think what was behind the Puamana bill and kinda the reasoning behind doing this, doing this legislatively.

Vice Chair Medeiros: Any more questions? Chair will entertain a motion. Chair recognizes Hedani.

Mr. Hedani: Joe, do you have a recommendation?

Mr. Alueta: Yes, we did recommend approval of it.

Mr. Hedani: Move that we recommend approval to the Council.

Mr. Carnicelli: Second.

Vice Chair Medeiros: Moved and seconded. Discussion? Chair recognizes Robinson.

Mr. Robinson: I'm not for or against this development or the resolution. I just think it's special interest legislation. I think it's people finding a way around it instead of doing like every other person would and they've pull a application and they come to Council, and to our Commission and we say yea or nay. I think this is...like I said I think this, you know, special legislation for people who have a special connection or a group or with a legislator and I don't like that type of legislation. Thank you.

Vice Chair Medeiros: Chair recognizes...oh, anybody else? It's been my experience you know, I sorta agree with Robinson even though I'm gonna vote for the resolution. You know, and my experience is sometimes the shortest distance between two points is the other way around. You know, and this is what is happening. But the bottom line you gotta get from Point A to Point B. That's why if it comes down to my vote I will support the motion. Okay, any other discussion? Chair recognizes Hudson.

Mr. Hudson: I will probably support the motion too but I agree with Mr. Robinson that I don't think this is the right way to do something. I think this is a roundabout way to do it. But the way I look at it is that if back in 1981 I bought a green car and green cars were okay to drive around then they changed the law and green cars are no longer cool to drive around but I'm gonna keep my green car 'cause it's a green car and I like the color green and then they say well now we're gonna enforce the color green and you're gonna have to do something, then yes, I would go see my legislators to try and change it because this is what I had to begin with and this is what it should be. I don't necessarily agree with the way that we got here, but I do believe we gotta get to Point B from here.

Vice Chair Medeiros: Yes. Any....Chair recognizes Hedani.

Mr. Hedani: Basically I think in this particular case if it's only a couple of people that are within the project that have been doing it all along it may be unreasonable to try to force them into a reapplication of the entire thing. And the fact that they got it through a Council resolution to come us basically tells me if the entire people in the PUD were against it they would have filled this room and let us know about it.

Vice Chair Medeiros: Chair recognizes Director.

Mr. Spence: And I apologize that we're in the middle of a motion. It is kind of, kind of a too bad nobody is here from the association to support this. They would have provided some answers and really shown and just a little bit on grandfathering so you have a lot of owners here and

you've had a lot of changed owners since 1981 and it becomes...you know I do believe that most of these were probably short-term rented over the last 30 plus years and when you get a complaint or you get you know something else comes in it becomes more and more difficult as time goes on to prove that you're grandfathered in. You know you have several owners. You can go back to that original owner, you know, two owners ago maybe they're passed on or those tax records that would prove that they have been renting nonstop from...you know, that's the nature of being grandfathered you have to show a continuous use with no more than a one-year break in that use. So if you started in 1981 started renting and all of sudden in 2003 somebody got sick, you know had to sell, something like that, the short-term rental was stopped for a year and one day or you had you know your cousin's garage burned down and all your tax records were in there it becomes very hard to prove that the short-term rental or whatever grandfathered use has been continued. So I would guess that there's a quite a few homeowners in this situation in this particular development or other planned unit developments that fall under this category. So it is, it is helping them out for a use that pretty, I would imagine pretty prevalent in this area.

Mr. Hedani: The other way to look at it is if everybody else in all of the other neighborhoods have to suffer with TVRs then the planned developments should suffer too.

Vice Chair Medeiros: Cold blooded I like that. Any other comments?

Mr. Robinson: You know this is kinda what we have with Pineapple Hill and this planned development like you said and you know a certain circumstance and again, it's not that I wouldn't have allowed these people to be TVRs if they came...(inaudible)...process. I just think that when we're dealing with TVRs we have to be cognizant that every time we approve one we're turning somebody into an instant millionaire. You know it's not a meter for old time resident and you know, we're trying to make sure they don't lose their house. This is, this is them being able to buy two, three houses ...(inaudible)...Napili Point and you know, I think they have their rights and ...(inaudible)...but that doesn't mean that I'm gonna feel sorry for them. It's just you know, that's the way...but you made a good point with they've got through the Council you know so this is, you know, this is it went the opposite way but it still got, you know it would have ended up through them anyway so it did it, I just wish they might have just done it, you know, like every...I like to treat everybody the same that's all. Thank you.

Vice Chair Medeiros: Any other comments? Call for the vote. Director would you repeat?

Mr. Spence: The recommendation is to or the motion is to recommend approval of the ordinance to the County Council.

Vice Chair Medeiros: Okay, all those in favor raise their hand?

Mr. Spence: So that's five ayes.

Vice Chair Medeiros: Motion passes.

Mr. Spence: Well, we should ask opposed.

Vice Chair Medeiros: Opposed?

Mr. Spence: That's two opposed.

Vice Chair Medeiros: Motion passes.

Mr. Alueta: Thank you, Commission.

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

**VOTED: To Recommend Approval of the Ordinance to the County Council as Recommended by the Department.
(Assenting – W. Hedani, L. Carnicelli, L. Hudson, S. Duvauchelle, S. Castro)
(Dissenting – K. Robinson, R. Higashi)
(Excused – M. Tsai)**

Mr. Spence: Okay, Commissioners, we are on Agenda Item E, Director's Report. We have two items with us. 1a, Mr. Ford Fuchigami, Director of Transportation requesting a two-year time extension on an SMA Permit and Shoreline Setback Variance to initiate construction on the proposed Honoapiilani Shoreline Protection Project, roughly to Olowalu. And you can...when we're bringing this to you, you can...the decision is whether to waive review of the time extension and just let the Director sign it off or you wanna see it. And our Staff Planner is Mr. Keith Scott.

E. 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:**
 - a. MR. FORD FUCHIGAMI, Director of Transportation, STATE DEPARTMENT OF TRANSPORTATION requesting a two (2)-year time extension on the Special Management Area Use Permit and Shoreline Setback Variance conditions to initiate construction of the proposed Honoapiilani Highway Shoreline Protection Project at TMK: 4-8-003: 006 (por.), Olowalu, Island of Maui. (SM1 2009/0005) (SSV 2009/0001) (K. Scott)**

Mr. Keith Scott: Good afternoon. This item was originally before the Planning Commission in April 26, 2011 and in May of May 27, 2014, the Commission went to through the same process that you're going through today and decided to waive their review and allow the Director to sign off on a two-year extension and we're back at that position again. Karlynn Fukuda from Munekiyo Hiraga is here to give you a little bit of background on the project itself so you can better understand it.

Ms. Karlynn Fukuda: Thank you, Keith. Karlynn Fukuda of Munekiyo Hiraga. Good afternoon Chair and Members of the Maui Planning Commission. I'm here today to represent the State Department of Transportation who is requesting a two-year time extension request to initiate construction on the proposed Honoapiilani Highway Shoreline Protection Project. The proposed project is an engineered solution which will include the installation of boulders on an approximately 900-foot long section of the...along the Honoapiilani Highway north of Olowalu Town to protect it from eroding shoreline and mitigate damage to the highway shoulder that has already occurred through previous high wave action. As you all are aware Honoapiilani Highway is the main vehicular arterial between West Maui and the rest of the island. And in addition to the SMA and Shoreline Setback Variance that was approved by the Maui Planning Commission, the project has also received a number of permits and approvals in order to proceed including a Conservation District Use Permit from the Board of Land and Natural Resources, a Department of Army Permit from the Army Corp of Engineers and a Water Quality Certification Permit from the State Department of Health. I'd note that the project has also received a Federal Categorical Exclusion Approval in September of last for the Federal funds that will be utilized for the project construction.

To give you an update on where we stand with the project, the State Department of Transportation has bid out the project and issued a Notice to Proceed to the contractor in March of this year. However due to conditions that the project needs to comply with initiating construction by May 31st of this year wasn't likely and such we filed a time extension request.

There are a number of factors that affect the construction start date most importantly the avoidance of the coral spawning season which is one of the conditions of the Essential Fish Habitat Consultation that the project undertook with the U.S. Fish and Wildlife Service and that coral spawning season is generally June through August. And we're also hoping to reduce the chance of being affected by high coastal wave actions during the summer months.

Currently the plan is for project construction to start in September of this year. There will be some preparation work that will occur in August of this year. The project is funded and ready to proceed. And we respectfully request the Commission's concurrence on the two-year time extension request to initiate construction of this project which will help to protect Honoapiilani Highway. Thank you very much. And we're here to answer any questions you may have.

Vice-Chair Medeiros: I'd like to open it up to public testimony. Is there anybody who would like to speak on this item? Seeing none, any questions? Commissioner Robinson?

Mr. Robinson: I'd like to move to approve the recommendation of the Planning Department to waive review.

Mr. Hudson: I second that.

Vice-Chair Medeiros: Okay, it's been moved and seconded to waive review. All those in favor raise your hand. Oh wait, discussion?

Mr. Hedani: The only reason I would suggest that we ask them to come before the Commission is because on a separate project that they've done by Lone Pine, the project that they've done

by Lone Pine they managed to put in 200 stanchions on the highway roughly to separate their construction work from the traffic lane and every stanchion has been hit by members of the public. You can tell by the scars that are on all the stanchions. They put up 200 barricades so you run a gauntlet on the highway. Every single stanchion has been hit. It makes me kind of worried that the guys that are in charge of the project really have no idea what the drivers on the highway are going through when they create something like that. I'm just wondering whether or not they're gonna do something like that again. I like the project from the standpoint of the drawings. I think the fact that they're using guardrails instead of a four-foot high wall allows for views to the ocean as compared to the walls that they put up in other location which totally obliterate your view to the ocean for 1,500 feet. But to me it's an opportunity just to communicate with the higher ups to let them know some people are unhappy with what the things that they've done in the past and not to do it again.

Vice-Chair Medeiros: Any other comments, discussion?

Vice-Chair Medeiros: While can agree with Commissioner Hedani I think the importance of getting done overrules the way they go about. However, you know I would be more than happy to ask if the Director could address that issue, you know, before he approves this time extension.

Mr. Spence: Just for clarity, you're supporting the commission waive review but you would like me to tell Mr. Fuchigami that we don't like all the –

Vice-Chair Medeiros: There have been complaints.

Mr. Spence: Okay, there have been complaints about the process.

Vice-Chair Medeiros: Yeah.

Mr. Spence: Okay.

Mr. Robinson: Not tell, communicate, express.

Mr. Spence: I will communicate, I will express. Hear that Karlynn? Okay.

Vice-Chair Medeiros: So any other discussion? Commissioner Higashi?

Mr. Higashi: This particular project I think deserves to be addressed right of way because of the severity of the deterioration of the highway. My concern is that it sounds like again it's a piecemeal thing. This whole stretch of Olowalu is being affected by the wave action and I think we should be more prevention and I mentioned that before in another application about the ocean looking at putting seawalls, some kind of artificial reef, whatever it is to lessen the wave action that's occurring. Because the problem now is that it's not going to get any better even if you put a big seawall whatever on both sides of that particular project is gonna be affected again. And I think there should be a longer range plan of how the State address these kinds of issues and it's all over Maui it's not just Olowalu. But that is my concern as far as this project that definitely it needs to be addressed because it's pretty bad.

Vice-Chair Medeiros: Could I ask if that be communicated to Clayton also.

Mr. Spence: Yes. We will. Yes we will take that to Ford.

Vice-Chair Medeiros: Sorry Ford Fuchikami. Okay, any other comments? None? Okay, we'll call for the vote. All those in favor of the motion?

Mr. Spence: The motion is to waive review. That's seven ayes.

Ms. Fukuda: Thank you very much.

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

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

Mr. Spence: Okay Commissioners the second item on the 'Director's Report is Mr. Grant Chun, Vice-President of Wailea MF-7 LLC. They are requesting a two-year time extension on an SMA Permit to initiate construction on Wailea MF-7 Multi-Family Residential Project at Kai Malu Drive and with us this afternoon is Ms. Candace Thackerson.

- b. MR. GRANT Y.M. CHUN, Vice-President of WAILEA MF-7 LLC requesting a two (2)-year time extension on the Special Management Area Use Permit condition to initiate construction of the Wailea MF-7 Multi-Family Residential Project at Kai Malu Drive. TMK: 2-1-008: 116, Wailea, island of Maui. (SM1 2006/0038) (PD1 2006/0004) (PD2 2006/0004) (PD3 2007/0004) (C. Thackerson)**

Ms. Candace Thackerson: The applicant is requesting waive of review for a two-year time extension for the project described by the Director. This project was originally approved by this body back on April 10, 2007 and since has received I believe three time extensions the last one being granted for the project to be initiated by April 30, 2016. So they're asking for a two-year time extension for Wailea MF-7 Multi-Family Residential Project. Originally SM1 2006/0038 to be extended until April 30, 2018 to initiate construction.

I've included in your packet a site plan as well as the overall drainage summary and minutes from the last meeting where Hiranaga was Chair and had asked about pre and post development capture and runoff on the site and the applicant is here if you have any questions.

Mr. Grant Chun: Good afternoon Mr. Chair. Good afternoon Members of the Commission. My name is Grant Chun here on behalf of A&B Properties, Wailea. Would you like me to give you a little update and summary of the project?

Vice-Chair Medeiros: Please.

Mr. Chun: So Wailea MF-7 is comprised of 75 units in 15 buildings on a 13-acre parcel in Wailea. It has received, of course its SMA Permit and Planned Development approvals Steps 1, 2, and 3. It has provided workforce housing as required by the ordinance and also has had its water system improvements installed as well. Its water laterals have been installed.

Current status of the work on the project, we are...have submitted our plans to the Department of Public Works for the improvements that are to occur within the right of way on Okulani Street. The major frontage of the parcel is on Okulani Street so we will be installing sidewalks and landscaping improvements, right of way improvements in concert with the County's standards. So those plans have been prepared and submitted to the Department of Public Works for its review and approval and they've been very good about working with us in moving that forward.

So essentially our request before you is to respectfully request a waiver of review so that the Director can take administrative action on the requested extension.

Vice-Chair Medeiros: Questions? Public testimony, forgot about that one. We'll be opening up for public testimony. Anyone here would like to testify?

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

Mr. Mike Moran: Good morning, Commissioners, Mike Moran for the Kihei Community Association. I'm testifying early on one item 'cause I may not make through the lengthy process and I'll begin by saying I wish you a much more easy peaceful meeting than the last one those of you who were here endured. That was very challenging.

Okay, early testimony on Item E-1b, Wailea Multi-Family 7, very briefly we just ask you to review the time extension at a future meeting. Conditions continue to change with continuous development in Wailea and Makena which of course affects the area primarily with the number of motor vehicles and potential runoff into the kai. The Commission should examine in our opinion changes before simply extending a permit for two additional years for an SMA Permit. Mahalo.

Vice-Chair Medeiros: Thank you, Mike.

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

Vice-Chair Medeiros: Seeing none, Carnicelli

Mr. Carnicelli: So I can't help but go to the reason for your permit time extension economic recession?

Mr. Chun: Yeah, it was timing was difficult.

Mr. Carnicelli: So I guess is to say, okay and I understand A&B is A&B and everything like that but it still is when someone is a developer they take a risk, right? Okay, you know I have

conditions that I'm gonna fulfill within this time line, you say okay, I'm gonna do that and then all of a sudden it's like, oh you know, recession hit, give us some more time. Then with in concert with that I guess I look at how old is all of your SMA approvals and you know if you're saying what are the environmental impacts if okay we delayed because of the economy then what else is kind of happened since then? I don't know if there's a question in there or not.

Mr. Chun: Yeah, I didn't hear a question but to answer what I think was one of the inquiries that you put out there you are correct the parcel was approved in 2007 just before the economic downturn. Since then we have of course, embarked on a couple of different projects two in Wailea and one in Kihei that are currently in progress. So we have you know every intention of ultimately moving forward with this project as well. Currently you may be aware that at Parcel MF-10 the hotel site is currently under construction as well as at Parcel MF-11 which is just makai of the Wailea Gateway Center. We have also embarked on Keala O Wailea which is a 70-unit condominium project. Also on the south side we've broken ground on Kamalani which is workforce housing project. So just to put it out there I mean to the extent your question is what have we been doing lately? You know we have been engaged in a number of projects, are working affirmatively with the Administration on the infrastructure improvements necessary on Okalani Street for this project, have every intention of moving forward but the current date of the start of construction is April 30, 2016 hence our request for an extension.

Vice-Chair Medeiros: Okay, Robinson

Mr. Robinson: Aloha Grant.

Mr. Chun: Aloha.

Mr. Robinson: Affordable housing requirement was fulfilled is that off on this site is it off from a different site and you have the credits for that is that correct?

Mr. Chun: That's correct. Different site.

Mr. Robinson: Could you tell us what site that was? If you don't know it's okay.

Mr. Chun: I don't know, it was...but this was a project that fulfilled the requirement at the higher 50 percent you know level that was in place in 2010 when the units were provided. This was a project that was led by a former, a colleague of mine who's no longer with us, Clyde Murashige. So I don't, I'm sorry I'm not up on the details of what transpired in the early years of the project. But I do know that the agreement has been executed and the units have already been provided.

Mr. Robinson: Okay. You mentioned that you guys got a lot of projects going on which is fantastic, you know, we love it. Are you guys getting spread too thin? Is this two years gonna be enough or are we gonna see you in two more years asking for another extension?

Mr. Chu: We are, we have every intention of moving forward. There are so many variables with projects especially projects in this sector of the market. I hope not to be back in two years, but if I am please don't...hope you don't have a problem with that, yeah.

Mr. Robinson: My recommendation is there's a lot going on and I think in two years that SMA might be a little bit harder to just revisit because of all these projects going on that's just my opinion. But thank you.

Mr. Chun: Thank you very much.

Vice-Chair Medeiros: Any other questions? Seeing that there are no more questions. Could we get a recommendation?

Ms. Thackerson: The recommendation by Staff is to waive review of the two-year time extension request so they can initiate construction by April 30, 2018.

Vice-Chair Medeiros: Any discussion? Chair will entertain a motion.

Mr. Castro: Make a motion to approve the recommendation presented.

Mr. Hedani: Second.

Vice-Chair Medeiros: It's been moved by Commissioner Castro, seconded by Commissioner Hedani. Discussion?

Mr. Hedani: If they come back in two years we have them reinvent the wheel.

Vice-Chair Medeiros: I like that. One good thing if you do come back in two years you don't have to deal with me. Okay, let's call for the vote. All those in favor of the motion raise their hand?

Mr. Spence: That's seven ayes.

Mr. Chun: Thank you very much.

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

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

Vice-Chair Medeiros: Before we go into the workshop I'm gonna be calling a five-minute recess and I'd like to remind everybody that Commissioner Hedani and myself will be leaving at 4 o'clock so you may have to elect a temporary chairperson for the rest of the meeting if it goes beyond 4 o'clock.

Mr. Robinson: I don't think we'll have quorum at 4:00 so you might wanna get it done before 4:00.

Vice-Chair Medeiros: Okay, I hope so. Okay, so we'll recess for five minutes.

A recess was called at 2:11 p.m., and the meeting was reconvened at 2:18 p.m.

F. ORIENTATION WORKSHOP NO. 2 (previously scheduled for the April 26, 2016 meeting.)

1. Bed and Breakfast, Short-Term Rentals, and State Special Permits
2. County's Policy Against Discrimination
3. Sunshine Law
4. Ethics
5. Contested Cases
6. Property Rights
7. Rational Nexus and Rough Proportionality
8. Update of the General Plan
 - a. Long Range Division
 - b. Plan Implementation Division
9. Public Works Review of Drainage and Traffic Reports

Staff from the Department of Planning and Department of the Corporation Counsel provided Power Point presentations on Item 1 – 8. Item 9 will be taken up at a future meeting.

Mr. Spence: Item G, Commissioners, we have acceptance of the Action Minutes for April 26, 2016.

G. ACCEPTANCE OF THE ACTION MINUTES OF THE APRIL 26, 2016 MEETING

Vice-Chair Medeiros: Chair will entertain a motion.

Mr. Castro: So move.

Ms. Duvauchelle: Second.

Vice-Chair Medeiros: Moved and seconded. All those in favor?

Mr. Spence: We have six ayes.

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

**VOTED: To Accept the Action Minutes of the April 26, 2016 Meeting.
(Assenting – S. Castro, S. Duvauchelle, L. Hudson, K. Robinson,
L. Carnicelli, R. Higashi)
(Excused – M. Tsai, W. Hedani)**

Mr. Spence: Director's Report. Commissioners, we are going to ask that you designate the Hana Advisory Committee to the Maui Planning Commission to conduct the public hearing and provide its recommendation on an application by Mr. Michael Opgenorth for the National

Tropical Botanical Gardens for a Land Use Commission Special Use Permit to construct and operate a visitor center at Kahanu Gardens in Hana.

H. DIRECTOR'S REPORT

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

MR. MICHAEL OPGENORTH of the NATIONAL TROPICAL BOTANICAL GARDENS requesting a State Land Use Commission Special Permit in order to construct and operate a visitor center with a gravel parking lot and landscape planting without irrigation at the entrance to Kahanu Garden in the State Agricultural District at 650 Ulaino Road, TMK: 1-3-002: 039 (por.), Hana, Island of Maui. (SUP2 2016/0003) (R. Quigless)

Mr. Spence: It's within this body's jurisdiction to designate them to hold the public hearing.

Vice-Chair Medeiros: Chair will entertain a motion.

Mr. Carnicelli: So move.

Mr. Hudson: Second.

Vice-Chair Medeiros: Moved and seconded. All those in favor?

Mr. Spence: That's six ayes.

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

**VOTED: To Designate the Hana Advisory Committee to Conduct the Public Hearing and Provides Its Recommendation.
(Assenting – L. Carnicelli, L. Hudson, K. Robinson, S. Duvauchelle,
S. Castro, R. Higashi)
(Excused – M. Tsai, W. Hedani)**

2. **Reminder of the May 18, 2016-Site Inspection at 9:00 a.m. on the following:**

ATC MAKENA HOLDINGS, LLC requesting an Environmental Assessment and a Special Management Area Use Permit for the proposed Makena Resort M-5/M-6/S-7/B-2 project on approximately 47.15 acres of land located in the vicinity of the Makena Alanui Road and Honoiki Street intersection, TMK: 2-1-008: 080, 098, 099, 100 and 106, Makena, Island of Maui. (EA 2015/0007) (A. Cua)

Mr. Spence: The next item is just a reminder that on May 18th we're going to do a site inspection at 9 o'clock for the Makena project. I'm sure Clayton we have information. We're

gonna send out an agenda for it.

Mr. Yoshida: Yes, thank you Will. The site inspection is scheduled for 9 o'clock. Meet in the lobby of the Makena hotel there at 9:00 a.m. and there'll be a bus provided for the members and the public to go to the site and it will leave the hotel at 9:15. They estimate that the site inspection will be done by 11:30 but we again this will be... site inspection will be agendized as it is a meeting and we need to have a quorum there.

Vice-Chair Medeiros: Question?

Mr. Carnicelli: My first born is going to be on the 16th. We have actually have a schedule C-section so the chances of me actually showing up on the 18th are probably slim and none.

Mr. Spence: I think that would be excused.

Vice-Chair Medeiros: Is it a boy or a girl?

Mr. Carnicelli: It's a girl.

Vice-Chair Medeiros: Congrats brah.

Mr. Carnicelli: Thank you.

Ms. Duvauchelle: Clayton when you say in the lobby you mean at the old Prince Hotel?

Mr. Yoshida: Yes.

Ms. Duvauchelle: Okay.

Mr. Yoshida: Just if everybody can assemble at 9:00 in the lobby.

Mr. Spence: And where do they park?

Mr. Yoshida: They can park in the parking lot. I guess there's valet parking.

Ms. Duvauchelle: Parking lot is right there in front of the lobby.

Mr. Robinson: I remember prior it was going to be at the golf course where the parking was open. There's a restaurant lobby. They switched to the hotel lobby? It was first the restaurant lobby is it now moved to the hotel lobby?

Mr. Yoshida: I believe the hotel lobby may be...Mark Roy is here from Munekiyo Hiraga the planning consultant.

Mr. Mark Roy: Hi there Chair, everybody. Nice to see you again. Mark Roy with Munekiyo Hiraga. Yes, in coordination with the resort owners ATC Makena if it would be okay we're asking for people to assemble at the front of the lobby at the Makena Beach and Golf Resort

Hotel and that would allow the bus to come by, pick us all up and take us out to the site.

Mr. Hopper: Make sure that information is on the posted agenda.

Mr. Spence: Okay. Got that Clayton? So the agenda says where we're meeting.

Mr. Robinson: Does the shuttle allow public people.

Mr. Spence: Yes. They're getting like the ridiculously large bus.

Mr. Roy: I think it's about 57 seats so we're assuming that you know there may be a few members of the public that may want to attend.

Mr. Spence: Okay Commissioners, Items 3 and 4 you have your SMA Minor Permit Report and your SMA Exemption Report.

3. SMA Minor Permit Report

4. SMA Exemptions Report

Mr. Carnicelli: I just have a question for you Director. When you do the exemptions I know you go off of or at least as I understand it if it's \$500,000 then it can go to the minor and when they submit they tell you what the dollar amount is? What triggers you to verify that with Public Works?

Mr. Spence: It's not just a matter of whether something is the value or not. That's not the trigger for an SMA Major or Minor. What we look at is a section in State law that says this is a development or this is not. And we look at the categories. We look at are there gonna be significant impacts of something and we make the determination and your rules delegate this authority to the Planning Department to do to make the determination if something is a development of if it isn't. If it is a development then you decide okay is it under \$500,000 or is it over and 98 percent of the time it's really clear. Sometimes it's not and you'll get procedures before you arguing that very point. Yeah, we will talk to Public Works about you know what there...they'll apply for a building permit and they'll state the value of I and we'll confirm with Public Works that this is a reasonable value.

Mr. Hudson: ...(inaudible)...site visit I'm getting married so I will not be able to attend also. Not that particular day, ...(inaudible)...your first born, my first born is back but my first born is 30, so...

Mr. Robinson: I have a possibly...there's a possibility that I might have to be at another island I have a court case, but I won't find out till Friday.

Ms. Duvauchelle: I'll be there.

Unidentified Speaker: We need five.

Vice-Chair Medeiros: I'll be there.

Mr. Spence: Carolyn will poll everybody to make sure and if not... We're gonna go ahead and post and then if we have to unpost we'll...not a technical...

Mr. Carnicelli: Do we need a motion to accept the SMA Minor Report, Exemption Report?

Mr. Spence: Yeah.

Mr. Carnicelli: I will move to accept both.

Mr. Hudson: Second.

Vice-Chair Medeiros: Okay all those in favor.

Mr. Spence: Six ayes.

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

**VOTED: To Accept the SMA Minor and SMA Exemption Reports.
(Assenting – L. Carnicelli, L. Hudson, K. Robinson, S. Duvauchelle,
S. Castro, R. Higashi)
(Excused – M. Tsai, W. Hedani)**

5. Discussion of Future Maui Planning Commission Agendas

a. May 24, 2016 meeting agenda items

Mr. Spence: Okay, next meeting is besides next week on the 18th hopefully, May 24th is your next regular commission meeting and you have two items on New Business. You have review of Environmental Assessment or requesting an Environmental Assessment Determination for a final EA for Mr. David Spee, the Manager of Paia 2020. So there's a project in Paia that will come back later for change in zoning, et cetera. And then also there will be another requesting another EA, just requesting comments on a Draft Environmental Impact Statement for a rather large project in Waikapu.

Mr. Hudson: So getting back to that site visit. I'll check with my daughter. Would it be all right if I brought her? She's 30 years old.

Vice-Chair Medeiros: Yeah, it's open to the public.

Mr. Hudson: I'll check with her.

Mr. Robinson: I have a question on the next agenda. Didn't we have a really deep discussion two weeks ago about a 30-day time limit on getting some information back about Hololani?

Mr. Spence: Yes, I'm not quite sure where we're at.

Mr. Carnicelli: It's supposed to be the following meeting after 30 days.

Mr. Spence: I thought it was 60.

Mr. Carnicelli: Yeah it was 30.

Mr. Spence: Okay, well—

Mr. Robinson: So we can't talk about it?

Mr. Spence: It will probably come up. Clayton will that come up on Old Business or Unfinished Business?

Mr. Yoshida: Which project is this?

Mr. Spence: Hololani.

Mr. Yoshida: Hololani that would be under Unfinished Business. I believe we had it scheduled for the June 14.

Mr. Higashi: Will I had a question about your report on the SMA. One is I notice there's a permit number SMX what does that mean instead of an SMA.

Mr. Spence: That's an exemption.

Mr. Higashi: That's an exception.

Mr. Spence: Exemption. So either something is a development and it gets an SMA permit number or it's an exemption and it gets an SMX number.

Mr. Higashi: The other is I notice that you had approvals in April quite a few in fact, but yet when I look at the permits that prior to that I think those are the ones I guess that says SMX only cause that's exempt. Example you still have on 7/15/2008 and that one I guess I don't know is incomplete or it hasn't been taken up.

Mr. Spence: Oh why is it taking so long? It's either we haven't taken it off the list and that's more of a clerical thing or some of these has we requested information and they're some additional study required or something like that. You can give me specifics and I'll give them.

Mr. Higashi: Ever since I've been on the commission that particular one has been on.

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

Vice-Chair Medeiros: Okay is that it? Meeting is adjourned.

I. NEXT REGULAR MEETING DATE: MAY 24, 2016

J. ADJOURNMENT

The meeting was adjourned at 4:40 p.m.

Submitted by,

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

RECORD OF ATTENDANCE

Present

Stephen Castro
Lawrence Carnicelli
Sandy Duvauchelle
Wayne Hedani (excused at 4:10 p.m.)
Richard Higashi
Larry Hudson
Keaka Robinson
Jason Medeiros, Vice-Chair

Excused

Max Tsai, Chair

Others

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