

**MAUI PLANNING COMMISSION
PORTION OF THE REGULAR MINUTES
ITEM B-2
MAY 22, 2018**

Mr. Spence: Okay Commissioners the next agenda item is Mr. Edward Chang, a board trustee of John and Kamaka Kukahiko of Makena Corporation. They're requesting a Conditional Permit to conduct weddings in Makena, and our Staff Planner this morning is Ms. Candace Thackerson.

- 2. EDWARD CHANG, Board Trustee for JOHN AND KAMAKA KUKAHIKO OF MAKENA CORPORATION requesting a Conditional Permit in order to utilize the property for small scale special events, weddings, and ceremonies at their property located in the A-2 Apartment District at 5034 Makena Road, TMK: (2) 2-1-007: 079, Makena, Island of Maui. (CP 2017/0004) (C. Thackerson)**

Ms. Candace Thackerson: Okay, good morning Commission.

Mr. Robinson: Good morning.

Ms. Thackerson: So the project we have before you is to obtain a Conditional Permit to allow approximately 110 small scale and had listed as 50 but they're actually gonna cap it 49, just so that's a correction on the record. Special events, 49 guests maximum special events per year at the Kukahiko Estate located at 1534 Makena Road, TMK: (2) 2-1-007: 079. So that's what's before you today. Your role today as the commission is to review and give a recommendation as County Council will be the approving body behind this permit today.

I also have before you there two letters of testimony that were against the project. One of them Thomas Savage, I called him and I spoke with him directly and he has withdrawn his comments but I still wanted to introduce them for the record. His comments were namely to protect the shoreline access which the family and the applicant has agreed to do. I personally snorkel down there and it's always open over by what we slang call you know the Five, Five Caves and stuff, that snorkeling point and he had some concerns about the noise or the number of events. And when I told him that it was going to be limited to 110 he felt more comfortable. So I was able to get ahold of him. The other letters I was not able to get ahold of them. They didn't put their phone numbers or emails so sometimes I get a hard copy letter and I can't contact people back to talk to them or to tell them to look at the staff report on line.

Also in front of you I have some proposed conditions. They were stated in the staff report. It's not anything new. We just thought to make it easier for our Zoning and Enforcement later to go out and things like that when it comes to that time to list them in the approval letter so that was an oversight on my part. So I just made them a little more specific so it's easier for anyone in the future looking at the permit and I'll go over those at the time of recommendation.

For now, I'll turn it over to Rory Frampton and he's gonna just give a short presentation on the project.

Mr. Rory Frampton: Thank you and good morning Commissioners. My name is Rory Frampton. I'm here representing –

Mr. Robinson: Good morning Rory.

Mr. Frampton: Good morning. The Kukahiko Family and with me today we have Ed Chang who's the...on the Board of Trustees. Also, Ransom Piltz, who's on the Board of Trustees as well. Mariah Gill is an environmental consultant that's helped me put the application together. She's here as well. So I'll quickly go through our slideshow.

So again, the project description the property itself consists of a main dwelling approximately 3,400 square feet in size, a detached garage and an accessory secondary dwelling. The land use designations are zoning is A-2, Apartment, the community plan is Public/Quasi-Public, it's in the State Urban District and within the Urban Growth Boundary.

The request is an after-the-fact approval of a Conditional Use Permit in order to continue using the property for events such as weddings, receptions, vow renewals and photo shoots and to establish compliance with the County Code. It doesn't involve any new construction or ground altering activities.

The project need, and I'll let Ed Chang speak to this in a little bit...in more detail, but this property has been in the family, has been owned by the family since 1883. The Kukahiko Corporation was formed when over time there were multiple heirs of the property and there were so many heirs you couldn't really subdivide the property so they formed a corporation in order to be able to maintain the ownership and again, Ed Chang will add a little bit more information there. And in the area, you know, the homes have been...are rather elaborate. The property's very valuable and the real estate or the real property taxes have really sky rocketed and they're upwards of \$50,000 a year for this property and so they've turned to small scale ceremonies and weddings in order to generate revenue so they can keep the property in family hands and to allow the property to be used by the family for special events and special occasions so it's like a family beach house.

So they have a lot of event rules and they're all listed in the staff report. The number of guests are limited to 49. There's a event coordinator has to be on property at all times. The owner, the representative of the owner has a right to enter the property at any time. The times are limited between 8:00 a.m. and 10:00 p.m. and the attendees have to leave 15 minutes before the end of the event. Of course, there's no...they don't allow for illegal drugs or violent, abusive behavior. Soft music is the only music that's allowed. It may be limited amplification if they ask the owner. The music has to stop by 9:30. There's rules regarding compliance with Liquor Control laws. The caterers have to comply with Department of Health. There can't be any big spotlights or decorative lights or major light like flood lights and that type of stuff. Any service that's more than 20 people they gotta have a shuttle service. There's limited parking available on site and there's...you know, there's no fire dancing or drums or aerial drones or ...(inaudible)...poppers are not allowed. So these are all house rules that when they signed the contract the people who were using the facility agreed to. These are all in place and have been put in by the applicant.

Other requirements that we're working with Candace on and if we're successful with the Conditional Permit, we'll have to get an SMA Minor Permit and Shoreline Setback Assessment to allow for the temporary placement of minor structures and activities within the shoreline area.

So here's a map that's a little hard to see out there but it's out on the point at Makena. Here's Makena Bay or Makena Landing and the hotel is just down the coast a little ways. Across the street you have Hale O Makena...well, across the street is Makena Place and you have Hale O Makena Condo community and there's various condominiums and the golf course in the area. This is an aerial view with the Kukahiko property at this area. You can't see the three dimensional aspect here but the road goes up a steep hill. These houses are at a higher elevation. There's the Kukahiko property at the lower elevation and the shoreline access runs right along the property to this point and it's a very popular swimming and diving spot off the coast as Candace noted. On this northern portion of the property is where there's an area where they can have the guest parking and then a lot of times the caterers park interiorly so you have the main house, the garage, and the ohana and adjacent to the property is a family graveyard where Ed's great, great grandparents, I think it's his great, great grandfather are buried.

So this is just another view of the property with the property here on the left and other properties on the shoreline there. This just shows the parcels in the area and that's the tax map key. So the community plan designation is Public/Quasi-Public. The property is not within a...there's a small tiny sliver hard to see on this map that's covered the tsunami zone but the majority of the property is outside of the tsunami zone. The house elevation pad is about 14 feet above sea level. So here's looking at the property from the road with the main dwelling and the garage and the ohana right to the right. This is looking from up on the hill kinda...you can see over the property. It's just a single story, fairly modest especially in comparison to the surrounding homes in that area. So the front of the house opens up. These sliding doors are actually resource sliders...recess sliders that go into the walls so they open the facility so it's kind of an indoor/outdoor experience and that's looking out towards the ocean from the lanai and it has a real nice lawn in the front of the property where a lot of the events are held. The garage has separate entrances, outside exterior entrances for the bathrooms and that's a picture of the ohana dwelling. I don't know why that photo's blank on that side, but this is what a typical lawn ceremony would look like and that's another...some photos of what the typical lawn ceremonies are. So I'm gonna ask Ed Chang to come up now and give a little bit of family history and history on the property and then we'll be available for any questions.

Mr. Robinson: While Mr. Chang is walking up, I didn't see a NOV notice within this packet and it's requested for all permits and homes. Are you able to get that for us Candace?

Ms. Thackerson: There's...at the time I wrote my application I had filed an RFS on the property knowing that it was operating at the time, but there was no NOV at that time. It was just an RFS which I turned in and made a note of in there.

Mr. Robinson: There's an RFS in this package.

Ms. Thackerson: I don't print out the screen. I don't do B&Bs and short-term rental permits so usually we don't...I don't handle RFSs but I did make a note that I had...on Page...I think I put it under procedural matters.

Mr. Robinson: Procedural matters. Thank you Candace.

Ms. Thackerson: Yes, No. 3 on Page 6. On April 5, 2018 the Department of Planning filed a Request for Service in reference to operating without a permit.

Mr. Robinson: Thank you Candace.

Ms. Thackerson: Yeah, you're welcome. And now here's Ed Chang.

Mr. Ed Chang: Good morning Commissioners. Thank you for allowing me to speak.

Mr. Robinson: Good morning.

Mr. Chang: My name is Edward Chang. I'm one of the Director, Kukahiko Corporation. We have seven directors. My goal is to explain how we got here and I want to give you the history of the Kukahiko Family. I'm one...again, I'm one of the directors. My great great grandfather, John and Kamaka Kukahiko, his wife, built, bought the property from Ulupalakua Ranch in 1883. In 1902, he deeded the property to 10 of his children and one grandson. In 1969, 79 percent of the property was sold to non-family members. One of the buyers filed a suit to partition his share from the other undivided interest owners which basically were family. In 1973, 59 family members, the remaining people that did not sell any of their shares of the property. There were 59 of them formed a corporation and called it the John and Kamaka Kukahiko of Makena Corporation. In 1974, the property was partitioned to four owners. One of them was the Kukahiko Family and we got two parcels at that point in time. These parcels were approximately 15,000 square feet each. By 1997, the Kukahiko Corporation has three parcels. We've been in business, we've been in existence for 23 years, made no income on the property, and taxes had become a real burden. Everything in Makena is upgraded since the addition of Prince Hotel and the golf courses. The corporation by a majority of shareholders decided to sell the two parcels past Makena Landing and build for family use on the parcel that has the family graveyard, the pictures that Rory showed you. The house was completed in 2004 and property taxes continue to escalate. I'll just give you some rough numbers, 2001 - \$10,000, 2005 - \$33,000, 2010 - \$56,000, 2017 - \$52,000. The family has had property in Makena for a 135 years, since the purchase in 1883. The family Corp, Kukahiko Corporation has been in existence for 45 years. I might make some remark that not all the Kukahiko Family belongs to this corporation, only those that did not sell the property. We're the ones that's still existing. We still have one family that owns the parcel at Makena Landing and the parcel extended all the way to where the family graveyard is, where we eventually built like Rory had explained to you. Our goal is to maintain family property for family use and we do need some help. Thank you very much for your patience to listen.

Ms. Thackerson: Okay, we can either...the Chair can either...we can open the discussion or I can go over the proposed conditions that might help.

Mr. Robinson: If you're through with your presentation then I was going to do public testimony.

Ms. Thackerson: Okay.

Mr. Robinson: And then we can...when we asked for recommendation you can go over the conditions then or you can go over it now it's up to you.

Ms. Thackerson: No, no, I would rather just do them before maybe the discussion because it might answer some of the discussion questions, so...okay, but we can do public. Thank you.

a) Public Hearing

Mr. Robinson: At this time, I'd like to open up for public testimony. You'll have three minutes. Please state your name. Mr. Flannery, if you would like to speak sir.

Mr. Michael Flannery: My name is Michael Flannery and I own the property adjacent to—

Mr. Robinson: Mr. Flannery could you please speak into the mic sir. Thank you.

Mr. Flannery: My name is Michael Flannery and I own the property next door to the Eddie Chang property just to the south, up the hill which is about 60 feet above the Chang residence and we've had many problems over a long period of time. I had prepared a written statement and a verbal statement that for my notes to go over and I've made 10 copies of each and I want to pass them out to the board if that's okay. There also is one copy of an agreement that the Chang Family and I reached on some points of renting the property out over the last 10 years and I have a copy of that also. So I think there's 10 copies of each one of those there. I'm not a professional speaker and I get a little nervous when I do this...(inaudible)...me.

Mr. Robinson: You're doing great.

Mr. Flannery: You want to wait for that or you want—

Mr. Robinson: No, why don't you go ahead sir, your time.

Mr. Flannery: Well, on the verbal statement I started that I've been coming to Maui for approximately 40 years with my parents and vacationing here and we usually stayed in Wailea over that period of time and rented and fell in love with the community. Through those years I dreamed of building a home here when I retired some day and as that time went by 40 years later and I retired. I had some cancer issues and stopped working in 2000. The Wailea area had developed a lot over that period of time. When I first came here there was no Four Seasons or Grand Wailea and it was a rural area with a little shopping center that we enjoyed, a little market I guess mostly. And so when we decided to buy property we bought in a more remote area and we moved our search down to the Makena area. We found a beautiful piece of property there in a residential area I thought overlooking the ocean and we purchased the property, designed a beautiful home and built the home and which I thought was in a residential area. But when we got the home done and we started living there the Chang Family was putting on parties and

birthday parties and things and when we talked to them they said it was for family birthdays and events and that went okay for quite a period of time. And then a few years later it was apparent that they started renting the property out to different people for different events and music started getting louder and the participation started more often. A few years later the Chang Family hired a commercial planning company and put their ads on the internet to attract people from all over the world and the parties starting happening four to six times a week.

Ms. Takayama-Corden: Three minutes.

Mr. Flannery: With loud amplified music and DJs directing the dancing and the parties. Through that period of time, at least twice the parties got so loud and went till maybe midnight that my wife and I couldn't sleep. And we like to sleep with the doors open, no air conditioning.

Mr. Robinson: Mr. Flannery, I apology could you please wrap up your testimony.

Mr. Flannery: Wrap up?

Mr. Robinson: Will please wrap in a few seconds. I know, I'm sorry it's only three minutes for testimony. I apologize.

Mr. Flannery: Okay, I'll wrap up. So we called...at 10:30 at night we called the Chang Family which live about a quarter mile away and Eddie Chang was in bed, his wife woke him up and he appeared within five minutes to the event and shut off the music and he's worked with us over a period of time to try to control these events and control noise. As they continued to be fairly loud and we were having trouble sleeping I called for a meeting with the Chang Family and we went to their house and met with members of the Chang Family and laid out points that might work for both of us to be able to enjoy the properties.

Mr. Robinson: And is this what you have in front of us?

Mr. Flannery: The verbal statement and then there was a response to the Planning Commission report also. That I won't address since I don't have time.

Mr. Robinson: Okay, sir actually you don't have time. I appreciate it. It's in the future it's best to hand in your testimony ahead of time so we can read it and then we can ask you questions. I apologize it's –

Mr. Flannery: They didn't...they didn't give me that in the information that I was supposed to put in ahead of time.

Mr. Robinson: I apologize. But thank you. Commissioners is there any questions for our testifier? Yes, Commissioner Gomes.

Ms. Gomes: I do. Thank you for being here and providing testimony. I just want to know are you in opposition of this or I'm getting the impression you are.

Mr. Flannery: I'm in opposition of it from the standpoint of that it has to have regulations that make it suitable to be in a residential area and have a commercial business running. When I bought the property I had no idea there was going to be a commercial business running next door to me on a regular basis and it was loud and Eddie over the period of time as I say, Eddie has worked with me on this and I hope he continues to in the future. Still has a big impact on the residential area and the values of the property next door.

Ms. Gomes: And...sorry Chair, I have...you also, there's someone, there's another letter that was provided by you, Daren Darson is, is that you?

Mr. Flannery: No. No, that was after the meeting I had with the Chang Family. Daren was the person that was coordinating the events for Eddie and he responded to my request to help deal with the noise levels.

Ms. Gomes: I see. Okay, so he...you both are kind of on the same.

Mr. Flannery: We've been operating on this for the last five years and Eddie has honored most of this. However recently the amplified music has started a bit on some of the events.

Ms. Gomes: Okay, thank you.

Mr. Robinson: Commissioner Kahu Hill.

Kahu Hill: Mahalo Chair. E kala mai ia`u. I'm just trying to visualize your house. Are you titanium house next door?

Mr. Flannery: Yes.

Kahu Hill: Okay. Am I understanding that you are okay with weddings or vow renewals or things on the property it's really about the noise, about the noise level or late at night the amount of people or the volume of the noise?

Mr. Flannery: Mostly the volume of the noise. We can't sit on our patio and have a barbeque dinner with guests and hear each other talk in the past. As I say in the last few years since we reached this agreement it has been better but it started to have amplified music again some of the time.

Kahu Hill: That's my main question. Mahalo.

Mr. Robinson: Yes, thank you. Any other Commissioners? Thank you for your testimony.

Mr. Flannery: There was one thing I wanted to mentioned about the planning report it will take me one minute can I do that or not?

Mr. Robinson: Sir, I'm sorry. You can hand it in though.

Mr. Flannery: It's handed—

Mr. Robinson: I apologize, I've given you more than double what I normally allow. Thank you. Is there anybody else that would like to testify at this time? Hi, please state your name and you have three minutes.

Ms. Zandra Amaral Crouse: Aloha, aloha kakahiaka, ...(inaudible)...good morning my friends.

Mr. Robinson: Aloha.

Ms. Amaral Crouse: Zandra Amaral Crouse and I'm testifying...I'm Principal Broker and Owner of Aina Hawaii ZEE Properties. However, I'm testifying as a private citizen. First of all, I know that many of you sitting on the Commission know the Chang Family and the Luuwais. I recall as a little girl we'd go in there and I'd stay at my girlfriend's grandfather's house, the Luuwai Family on the beach. And I also recall going to see the Changs and camping out at their place and them opening it up to every scout there was be it girls or boys. And I say this because I lived through a time as did most of you who were born and raised here, lived through a time when the Luuwais, the Medeiros, and the Ching Family was faced with the loss of their properties because the hotels went in and that escalated the property taxes beyond their ...(inaudible)...

These were simple people who worked really hard to maintain the ahupua'as and the land that was entrusted to them by their ancestors. And today, it gives me nothing but pride to see that the generations now through the Luuwais, the Chang Family and all the old families Upcountry and who are faced with losing their properties because of the increase in property taxes taking this different avenues of building revenue so that they can maintain because we know that land is so sparse. These families are large. They need the land for their children and their great grandchildren. I humbly ask you to help them in any way that you can, and I know that you will.

And also Mike I understand your problem in that noise can be a problem because I live abutting Haleakala Ranch on the Kihei side and when there's noise upside it comes down and what I hear Mike saying is that Ed Chang and his family as I've always known them too, as the Luuwais in Makena to be able to sit and as we say, olelo Hawaii, kukakuka, talk story. So I humbly ask support this family because I testify to you humbly. If you do not, an investor will find their lot, will have the money to hire attorneys and turn this into an investment property and we don't want that to happen. We want a family to maintain the history. These families are our history. I humbly ask you. Thank you so much Commissioners for your kokua. Mahalo.

Mr. Robinson: Commissioners any questions? Commissioner Tackett.

Mr. Tackett: You were saying that you used that property or they allowed families to use that property to access the beach and to enjoy the ocean?

Ms. Amaral Crouse: Oh yeah. Not only did they ask him, I mean if you ask Commissioner right now how many people in this room enjoy camping you would see her hand go up, her hand go up and many of us go up, yes, yes. They provided the grounds for the scouts to scout on or even the Amaral Family when we wanted to have a little small reunion, yes.

Mr. Tackett: So this continues to happen and the second part of that question is, do you know of any other properties nearby that allow any sort of beach access or any side of any kinds of public access to the ocean?

Ms. Amaral Crouse: I cannot speak to the access to the ocean outside of the Chang Family and I testified that because almost everywhere we go in Makena the people along the beach, the local people, the Luuwais you don't see big boulders in front of their path. The Chang Family you do not see big boulders in front of their denying access, but you do see those big boulders in front of access for those who have moved here and are investors. I am sorry, and I've got nothing wrong, you know I'm really grateful for them because without their taxes and their money we cannot have affordable housing for our children but yes, I do hope that answered our question Commissioner.

Mr. Tackett: So people do still use that as an access to snorkel and...

Ms. Amaral Crouse: Sure.

Mr. Tackett: That was my question. Thank you.

Ms. Amaral Crouse: You're welcome.

Mr. Robinson: Commissioners? Thank you so much.

Ms. Amaral Crouse: You're welcome.

Mr. Robinson: If somebody else would like to...please come to the mic. Please state your name you have three minutes.

Mr. Thomas Cook: Aloha Commissioners my name I Thomas Cook. I'm here as basically a friend of the family. I've known Ed and Lori for over 20 years. I think the Changs are a blessing to our community. Historic...I mean, born and raised in Makena and as far as if you want to know something about the area he's full of wonderful stories, a heart of gold, really honest. Because of Ed's experience he enable to basically do this. You don't get a pressure...the tax relief for a hui like a homeowner can get a tax relief. But when it's a hui family and a lot of members you don't get the tax relief. So they'd be taxed off the property. They're very hardworking and industrious to create this product that they have that their family uses, that the community uses and everybody gets to use.

As far as the noise goes, it sounds like they're working on it and it's...and as far as it like being commercial in a residential area I get choked up. I mean it's like the things that the Changs have seen happen in their neighborhood and the transitions and then somebody to go like oh I bought residential and I thought it was going to stay like that. How about them who were like born and raised and used to be able to catch fish and do everything and now it's just like what it is. So I would humbly ask you to approve this. I think that this is a vote for local culture and just all across the board a good thing. I know them personally. I'm familiar with the property. I actually did the

retaining walls and the site work like over 25 years ago or something. And this I a good family. Please, please, please support this. Thank you.

Mr. Robinson: Thank you. Commissioners any questions? Thank you. Aloha, please state your name you have three minutes.

Mr. Randy Piltz: Thank you, my name is Randy Piltz. And I'm a past president of the John Kamaka Kukahiko Corporation. I am also a former member of the planning commission and all State Land Use Commission. Also, I have taken vacation time to be here.

Mr. Robinson: You're a busy man Randy.

Mr. Piltz: You know there's something that I'd like to say to the Commissioners and I know you can't do that, but we wouldn't be asking to have this brought into the family because if we didn't have to pay the \$56 that was \$63,000 taxes every year we wouldn't be running this business. Right now we have to do this in order to keep the property. It was originally built so that the family could have out of each family members, they could have one week to spend at a beach house. One of the few places Hawaiians have, still own on the ocean and that's what we wanted to do. We wanted a place for the family to use once a year come down and use the facility. But we can't do that because we gotta pay the taxes. And you know the noise situation, we had a former family member that was a wedding operator and it got out of hand to the point where we couldn't tell him what to do and he continued to do things that which wasn't in accordance with what we wanted and he also didn't help pay the situation. He had all these weddings and we were supposed to get a percentage of that, but he didn't bother giving it to us. He continued to make noise and eventually we had to evict him from the property. So I ask each of you that to keep this in the family and we have the zoning that we're requesting, but keep in mind we really don't want to have weddings there. We wanted to keep it as a family residence. Thank you very much for your attention.

Mr. Robinson: Randy I got a question for you, actually I got two. First of all, Randy why didn't you guys apply for a permit sooner?

Mr. Piltz: Well you know we started off in saying just do it for a little bit, a short time. But then as we continued on I ...(inaudible)... I'm in the County and I should have known better and I'm sorry, but we didn't.

Ms. Takayama-Corden: Three minutes.

Mr. Piltz: And I don't have any other reasons for not doing it.

Mr. Robinson: And I'm going to have a question but I want to ask you if you think or maybe Mr. Chang, someone has the answer 'cause of what your position was but my question is going to be regarding the taxes and the exemptions and the ability of different things that you guys had. So I don't want to say that you would have to answer it because it's not your application, but if somebody thinks that somebody's better to answer then maybe you it's going to be asked with one of these people.

Mr. Piltz: Well, you know we could have filed for an exemption on the taxes but you have to understand Hawaiians, right, oh I want to stay there. I want to take care the property. Well when you have 200 members and everybody wants to stay at the beach that's not gonna work and so because we had formed the corporation we said, this isn't gonna work. We have to do something to retain the property and to gain money access to pay the taxes.

Mr. Robinson: Thank you. Commissioner La Costa.

Ms. La Costa: Mahalo Randy for being here and answering our questions. Is the property used in a short-term rental situation or is it only weddings and receptions?

Mr. Piltz: It's only weddings. No, we didn't go for rental of the property because then we wouldn't be able to use it and as it is right now we're not able to use it because we have the wedding business going on. And you know it's too bad that we have this situation. We can't use it when we really want to use it for family use only.

Mr. Robinson: Commissioner Kahu Hill.

Kahu Hill: Mahalo Chair. Aloha Randy. Mahalo for your service. I've done many weddings there and I know the property well and Makena, living in that area, my mom. I wanted to understand, I've never been there when there's been a reception. It's always been acoustic guitar or easy weddings in the daytime and people are there for just hours. How many receptions are we looking at as far as 'cause sometimes they just look to get married and they may go to lunch or dinner or somewhere else and not have receptions on the property and amplified sound.

Mr. Piltz: You know we don't allow amplified sound. And the number of weddings I'm not sure but I have a cousin who has been operating the wedding business for us. Now that we have evicted one of the other cousins that wasn't paying his share, so I think Chris will be able to help you with that.

Kahu Hill: Okay, and I want to make sure I understood you correctly. You said you don't allow amplified sound?

Mr. Piltz: No we don't.

Kahu Hill: Okay.

Mr. Robinson: Any other questions? Thank you Randy. Is there anyone else who would like to testify on this item? Please state your name, you have three minutes.

Mr. Tom Croly: Aloha Commission my name is Tom Croly. I'm a resident of Kihei and also someone who has used the access to the ocean near this property. I watched this property get built. I am in full support of the application to use this as a event venue. I have been to events at this location and found that they operated them very professionally and with good control. In fact in preparation for this meeting I looked up some of the reviews and the reviews are wonderful but some of things that the people say is, boy they really are strict. No fire. We wanted to have fire

dancers at our thing but they wouldn't allow it. They kicked us out right at 9:30. They wouldn't even let us stay for another half hour. I think those are important things and I think that as a conditional permit those are things that we want to put in the conditions of the permit to make sure that everyone understands what the rules are. I also reviewed the report and the report said that this use would be similar to a short-term rental or a bed and breakfast and I want say definitively it's not. It's not in any way, shape or form in related to bed and breakfast or short-term rental that specifically have rules that would forbid this type of use. When this Commission grants someone a short-term rental permit specifically built into that short-term rental permit you may not have anyone, anyone on the property who is not a registered guest. And the registered guests are limited to two per bedroom. So this is a completely different use than a short-term rental, but I think it's an appropriate use of this land based on you know, the history and what's been taking place. But this is the public testimony or this is the public hearing for this and you want to listen to the public and say, let's address the public's concerns. Some concerns were raised about noise. Maybe there's concerns about parking. Maybe there's concerns about hours. Those are the things that a conditional permit is for. It's for conditioning those types of things. So I entrust the Commission to do exactly that and when this thing makes its way up to County Council well, they'll have the opportunity to add more conditions if they choose. But this should be approved. It shouldn't just be approved because of who these folks are. I know we want it. We all want to do this, but it should be approved, approved because it's the right thing for this property and as long as we condition it it's not gonna be a problem for the neighbors or the community. One more thing. I looked at the people within 500 feet and I just want to comment on where they own their properties. These people are from Alpharetta Georgia, Menlo Park, California, Medina Washington, Park City Utah, West Chicago Illinois, Encinitas California, Edmonton Alberta, Calgary Alberta, Boulder Colorado, Truckee California, Jackson Wyoming. I think you can see around them are properties that are owned by anyone but Kamaaina like these folks—

Ms. Takayama-Corden: Three minutes.

Mr. Croly: -- and we want to give these folks the ability to continue to own this property. Thank you.

Mr. Robinson: Thank you. Do we have anyone else that would like to testify?

Mr. Chang: (Speaking from the audience) I'd just like to make one correctional comment.

Mr. Robinson: This is public testimony. We'll let you do that as an applicant.

Mr. Flannery: (Speaking from the audience).. I want to take two seconds to say—

Mr. Robinson: I'm sorry, I'm sorry, order please, order please, order please. When the Commission has time for questions, the Commissioner can go ahead and ask the applicant for questions and at that time you guys can go ahead and share anything that you guys might want to do. Is there somebody would like to have testimony? Please state your name you have three minutes.

Mr. Brad White: It's Brad and Marlene White. We are at

Mr. Robinson: I apologize can you please state your name.

Mr. White: Sure, Brad White, W-H-I-T-E. We live in Hale O Makena across the road. We do not know the Changs other than we met them this morning. I would just like to say that we've actually been part of the ceremonies that have been there despite going out on the lava flow and looking back and I must say if that's...if there's any...excuse me I got a bit of a cold, but I will add that it's a spice of life. That is what we call community. We're from Canada so we're one of the mentioned Calgary names but it is very much a spice of life there and part of the community I think it's very important that we retain that community. I don't know if anybody here is a wine drinker but it's a Bordeaux blend. It takes more than one variety to make it all work. So thank you and I hope that you support it.

Mr. Robinson: Thank you. Would anybody else like to testify?

Ms. Thackerson: Aunty, you want to sit and speak into the mic?

Ms. Lori Chang: No, I'm getting to that age where people get concerned about me, but I'm okay. I'm Lori Chang from Makena. I'm the wife, my husband was Ed Chang. I'd like you to know I married into the family and I've been through this with them. It's very important to the family that they can come back to Makena and touch base again because a lot of them have stories that their parents are telling them of what it was like when they were children and they'd go to Makena and hukilaus and you know, those kinds of things, fishing was...fish was plentiful those days. So this Corporation decided that we need to maintain this place and we had no other choice but to do something like what we did. All we wanted to do was to be able to get the money to maintain the place and for a place the family can come home to. If we did short-term rentals the families couldn't come home at all. But this way, in between they can come home and they do. We do have a family that come home all the way from Utah to spend every summer. They try to make, you know a vacation at the Kukahiko house and I think that's great. Now...(inaudible)...my husband, we live right down the street from the hale so he has to take care of the hale. He goes there, cleans the yard, maintains the house, something gets broken, he's there to fix it. So you know, the place gets looked after. But we need to be able to stay there. We've had trouble with the taxes. Okay, now we found a solution and I'm asking you please give them give the Hawaiians a chance to come home because it's a good thing.

Mr. Robinson: Question please. Kahu Hill.

Kahu Hill: Mahalo Chair. Mahalo Kupuna Chang. I wanted to understand and mahalo for your patience in this 'cause Na Hale O Makena was mentioned and that was vague when I came to bless that and had to separate your family land on the heiau to be able to keep some of the family land and being able to have that a Poolenalena for you and your husband. This is also an extension like that to be able bring some of the money in for the taxes to be able to preserve it and to preserve family land. Is this on the same kind of understanding in the Makena area?

Ms. Chang: I think so. I think so. You know there aren't too many Hawaiians left in Makena. Maybe there's, maybe 10 families and we're one of them. Makena has changed, it's become a

place for an international place and so you know, the families that have had to leave for economic reasons they left, they like to come home. They like to touch base. They want their children. I hear it so often when families do come, they say oh what a nice place it be for the children to come to swim, to come and touch base to hear what the tutus have said. And that's all we're trying to do. You know it's a lot of work for my husband and I, but you know what we're doing it because the families want it and we still have the aloha between the families. You know I hope all the Hawaiian families can do that. And it's doing what we're doing that...you know, they'll be able to do and we hope that you folks understand this and give us a consideration too.

Kahu Hill: One more Chair.

Mr. Robinson: Yes, Kahu Hill.

Kahu Hill: Mahalo. I just wanted to ask a question and maybe your husband might be able to answer it better or someone. I wanted to understand who's maintaining and cleaning the gravesite and making sure that that is also gonna stay protected in this?

Ms. Chang: My husband does a lot of it. When Uncle Duck lived, David Chang, he did it but he's gone. So now my husband does it. And you know, I've been surprised a couple of times we've had people that we don't know come in and clean the grave and put flowers. I mean, they're from the mainland and they come and they touch base with the grave I don't know why, but they do and they feel really good when they leave. So I think that's a nice thing too. You know something that we so often we hear of, we gotta preserve this, we gotta preserve this site, but do we really go back to see and touch base with those things? I don't think so, but then we have these tourists that come and you know it's amazing to me. I just sometimes, I looked at that and I just marvel that here is this little graveyard and people come to it, it means something to them.

Kahu Hill: Mahalo Aunty.

Mr. Robinson: Thank you for your testimony. Is there anyone else that would like to testify? Seeing none, I'd like to close public testimony. Thank you all for your deep thought testimony. At this time we're gonna take a quick five-minute recess. Thank you.

A recess was called at 10:40 a.m., and the meeting was reconvened at 10:50 a.m.

Mr. Robinson: Commission is now back in session. Candace please.

b) Action

Ms. Thackerson: Okay, so it's still morning. So good morning Commission. I just wanted to note before I get into the recommendation that you might see that's none regarding the SMA and that's just because that we're not gonna place those on the Conditional Permit. It will be addressed at the time that the Department issues the SMA Permit and it will be a Minor most likely and it will be a blanket one for all the events on the property. And in that I will address the shoreline access being left open as personally from my experience that they have always been great about leaving the access open. I have snorkeled that spot. While there's been weddings going on, I've been

able to find parking. I wave at them and my snorkeling gear. It doesn't seem to be a huge issue. So that will be addressed at the time of the SMA including the dark sky ordinance and things like that.

So as far as what's in front of you right now for the Conditional Permit I just wanted to add into the record so we have here the six conditions, but then in front of you I had five additional ones. As I stated earlier, they're already included in your staff report. The Department just thought for ease for people in the future looking at the permit and the approval letter they could be listed out. And I think this will also address some of the concerns that we've heard today from the testifiers.

Number one, that the applicant may host a maximum of 110 events on site per calendar year. When you do the math that's about two a week. So that's really, you know, it's not gonna be this ongoing thing.

Number two, that the number of guests per event shall not exceed 49 persons. Again, you know we have a lot of event venues here on Maui. Haiku Mill, Dragon Fruit Farm, Olowalu, they're closer to 100, you know 150 some odd people. This is what we consider small scale, small scale events.

Number three, that events may take place any time between 8:00 a.m. and 10:00 p.m. with all music ending at 9:30 a.m. Vendors and staff may remain quietly to clean up and breakdown the event. Limited amplification during the event is allowed with prior approval by the owner. However, no bands or DJs are allowed. Earlier we heard Randy Piltz say that there was no amplification, but I believe that's what Ed Chang was raising his hand about in the audience was that they do allow limited and that could be, you know, when they have one ukulele player and he has to kinda plug into his amp to get some music or things like that going. Regardless, it's off at 9:30 p.m.

Number four, there shall be no offsite parking and this includes parking along Makena Road or any of the public parking areas along Makena Road. For the special events all parking for guests and vendors must be maintained onsite. And as you saw on the site plan they do have space for that on their site. For special events of 21 guests and over, a shuttle is required in addition to the onsite parking. So for ones that are over 20 then they can have a shuttle but we still want to allow them to have some parking onsite so, you know, the bride doesn't have to arrive in a shuttle.

And Number five that structures utilized for the event will not be left up for longer than 24 hours and that will also be placed on the SMA with Shoreline Setback Rules because they're only allowed to have temporary minor structures allowed in the shoreline back regardless.

So with the addition of those five, the Planning Department would like to recommend that the Maui Planning Commission recommend approval of the Conditional Permit to the Maui County Council.

Mr. Robinson: Commissioners, we could adapt these proposals, we can eliminate these proposals, we can make less conditions, you know we can do a lot of things. So I just want you to understand that usually what we have in the green packet is you know is what the Planning

Department does, and of course, Candace went ahead and added five more. We can take it and we can make it less. You know they're adding more. So if you feel one way or the other, I just want to let you know that it's we don't have to make a motion to follow it all, we can chop it apart or we can add on. Just wanted to clarify that. Having said that, does any of the Commissioners have any questions for our applicant? I'm sorry? Oh, I'm sorry, Kahu Hill would you like to say something at this moment. Sorry.

Kahu Hill: Mahalo Chair. I wanted to clarify because I know this property and I stood there with ohana, Kimo before it was ever fully complete looking at it and they were dreaming out of maintaining this land for their ohana years ago. I have done weddings on the property. Most of them are in Japanese and Olelo Hawaii so I really have to study my Japanese. So they don't have too many guests 'cause they're coming from Japan. But I have done vow renewals, I have done blessings there. I have not made much money from there 'cause I don't go there much. But I have gone there in the last few years. I have never been under contract. It's not something that I'm connected to for financial reasons. I'm simply serving Akua and serving the community and doing the work it is at location. So I wanted you to understand that I have no...I don't even know if I'm going to work there ever in the future 'cause I have no contracts or bookings to be there. I do want you to know that I feel that I can vote impartially and be able to support this on the agenda and I wanted to share that all with you, but I wanted to divulge that I have done work as Kahu and ceremonies at this location. Mahalo.

Mr. Robinson: Thank you. Commission, does anybody have any objections to Kahu being involved in the voting of this?

Mr. Tackett: I have no objection.

Mr. Castro: None.

Commission Members: No.

Mr. Robinson: Seeing no objections Kahu, thank you. At this time, Commissioner La Costa.

Ms. La Costa: Thank you, Chair. The revenue that is derived from the ceremonies and the receptions there is that enough to cover the taxes? Are there any kind of shortfalls and how's that gonna be handled and if there's excess income then you know obviously they pay GET on it so that was my question.

Ms. Thackerson: That would be something better directed at the applicant so I can have them come up and answer that question for you. Who do they think would be best to answer that?

Mr. Frampton: You know it goes to the corporation and they pay their taxes, they pay their whatever's required and I'm not sure what happens with the excess. But they've been able to with the level activity that they've had they've been able to make the payments on the property taxes. All their taxes are paid up I looked the other day.

Mr. Robinson: Commissioner Kahu Hill.

Kahu Hill: Mahalo. This is for Randy.

Mr. Frampton: Rory.

Kahu Hill: E kala mai ia`u. I wanted to know if you could pull up that one image. It seems like it might have changed from what I've seen about the eight parking stalls that are there on the property that without blocking the beach access. And if it's changed recently if you guys have expanded or where on the parking?

Mr. Frampton: Sorry, Rory Frampton again. So the...if you've been out there recently there's been construction occurring on the neighboring property and they built a long retaining wall, but it runs alongside of the public access. So the public access is there. You can kinda see it. It looks like a road right here that goes by the graves and then down to the coastline like that. So that's all there, that's in place. Recently I noticed with the construction of what was going on they have actually cleaned up this portion of their property a little bit more, the Changs have or the Kukahikos have and so that's the area where the stalls you can comfortably get...I mean they can get a lot more than eight stalls on the property if they want to, but that's the primary area for the guest parking. There's also parking by the house and there's a potential for grass parking as well.

Kahu Hill: So when you come in in the driveway to the right usually they would park inside on the pavement so you can just go off the pavement or from the road and be able to park in the dirt area?

Mr. Frampton: Correct.

Kahu Hill: Okay, mahalo.

Mr. Frampton: Thank you.

Mr. Robinson: Any other Commissioners? I have a question and it's for the applicant please.
Mr. Chang. Aloha Mr. Chang.

Mr. Chang: Hello.

Mr. Robinson: And Candace I forgot to ask you is the Luuwais do they have a short-term rental or do they have a activities permit? The Luuwais, I know we did that last year I believe. I'm sorry, Rory you know that?

Mr. Chang: He can answer that too.

Mr. Robinson: Yeah, but I have another question for you, but I wanted to make sure.

Mr. Frampton: So for the Luuwais it's for transient vacation rentals and special events, but they don't handle a lot of special events but the permit allows for it.

Mr. Robinson: Okay, thank you. So Mr. Chang I remember you...(sound system interference)...

Mr. Spence: It's in the upcoming budget.

Mr. Robinson: Mr. Chang I remember you from the Discovery and my recollection is that you're pro Discovery and you encouraged the development of that is that...is that right recollection?

Mr. Chang: I'm pro but I wouldn't say I encourage.

Mr. Robinson: Okay, well you're part of the...and I mean that was my question on your testimony.

Mr. Chang: I believe that the development that I'm being presented with is a good one.

Mr. Robinson: Okay. Did you understand that it was personally gonna affect your property and the property taxes going forward?

Mr. Chang: Yes.

Mr. Robinson: And so—

Mr. Chang: I think it might add some stabilization because it hasn't been stable. At first it was really jumping all over the place and it seemed to be getting stable. But the number's there already.

Mr. Robinson: The numbers?

Mr. Chang: The number like 50,000 a year taxes is there already.

Mr. Robinson: So when Discovery sells the property for \$5 million to \$10 million you don't think your property taxes are gonna change in that ...(inaudible)...

Mr. Chang: There's one up for sale right next to me for 29.5 today.

Mr. Robinson: Yeah, and so when those are sold you don't think the property values are gonna change per square foot?

Mr. Chang: I'm not sure. In 2002 the property next to me that they're currently building on sold for 13 million. So what I'm saying is right where our hale needs to be and Makena itself what we call the piko of Makena is going to be expensive. Even the houses that sold for 4 million is now selling for I believe 18 million at Makena Place. Yes, I agree.

Mr. Robinson: And Mr. Chang did you not or your family not know that a permit is required to have special events on your property?

Mr. Chang: Yes we did.

Mr. Robinson: And is there something, a part of the County planning process that discouraged you guys from applying earlier?

Mr. Chang: No. We were kinda advised do it a little while. When you find what you can do then go and get a permit. We actually hired a guy that said he was going to help us do the permit. He didn't. We ended up firing him and then I decided to convince the directors that I would ...(inaudible)... this process through and that's where we are now. And I am sorry but we are a little late.

Mr. Robinson: Thank you. Candace you want to add something? That's all from me Mr. Chang. Thank you so much.

Ms. Thackerson: Candace Thackerson, Staff Planner. I would like to say that the applicants came in of their accord. I filed the RFS on the project after because when I opened up the application I saw pictures of the wedding occurring so then I knew it was an after-the-fact. So the applicants came in of their own accord.

Mr. Robinson: Okay. Seeing no other questions do we have a motion? Commissioner Hudson.

Mr. Hudson: I move to recommend to the County Council approval for this.

Mr. Robinson: Okay.

Kahu Hill: I second.

Mr. Robinson: Kahu Hill seconds. Discussion on the recommendation. Commissioner Tackett.

Mr. Tackett: So although I might not appear that way, I've been here kind of a long time, long time for me, not a long time for the owners of this particular property, but it's really interesting that when they came up and they showed the map I remember camping there when I was like fourth grade, you know in the back of a truck on the side of that mountain like, like with the rocks going into the ocean. And it's just amazing that that still exists this day because all the places that I want to go that I went to when I was a kid none of them are as close to being the same as that place is. So I just want to say that I'm gonna be in favor of it. I admire the fact that they still hold onto that property and I admire the fact that they still hold onto those old family values. So that's kinda what I took from what went down today and I will be in favor of it.

Mr. Robinson: Commissioner La Costa.

Ms. La Costa: Thank you Chair. This is really difficult for me because I have read letters opposing the noise and the traffic and everything that is disrupting homeowners because we all have private property rights. On the other hand, the old Hawaiian homesteads, Aunty Medeiros was a very dear friend of mine and I know they no longer have that property because they were forced to sell it because of the taxes. I just want to be very clear that the noise mitigation has got to be addressed whether it is strictly weddings and no receptions or whatever because we have to be cognizant and appreciative of everyone's property rights and their quiet enjoyment to their

properties so that's my biggest concern is that there aren't any more letters of complaint for this that everyone gets along and it's all about aloha and...so that's gonna be incumbent upon the folks who own it and run it.

Mr. Robinson: Anybody else? Commissioner Kahu Hill.

Kahu Hill: Mahalo Chair. I did want to say that it's very heartwarming to see Hawaiians comes and be able to have their land and be able to have this connection since the 1800's. It's what my kupuna Papa David Kaalakea shared for that area and his connection to Makena and this area and coastal areas. I would like to hope that you do look at the sound and the level of sound, be able to talk about that and that it is working for the neighborhood and the community and also to encourage when you can to be able to shuttle the people in there so there's a least amount of impact for the parking and for people who want to access and go down to the beach that may be four-year-old or fourth grade or kupuna be able just to smell the ocean or walk down that area 'cause it's everybody's, it's part of all of us. So I just want to say mahalo and encourage those two things.

Mr. Robinson: Thank you. We're gonna get some clarification on your motion before we vote just to let you know that there's additional conditions that was put forward and I'll have the Director speak on that before we do that. But before that, seeing that the Commissioners are done it's...it's...this troubles me. This troubles me because of how we set up rules and how it...it doesn't do what we want for locals. And I don't know how we, how we as a planning commission or as the Council fix this. We have a family who has to rent out their property to keep their property even though the property has been in their hands for decades. I mean there has to be something legislative or a moratorium where you've owned your property for over 10 years or 20 years, I mean more or less 50, you know to where you don't have to go ahead and prostitute it out to keep it. I mean that's exactly what...how I feel and I hate to use that word but it's...a circuit breaker law was made so that people could stay in their residence. We would hope that a Hawaiian family could come together and work it out between your differences so that you can use that circuit breaker law. But when that breaks down like any other family at least they have the agreement to keep in their hands and I think that's something that I think we should try to look for is legislatively because this is what's going to happen to the rest of Hawaii. What happened in Makena is what's gonna happen next in Paia and the local people are gonna get priced out tax wise and you know and again guys this is not something new, we all know this since the day of Hawaii people lose their property 'cause they don't pay their taxes. And people wait to jump on the taxes and take it from them because, you know, the culture of Hawaiians are different. You know, it's not a capitalistic culture it's a sharing culture and this where we fall into this.

But it's hard for me to reward when we don't follow rules. It's hard for me to, you know, reward because now we wanna do something what we know better. It's hard for me to reward where we're agreeing to developments that directly affect your ability to keep you land and then you're gonna come to the planning commission and to the Council and say, okay now I want to throw events because you know all these lands are mine. You know, Hawaiians sold lands, they're not stolen, but when this is taxes they're taken and that's the difference. And so you know, guys...these guys have been running you know little Makena community down here. The neighbors that complained they were legislating their own conditions with the landowner, right?

They were saying well, if you do this or you do that. So everybody kind of was complacent in my eyes you know. I mean we have people performing at the property complacent. We have people, you know, doing services at the property complacent. Everybody is good people. Everybody wants to do the right thing and we keep on turning our blind eye. But if we keep on turning our blind eye what happens to the places that we don't want to have it done? Can we then just switch over and say okay, now guys or since you know, since you're not Hawaiian then you know the rules are gonna be different for you and that's where, that's where we're not able to do that so we have to look for something in a legislative process to help keep these lands and these taxes in a certain way so the families don't have to go this. Sorry for all that, but this is what's happening and you know and it's sad. There's nothing wrong with, nothing wrong with people coming and buying land in Hawaii. They worked hard, they're buying oceanfront property which we all want a part. That's nothing against people investing in Hawaii, good for them. But for people who want to protect it you have to look at it a different way. The people with the money aren't the problem, it's the people selling the property and people not keeping it is. Director, you like to go over the conditions for the recommendation?

Mr. Spence: So Commissioners what the Department does is make a recommendation to you. You can adopt as recommended by Staff and myself. That's always my signature on the report. Normally we have your standard conditions and some special conditions in order to mitigate possible impacts. So what you...you've read the recommendation that we've handed out, but then there's also these other conditions, proposed conditions as to numbers of events and number of people, et cetera. So it's up to the Commission. Maybe I should just ask would the maker of the motion clarify his motion. Is it just what was presented earlier or does it include these other five conditions?

Mr. Robinson: Thank you Director. And also we don't have to put any conditions 'cause it's a recommendation and the Council as we've known really kinda does what their own thing is. So I think, I think it's this Commission is do you want to try put as many conditions down and follow Candace's or do you want to leave it as what the original recommendation was?

Mr. Hudson: Thank you, Chair. I will modify my motion and to adopt as recommended by the Planning Commission including the additional five conditions that Candace recommended.

Mr. Robinson: Kahu Hill?

Kahu Hill: And I would like to modify as well to accept these additional conditions proposed.

Mr. Robinson: Thank you so much.

Kahu Hill: Mahalo.

Mr. Robinson: Any further discussion on the clarification on the motion? Corporation Counsel.

Mr. Galazin: Thank you Chair. And think just for the Commissioners it's important to make sure that when you're reviewing these things what we're talking about is uses being proposed in a area where it's not permitted but is somehow going to be compatible in some way and that's what the

analysis and the staff report is about. Knowing the history or the back story of why somebody is coming forth with an application is always helpful and important to consider but ultimately in making you decision you want to make sure that you're basing it and that it's clear on the record that you're looking at the land use impacts, you're looking at the proposed conditions that would mitigate it and that's where your final decision comes from. That it's not a desire to see one person maintain a property versus another. It's that these impacts, you know, aren't going to be so significant that it will be way out of character of the neighborhood. And that if it's done with the conditions as proposed it will be in compliance with the County Code and that's your recommendation made to the County Council. So if anybody feels otherwise, you know, please make sure you try and articulate that for the record. But if you are voting just strictly on the land uses themselves and how they apply then I think we're fine. Thank you Chair.

Mr. Robinson: That's all? Okay, Director.

Mr. Spence: Okay, Commissioners the motion is to recommend to the County Council approval of the Conditional Permit with the regular conditions as well as the additional five.

Mr. Robinson: All those in favor of the motion?

Mr. Spence: That's five ayes. Motion carried.

It was moved by Mr. Hudson, seconded by Kahu Hill, then

**VOTED: To Recommend Approval of the Conditional Permit to the County Council as Recommended by the Department with Additional Conditions as Proposed.
(Assenting – L. Hudson, A. Hill, C. Tackett, S. Castro, P.D. La Costa)
(Excused – L. Carnicelli, T. Gomes)**

Submitted by,

Carolyn Takayama-Corden
Secretary to Boards & Commissions II