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MAUI PLANNING COMMISSION  
December 11, 2018, 9:01 a.m.  
Planning Commission Conference Room  
First Floor, Kalana Pakui Building  
250 South High Street  
Wailuku, Maui, Hawaii 96793

REPORTED BY: SANDRA J. GRAN, CSR NO. 424  
Registered Professional Reporter

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APPEARANCES :

VICE-CHAIR :

Larry Hudson

COMMISSIONERS :

Lawrence Carnicelli  
Stephen Castro  
Kahu Alalani Hill (entered at 11:04)  
P. Denise La Costa  
Kellie Pali  
Christian Tackett (out 10:37-11:25)

DEPUTY CORPORATION COUNSEL :

Michael Hopper

DIRECTOR :

Michele McLean

DEPUTY DIRECTOR :

Joseph Alueta

PUBLIC WORKS :

Rowena Dagdag-Andaya

BOARD SECRETARY :

Carolyn Takayama-Corden

DEPARTMENT STAFF :

Candace Thackerson  
Ann Cua  
Clayton Yoshida

OTHERS PRESENT :

Charlene Schulenberg  
Bruce U'u  
Kimokeo Kapahulehua  
Paul Mancini  
Sharon Wright  
Darren Unemori  
Charles Corbin  
Thomas Kolbe  
Terrance Revere

00:00:03  
00:00:13

## P R O C E E D I N G S :

00:-23:-15 1  
00:-23:-15 2 VICE CHAIR HUDSON: (Gavel.) Good morning,  
00:-23:-13 3 everybody.

00:-23:-12 4 COMMISSIONERS: Aloha. Good morning.

00:-23:-10 5 VICE CHAIR HUDSON: This is the December 11th, 2018  
00:-23:-08 6 meeting of the Maui County Planning Commission. I am Vice  
00:-23:-02 7 Chair Larry Hudson. I'm going to establish quorum before we  
00:-22:-57 8 move on to business. Chair Keaka Robinson has been excused.  
00:-22:-55 9 I'm going to introduce the commissioners that will be here.  
00:-22:-51 10 Commissioner La Costa.

00:-22:-51 11 COMMISSIONER LA COSTA: Good morning, Chair.

00:-22:-41 12 VICE CHAIR HUDSON: Commissioner Castro.

00:-22:-41 13 COMMISSIONER CASTRO: Good morning, Chair.

00:-22:-41 14 VICE CHAIR HUDSON: Commissioner Tackett.

00:-22:-41 15 COMMISSIONER TACKETT: Good morning, Chair.

00:-22:-41 16 VICE CHAIR HUDSON: Commissioner Carnicelli.

00:-22:-41 17 COMMISSIONER CARNICELLI: Good morning, Chair.

00:-22:-41 18 VICE CHAIR HUDSON: Commissioner Pali.

00:-22:-41 19 COMMISSIONER PALI: Good morning.

00:-22:-42 20 VICE CHAIR HUDSON: We have the Director Michele and  
00:-22:-32 21 Corp Counsel Michael. Having established quorum, before we  
00:-22:-32 22 get to the main agenda, I will be reading a resolution of the  
00:-22:-22 23 planning commission. Bear with me, this is the first time I'm  
00:-22:-22 24 actually reading this.

00:-22:-22 25 "Whereas Michele Chouteau McLean has served the

00:-22:-18 1 County of Maui with distinction and with a high degree of  
00:-22:-16 2 professionalism during the current tenure of Mayor Alan M.  
00:-22:-10 3 Arakawa as deputy director of planning for 7.5 years dating  
00:-22:-07 4 back to January 2nd, 2011, as the director of planning from  
00:-22:-02 5 July 1st, 2018 and

00:-21:-59 6 "Whereas, during that time Michele Chouteau McLean  
00:-21:-57 7 has spent tireless hours and contributed greatly to the  
00:-21:-53 8 professionalism of land use planning in the County of Maui and

00:-21:-50 9 "Whereas, during Michele Chouteau McLean's current  
00:-21:-41 10 tenure in the planning department the department of planning's  
00:-21:-41 11 accomplishments include the following:

00:-21:-41 12 "1. The adoption of the Maui Island Plan by the  
00:-21:-41 13 Maui County Council in December of 2012.

00:-21:-31 14 "2. The adoption of the Lanai Community Plan Update  
00:-21:-31 15 in June of 2016.

00:-21:-31 16 "3. Transmittal of the Molokai Community Plan  
00:-21:-21 17 Update to the Maui County Council after review by the Molokai  
00:-21:-21 18 Community Plan Advisory Committee and the Molokai Planning  
00:-21:-21 19 Commission in May of 2016.

00:-21:-12 20 "4. Transmittal and adoption of the digital zoning  
00:-21:-12 21 map for the island of Maui by the Maui County Council in 2018  
00:-21:-12 22 after public hearings by the three planning commissions in the  
00:-21:-02 23 fall of 2017.

00:-21:-02 24 "5. Transmittal of the results for the zoning code  
00:-21:00 25 Title 19 audit conducted by Orion Consulting in 2017 to the

00:-20:-55 1 Maui County Council. Received funding FY19 budget to  
00:-20:-49 2 implement several of the recommendations.

00:-20:-47 3 "6. Provides proposed various updated amendments to  
00:-20:-42 4 the Maui County Council Special Management Area and shoreline  
00:-20:-39 5 area rules.

00:-20:-38 6 "7. Conducted a comprehensive review of the Lanai  
00:-20:-33 7 Special Management Area (SMA) boundaries resulting in the  
00:-20:-28 8 revision of the boundaries by the Lanai Planning Commission in  
00:-20:-25 9 February of 2018.

00:-20:-21 10 8. Fostered the review of the Maui County Council  
00:-20:-21 11 initiated short-term rental home bill through the Hana  
00:-20:-11 12 Advisory Committee, the three planning commissions, and the  
00:-20:-11 13 council planning committee resulting in the enactment of an  
00:-20:-11 14 ordinance in May of 2012.

00:-20:-01 15 "9. Submitted various proposed revisions to the  
00:-20:-01 16 short-term rental home ordinance and the bed and breakfast  
00:-20:00 17 ordinance to the Hana Advisory Committee, the three planning  
00:-19:-51 18 commissions and the Maui County Council in May of 2014.

00:-19:-51 19 "10. Introduced various streamlining measures  
00:-19:-52 20 within the department.

00:-19:-52 21 "11. Introduced various streamlining measures to  
00:-19:-42 22 the permitting process.

00:-19:-42 23 "12. Hosted the 2014 Hawaii Congress of Planning  
00:-19:-42 24 Officials conference at Kaanapali, Maui and.

00:-19:-42 25 "Whereas, under the leadership of Michele Chouteau

00:-21:-45 1 McLean the department was faced with healing and focusing  
00:-19:-34 2 efforts with compassion after the February 2014 Lanai plane  
00:-19:-28 3 crash when the lives of two department staff members were lost  
00:-19:-25 4 and several county staff were critically injured.

00:-19:-21 5 "Now, therefore, be it resolved that the Maui  
00:-19:-15 6 Planning Commission hereby comments Michele Chouteau McLean  
00:-19:-11 7 for her outstanding dedication and service to the people of  
00:-19:-07 8 the County of Maui and.

00:-19:-05 9 "Be it further resolved that the Maui Planning  
00:-19:-04 10 Commission does hereby express its deepest gratitude and  
00:-19:00 11 appreciation to Michele Chouteau McLean for her service over  
00:-18:-54 12 the past 8 years under the administration of Mayor Alan  
00:-18:-54 13 Arakawa and.

00:-18:-54 14 "Be it further resolved that copies of this  
00:-18:-51 15 resolution be transmitted to the Honorable Alan Arakawa, Mayor  
00:-18:-44 16 of the County of Maui, and the Honorable Mike White,  
00:-18:-41 17 Chairperson of the Maui County Council."

00:-18:-41 18 (Applause.)

00:-18:-24 19 COMMISSIONER CARNICELLI: Quite the list.

00:-18:-22 20 VICE CHAIR HUDSON: Quite the list.

00:-18:-22 21 All right. Now, before we move on, if you have cell  
00:-18:-22 22 phones, please put them on silence.

00:-18:-12 23 All right. Director.

00:-18:-12 24 DIRECTOR McLEAN: Thank you, Chair. I would first  
00:-18:-12 25 like to thank the commission for that kind resolution. And as

00:-18:-06 1 you may have heard, I've been asked to continue on as director  
00:-18:-03 2 under Mayor Victorino.

00:-18:-01 3 (Applause.)

00:-17:-58 4 DIRECTOR McLEAN: We have a great staff and a  
00:-17:-53 5 fantastic commission and other very dedicated boards and  
00:-17:-49 6 commissions and I look forward to working with all of you.

00:-17:-45 7 At the top of the agenda you'll see a note that Item  
00:-17:-39 8 F.1 has been removed from the agenda. Mr. Derek Hoyte of D&S  
00:-17:-32 9 Ventures, that -- discussion of that item will not occur  
00:-17:-24 10 today.

00:-17:-21 11 The first order of business under Unfinished  
00:-17:-24 12 Business is a request from Mr. David Pyle of The Krause  
00:-17:-21 13 Companies Inc. for a Special Management Area Use Permit 6-  
00:-17:-14 14 year time extension to initiate construction of the Downtown  
00:-17:-11 15 Kihei project and related improvements at TMK 3-9-2, Parcels  
00:-17:-04 16 30, 76, 80, and 158 in Kihei.

00:-17:-04 17 And Candace Thackerson is the project planner.

00:-16:-51 18 MS. THACKERSON: Happy holidays, Commissioners.

00:-16:-51 19 The project before you is located within the SMA.  
00:-16:-52 20 It was previously approved and it's here before you requesting  
00:-16:-52 21 a time extension. Just to refresh your memories, this project  
00:-16:-42 22 was here before you on July 5th of 2018 and at the time the  
00:-16:-42 23 commission requested additional information on some design  
00:-16:-32 24 amendments that had been made administratively.

00:-16:-32 25 So it came back to you on August 28th with those

00:-16:-32 1 design changes and the commission felt comfortable with the  
00:-16:-28 2 changes; however, there was some discussion about the director  
00:-16:-25 3 or the commission having authority to waive or not to waive  
00:-16:-21 4 the time extension request. At that time we -- the commission  
00:-16:-16 5 chose to defer its vote to a future meeting and then at the  
00:-16:-12 6 future meeting the applicant had a family emergency and so he  
00:-16:-07 7 requested to defer until a later time, that being today.

00:-16:-03 8 So as you can see on the recommendation, I've  
00:-15:-59 9 changed the condition to reflect that the time extension shall  
00:-15:-54 10 be processed in accordance with the provisions of Section  
00:-15:-51 11 12-202-17, which grants the commission the authority to waive  
00:-15:-46 12 or not to waive and not have the director do it  
00:-15:-43 13 administratively.

00:-15:-41 14 I just want to point out one more thing in the  
00:-15:-37 15 report on page, let's see, 4, I had quoted the proposed SMA  
00:-15:-34 16 rules, so that states that the director has the authority to  
00:-15:-29 17 do that, but I'm going read into the record very quickly the  
00:-15:-26 18 correct information so that will be on the record.

00:-15:-24 19 "Prior to granting or denying any permit time  
00:-15:-21 20 extension request, the director shall notify the commission of  
00:-15:-18 21 the request at the commission's next regularly scheduled  
00:-15:-15 22 meeting, receipt of which shall be acknowledged by the  
00:-15:-12 23 commission. Such notification shall include, but not be  
00:-15:-09 24 limited to the information provided to the department by the  
00:-15:-06 25 permit holder. The commission may review the permit time



00:-14:-59 1 extension request at its next available meeting after  
00:-14:-55 2 receiving notice or waive review of the request. If the  
00:-14:-53 3 commission waives review of the request, the director may  
00:-14:-50 4 grant or deny the time extension and forward a copy of the  
00:-14:-47 5 determination to the commission."

00:-14:-47 6 So I just wanted to read that into the record and it  
00:-14:-44 7 is correctly -- it is correctly noticed in the condition.

00:-14:-20 8 VICE CHAIR HUDSON: Candace, are you done?

00:-14:-15 9 MS. THACKERSON: Yes, yes.

00:-14:-14 10 VICE CHAIR HUDSON: Thank you.

00:-14:-11 11 MS. THACKERSON: And the applicant is here if you  
00:-14:-10 12 have any specific questions for them, but I hope I've cleaned  
00:-14:-01 13 it up enough.

00:-13:-51 14 VICE CHAIR HUDSON: This is the part where we open  
00:-13:-51 15 up to public testimony, but before we get to that, let me  
00:-13:-41 16 explain a couple things about public testimony. Public  
00:-13:-41 17 testimony is limited to 3 minutes. Three minutes is not 4  
00:-13:-41 18 minutes, 3 minutes is 3 minutes. When you reach 3 minutes, I  
00:-13:-41 19 will have you conclude.

00:-13:-32 20 Item No. 2. If you're going to speak to something,  
00:-13:-32 21 this is not an open forum, you can't speak about anything you  
00:-13:-32 22 want, you have to speak about the agenda item specifically,  
00:-13:-32 23 narrow and specifically. If you go off track, I'll remind you  
00:-13:-22 24 once and then after that I'm not going to remind you.

00:-13:-22 25 Item No. 3. When you offer public testimony, make

00:-13:-20 1 sure that you can back it up with something. Don't come up  
00:-13:-16 2 here and say, I don't like blue-colored cars. You have to  
00:-13:-12 3 explain to us why you don't blue-colored cars. Maybe because  
00:-13:-10 4 they caused to the Tookie Tookie Bird to crash, I don't know  
00:-13:-07 5 why, but there has to be something to it.

00:-13:-04 6 And, lastly, we really want to make an informed  
00:-12:-57 7 decision. We want to make the best informed decision we can,  
00:-12:-54 8 so get to the point, speak right to it.

00:-12:-50 9 When you are called up for public testimony, I'm  
00:-12:-41 10 going to have you identify yourself. After you identify  
00:-12:-41 11 yourself, stop; then I'm going to ask you if you're going to  
00:-12:-41 12 tell the whole truth. Don't anticipate the question, let me  
00:-12:-31 13 ask the question and then you answer. And the answer better  
00:-12:-31 14 be yes, you're going to tell the truth.

00:-12:-31 15 Are there any questions before we open it up to  
00:-12:-21 16 public testimony?

00:-12:-21 17 (No response.)

00:-12:-21 18 VICE CHAIR HUDSON: Seeing no questions, would  
00:-12:-21 19 anybody in the public like to testify on this agenda item?

00:-12:-22 20 (No response.)

00:-12:-12 21 VICE CHAIR HUDSON: Seeing none, public testimony  
00:-12:-12 22 for this agenda item is closed.

00:-12:-12 23 Commissioners, this is your opportunity to ask the  
00:-12:-02 24 applicant and the department questions. Go ahead.

00:-12:-02 25 COMMISSIONER CARNICELLI: So, Candace, I don't know

00:-12:-01 1 if this is for you or the applicant, but, you know, the only  
00:-11:-58 2 question that I have is: Why are we going 6 additional years  
00:-11:-54 3 instead of, say, 2 or 4 or 1.5 or whatever?

00:-11:-50 4 MS. THACKERSON: Thank you for that question. The  
00:-11:-47 5 applicant had originally asked for 2 years because that's the  
00:-11:-46 6 limit for the waiver of review, but when the commission denied  
00:-11:-43 7 the waiver of review, then it opens it up to a full review,  
00:-11:-39 8 which is what we're doing right now, and so that opens up the  
00:-11:-35 9 possibility for the applicant to ask for extra time. They're  
00:-11:-34 10 limited to two years when we waive review. If not, then most  
00:-11:-31 11 people figure, Well, if I have to come and do a full public  
00:-11:-28 12 hearing, I might as well ask for a little more time. So they  
00:-11:-24 13 are asking for 6 and the commission play with that number as  
00:-11:-21 14 you see fit, but that is what the applicant is requesting.

00:-11:-15 15 MR. PYLE: Can I add something to that?

00:-11:-14 16 MS. THACKERSON: Oh, okay. The applicant would like  
00:-11:-11 17 to add to that.

00:-11:-11 18 MR. PYLE: David Pyle. The other part of that  
00:-11:-08 19 answer is that we started this process in May and in -- sorry.  
00:-11:00 20 We started this process in May and in doing that, our leasing  
00:-10:-52 21 efforts, everything stops, because people say, Where is your  
00:-10:-52 22 entitlements? Do you have your entitlement? So we have lost  
00:-10:-42 23 several, several months since May to now it's December, so we  
00:-10:-42 24 need to get the momentum going again. All right. We are  
00:-10:-32 25 fully entitled in the site, let's start talking again. So

00:-10:-33 1 instead of spending so much time on -- we just needed more  
00:-10:-29 2 time to keep things going and not doing this again in another  
00:-10:-26 3 year and a half or another year.

00:-10:-23 4 VICE CHAIR HUDSON: Go ahead.

00:-10:-22 5 COMMISSIONER CARNICELLI: Thank you, Chair.

00:-10:-21 6 So first off, I -- stay.

00:-10:-18 7 MR. PYLE: Sorry.

00:-10:-18 8 COMMISSIONER CARNICELLI: That's okay. First of I  
00:-10:-15 9 want to say, sorry to hear about the loss of your family  
00:-10:-12 10 member.

00:-10:-11 11 MR. PYLE: Thank you.

00:-10:-11 12 COMMISSIONER CARNICELLI: Would you be okay with 4  
00:-10:-08 13 years instead of 6.

00:-10:-08 14 MR. PYLE: I would. Six would be more comfortable  
00:-10:-04 15 for everybody.

00:-10:-04 16 COMMISSIONER CARNICELLI: Right. I guess my only  
00:-10:-01 17 thought is a lot can change in 6 years.

00:-09:-51 18 MR. PYLE: That's correct.

00:-09:-51 19 COMMISSIONER CARNICELLI: You know, I mean, a lot  
00:-09:-52 20 can change in an instant, as we all know. I just -- I know  
00:-09:-52 21 'cause you originally came in for two and I understand that,  
00:-09:-52 22 you know, things change and you're saying, Okay. Since we're  
00:-09:-42 23 here for a full review, could we go ahead and have a little  
00:-09:-42 24 bit more time? So if you're comfortable with four, then, you  
00:-09:-42 25 know, we'll see --

00:-09:-42 1 MR. PYLE: I'd rather go five just because --

00:-09:-39 2 COMMISSIONER CARNICELLI: Well, you'd rather go six.

00:-09:-37 3 MR. PYLE: Yes. But it's just this momentum, when

00:-09:-34 4 it gets stopped, it's not only the 9 months or whatever we've

00:-09:-30 5 lost, it's, again, getting it back going again and I just

00:-09:-26 6 don't want to come back here if for some reason we have to

00:-09:-23 7 come back because of the economy or something and --

00:-09:-20 8 COMMISSIONER CARNICELLI: Got you.

00:-09:-19 9 MR. PYLE: -- and spend another 2 years, you know,

00:-09:-14 10 stopped and getting started again.

00:-09:-11 11 COMMISSIONER CARNICELLI: I understand.

00:-09:-14 12 MR. PYLE: That's really we're -- keep it going.

00:-09:-11 13 COMMISSIONER CARNICELLI: Thank you.

00:-09:-01 14 COMMISSIONER CASTRO: Can you please come back up?

00:-09:-01 15 Thank you, Mr. Pyle.

00:-09:-01 16 MR. PYLE: Yeah.

00:-09:-01 17 COMMISSIONER CASTRO: My only concern is the longer

00:-09:00 18 you delay, the cost of your project, you know, material-wise,

00:-08:-51 19 labor -- have you kind of factored that in already?

00:-08:-52 20 MR. PYLE: Yes and no. One of the issues we have

00:-08:-42 21 now is Maui has some big projects between the hospital and the

00:-08:-42 22 schools and the -- and, again, Oahu affects Maui construction,

00:-08:-32 23 labor, and when -- with the rapid transit program, the light

00:-08:-32 24 rail program, that's really affected prices. And we're

00:-08:-32 25 actually starting to see some easing off of cost here as

00:-08:-26 1 the -- as the demand for contractors and the big projects --  
00:-08:-21 2 you've got some big projects here and as they -- as they wind  
00:-08:-17 3 down, we may have a better opportunity to get a more efficient  
00:-08:-14 4 project.

00:-08:-13 5 COMMISSIONER CASTRO: Would you be utilizing local  
00:-08:-11 6 labor, contractors?

00:-08:-10 7 MR. PYLE: Oh, yeah, yeah.

00:-08:-08 8 COMMISSIONER CASTRO: Thank you.

00:-08:-07 9 MR. PYLE: Thanks.

00:-08:-04 10 VICE CHAIR HUDSON: La Costa.

00:-08:-01 11 COMMISSIONER LA COSTA: Thank you. Thank you,  
00:-08:-01 12 Chair.

00:-08:-01 13 MR. PYLE: Oh, I'm sorry.

00:-08:00 14 COMMISSIONER LA COSTA: My question is about the  
00:-07:-51 15 roundabout, there has been back and forth and back and forth,  
00:-07:-51 16 and I just wanted to know if that had been spoken to and --

00:-07:-41 17 COMMISSIONER CARNICELLI: Different project.

00:-07:-41 18 COMMISSIONER LA COSTA: Is that --

00:-07:-41 19 COMMISSIONER CARNICELLI: The other project.

00:-07:-42 20 COMMISSIONER LA COSTA: Oh, sorry, sorry. It's the  
00:-07:-42 21 blonde. Sorry.

00:-07:-42 22 (Laughter.)

00:-07:-42 23 VICE CHAIR HUDSON: Commissioner Pali.

00:-07:-32 24 COMMISSIONER PALI: Thank you, Chair.

00:-07:-32 25 So just for clarification, 'cause I think this is

00:-07:-34 1 what I'm hearing, but I just want to make sure you have an  
00:-07:-32 2 opportunity to clarify yourself. Is it your intention to  
00:-07:-28 3 stall the project?

00:-07:-28 4 MR. PYLE: No.

00:-07:-26 5 COMMISSIONER PALI: Okay. 'Cause you're coming back  
00:-07:-24 6 for the 6 years not because you want to take the full 6 years?  
00:-07:-22 7 It sounds like you want to do this as soon as possible, but in  
00:-07:-19 8 the event you run into some challenges, labor, different  
00:-07:-16 9 things, then you want the ability to have the additional time  
00:-07:-14 10 so you'd don't have to come back in front of us again and  
00:-07:-11 11 possibly or potentially be stalled?

00:-07:-04 12 MR. PYLE: Absolutely.

00:-07:-04 13 COMMISSIONER PALI: Okay. Just for clarification.

00:-07:-04 14 MR. PYLE: Absolutely.

00:-07:-04 15 COMMISSIONER PALI: Thank you.

00:-07:-04 16 VICE CHAIR HUDSON: Any further questions?

00:-07:-04 17 (No response.)

00:-07:-04 18 VICE CHAIR HUDSON: Okay. Discussion?

00:-07:00 19 COMMISSIONER CARNICELLI: I have a motion.

00:-06:-52 20 VICE CHAIR HUDSON: Okay. I'm calling for a motion.

00:-06:-52 21 COMMISSIONER TACKETT: I move to approve the Special  
00:-06:-42 22 Management Area Permit time extension under the -- under the  
00:-06:-32 23 terms stated.

00:-06:-32 24 VICE CHAIR HUDSON: Second?

00:-06:-32 25 COMMISSIONER PALI: I'll second.

00:-06:-34 1 VICE CHAIR HUDSON: Okay. We have a motion and a  
00:-06:-32 2 second. Further discussion?

00:-06:-30 3 COMMISSIONER CARNICELLI: Chair.

00:-06:-24 4 (Vice Chair and Corporation Counsel conferring.)

00:-06:-24 5 COMMISSIONER CARNICELLI: Thank you, Chair. Just to  
00:-06:-22 6 put it into the mic that the motion is for the full 6 years, I  
00:-06:-18 7 guess my only question is -- I mean, you know, we're almost a  
00:-06:-13 8 bare quorum here and, you know, you guys all -- if you guys  
00:-06:-10 9 are comfortable with the six, then I'm comfortable with the  
00:-06:-04 10 six. If you'd rather move to, say, four or five, then I'm  
00:-06:-04 11 open to that as well. But if the motion is going to stand and  
00:-06:00 12 not be amended, then I've been in favor of, you know, this  
00:-05:-51 13 project when it's come before us in the past, I was in favor  
00:-05:-51 14 of the time extension when it originally came to us, and so I  
00:-05:-41 15 have no reason to change that. There's no new information  
00:-05:-44 16 that would change that decision, so if the motion will stay at  
00:-05:-41 17 6 years, then I support the motion as well.

00:-05:-31 18 VICE CHAIR HUDSON: Keep your motion as it is, as  
00:-05:-31 19 stated?

00:-05:-32 20 COMMISSIONER TACKETT: Yes, please.

00:-05:-32 21 VICE CHAIR HUDSON: Any further discussion?

00:-05:-32 22 (No response.)

00:-05:-32 23 VICE CHAIR HUDSON: Seeing none, I'm going to call  
00:-05:-32 24 for the vote. All those in favor, please raise your right  
00:-05:-32 25 hand.



00:-05:-32 1 (Response.)

00:-05:-28 2 VICE CHAIR HUDSON: We have got five ayes, the  
00:-05:-25 3 motion carries.

00:-05:-24 4 MS. THACKERSON: Thank you.

00:-05:-15 5 DIRECTOR McLEAN: Commissioners, the next item is a  
00:-05:-13 6 communication from Mr. William Beaton of Kuponon Partners for  
00:-05:-08 7 an amendment to Condition No. 7 of the Special Management Area  
00:-05:-05 8 Use Permit to extend the time to complete construction from  
00:-05:-02 9 February 2nd, 2020 to December 31st, 2027 for the Maui Bay  
00:-04:-54 10 Villas Redevelopment Project (formerly the Maui Lu Project)  
00:-04:-51 11 consisting of 388 time share units, main lobby, beach club,  
00:-04:-41 12 pool, pool bar, clubhouse, 12 beach parking stalls,  
00:-04:-41 13 landscaping, beach nourishment, and related improvements on  
00:-04:-31 14 approximately 27.282 acres of land at TMK 3-9-1, Parcel 86  
00:-04:-31 15 (formerly known as Parcels 3-9-1: 83, 86, and 120) in Kihei.  
00:-04:-21 16 Ann Cua is the project manager.

00:-04:-21 17 VICE CHAIR HUDSON: Good morning, Ann. Please  
00:-04:-21 18 proceed.

00:-04:-21 19 MS. CUA: Good morning, Mr. Chair, Members of the  
00:-04:-12 20 Commission. And congratulations, Michele, so happy for you.

00:-04:-12 21 What I'd like to do today is to start off with  
00:-04:-12 22 background information on from when the project got approved  
00:-04:-02 23 till today and then I'm going to turn it over to the applicant  
00:-04:-02 24 so they can discuss the project with you as it stands today.

00:-04:00 25 So back in March of 2008 the commission granted

00:-03:-54 1 Genesse Capital an SMA permit for the Maui Lu Redevelopment  
00:-03:-49 2 Project after a lengthy contested case hearing. The -- a  
00:-03:-44 3 portion of the commission's decision and order which includes  
00:-03:-40 4 the project's 31 conditions of approval is attached as  
00:-03:-38 5 Exhibit 4 to this report.

00:-03:-36 6 The project received two time extensions to start  
00:-03:-30 7 construction back in 2011 and 2014. Also in 2014 on August  
00:-03:-24 8 26th the commission voted to grant approval to transfer the  
00:-03:-19 9 SMA Use Permit from Genesse Capital to Kuponno Partners LLC as  
00:-03:-12 10 the new owner of the Maui Lu property.

00:-03:-11 11 And then on November -- excuse me. On December 1st,  
00:-03:-04 12 2014 the planning department approved some design  
00:-03:-01 13 modifications for this project to eliminate the 388 locked-off  
00:-02:-54 14 units as well as ten other structures permitted under the  
00:-02:-51 15 original SMA Permit issued to Genesse Capital. The  
00:-02:-41 16 elimination of all locked-off units decreased the density of  
00:-02:-44 17 the project and physically reduced the number of buildings to  
00:-02:-41 18 be constructed on the mauka lot. Lot coverage was reduced  
00:-02:-31 19 from 19 percent to 16 percent and the floor area ratio was  
00:-02:-32 20 reduced from 46 percent to 37 percent. The results of that  
00:-02:-22 21 was more open space throughout the site and the demands on the  
00:-02:-22 22 public infrastructure such as water, waste water, traffic,  
00:-02:-22 23 among other items were also reduced as a result of the lower  
00:-02:-12 24 density.

00:-02:-12 25 On February 2nd, 2015 the project started

00:-02:-11 1 construction and in September of 2015 the department approved  
00:-02:-03 2 Kupono Partners' request for final design modifications to the  
00:-01:-58 3 proposed redevelopment plans. The approval also included a  
00:-01:-55 4 change in the name of the project from Maui Lu to Maui Bay  
00:-01:-51 5 Villas, which it's known as today. These final design  
00:-01:-47 6 modifications were requested in order to accommodate the most  
00:-01:-43 7 recent code requirements based on final construction drawings  
00:-01:-40 8 for the project.

00:-01:-39 9 The project has submitted -- previously submitted  
00:-01:-31 10 two preliminary compliance reports back in June of 2014 and  
00:-01:-31 11 February 2016 and a third preliminary compliance report was  
00:-01:-21 12 submitted November 2018 and it's attached as Exhibit 10 to  
00:-01:-11 13 this report and it addresses the project's compliance with the  
00:-01:-11 14 projects' 31 conditions to date. And the department's  
00:-01:-11 15 approval of this compliance report dated November 20th, 2018  
00:-01:-01 16 is attached as Exhibit 11.

00:-01:-01 17 So at this point that brings you to what the project  
00:-01:-01 18 has done to date. The applicant is now going to present to  
00:00:-59 19 you what the project is today and what they have done to the  
00:00:-55 20 site to prepare for the project to be constructed as it is  
00:00:-50 21 proposed at this point in time, so I'll turn it over to the  
00:00:-47 22 applicant and then I'll come back to the mic after that.

00:00:-29 23 (Setting up for presentation.)

00:00:-26 24 MR. BEATON: Good morning. My name is Will Beaton  
00:00:-23 25 and I am development manager and representative for Kupono

00:00:-19 1 Partners, the owner and developer of this project. I've been  
00:00:-15 2 involved with this project from day one and I'm very excited  
00:00:-09 3 to be here today before you to discuss our request for an  
00:00:-05 4 extension.

00:00:-05 5 There are four people on our team that are here to  
00:00:-03 6 answer questions that you may have, I'd like to introduce them  
00:00:00 7 briefly. Sharon Wright from Michael Wright & Associates, our  
00:00:03 8 construction manager; Darren Unemori, Darren, our civil  
00:00:07 9 engineer; Paul Mancini, our local counsel; and Charles Corbin,  
00:00:15 10 who is chief development officer with Hilton Grand Vacations  
00:00:19 11 that are known as HGV.

00:00:22 12 In 2014, October of 2014 we acquired the land and  
00:00:26 13 just prior to that we were fortunate enough to enter into an  
00:00:31 14 agreement with HGV is to manage, sell, and operate the  
00:00:37 15 property. They are one of the best companies in the U.S. and  
00:00:41 16 they have guided us through this process of developing a time  
00:00:44 17 share project which is very complicated, as you may know, and  
00:00:48 18 we're very happy to have them on our team.

00:00:50 19 We -- as Ann said in her report, the first thing we  
00:00:56 20 did was we had to revise the development plan. The site was  
00:01:01 21 too dense, there were too many buildings on it, we wanted to  
00:01:04 22 open it up. We wanted to reduce the number of buildings so  
00:01:08 23 that we would have more open space, create better view  
00:01:12 24 corridors, improve the natural ventilation on the site, and  
00:01:16 25 also to reduce the overall density and the impact on

00:01:20 1 utilities, water, sewer, etc.

00:01:25 2 During this time we went through an extensive design  
00:01:31 3 process to meet HGV's requirements and to also meet all of the  
00:01:39 4 SMA conditions, which were significant in terms of the design.  
00:01:44 5 This design effort took us over 24 months to go through the  
00:01:50 6 process and it was quite, quite intense.

00:01:55 7 This is a site photo of the original Maui Lu  
00:02:01 8 property before demolition took place.

00:02:04 9 Next slide.

00:02:05 10 This shows the makai property where there were two  
00:02:08 11 existing buildings lateral to the ocean and a third building  
00:02:15 12 that's parallel to the ocean. And so during this time, as Ann  
00:02:19 13 said, we entered into a demolition contract and the reason for  
00:02:23 14 that is that the buildings were old and rundown, termite  
00:02:27 15 eaten, and we felt that it was a liability not only to us, but  
00:02:31 16 to the community at large, so we made a decision at that time  
00:02:34 17 to demolish the majority of the buildings.

00:02:37 18 Here is a site plan that shows the buildings that  
00:02:42 19 were demolished in red. We kept two buildings on site: The  
00:02:46 20 small building in the middle of the site for our security  
00:02:49 21 guard so they had cover and a place to be protected, and then  
00:02:54 22 the one oceanfront makai building which had to be left in  
00:03:00 23 place which is where the beach club will be in basically the  
00:03:04 24 same footprint. This took us about 9 months, it was an  
00:03:07 25 extensive process, but an important one in order to move the

00:03:13 1 project forward.

00:03:15 2 It might be worth noting that if we hadn't done  
00:03:18 3 demolition at that time, our SMA time clock wouldn't have  
00:03:21 4 started until last month when Goodfellow Brothers started the  
00:03:26 5 pre-site work, so that was the decision we made and we realize  
00:03:31 6 that it had an impact on the overall timing.

00:03:34 7 Okay. The next slide.

00:03:36 8 A couple of slides here that shows after the  
00:03:39 9 demolition. Basically we removed all of the buildings, we  
00:03:43 10 left concrete slabs in place.

00:03:45 11 Next slide, please.

00:03:47 12 This shows the makai side where the two buildings to  
00:03:50 13 the right were demolished and the third building on the left,  
00:03:55 14 the two-story building, was boarded up and remains in place  
00:03:59 15 today.

00:03:59 16 Next slide.

00:04:03 17 Over the period of 2016 to 2017 we went through an  
00:04:10 18 extensive permit process. This slide shows over 75 permits  
00:04:16 19 and entitlements that we had to obtain. I think it's some  
00:04:22 20 sort of record and I think my gray hair is probably testimony  
00:04:25 21 to that. It was an extensive process and in my 30 years in  
00:04:32 22 the development business it certainly is a record, at least  
00:04:36 23 for me.

00:04:37 24 So where are we now? Essentially we have secured  
00:04:43 25 the majority of the entitlements required to proceed with the

00:04:47 1 project from both state, county, and federal agencies. We  
00:04:53 2 have invested nearly \$100 million to date to acquire the land  
00:04:57 3 and to go through the entitlement process. And we have  
00:05:01 4 recently begun pre-site work with Goodfellow Brothers starting  
00:05:06 5 in November to prepare the site for vertical construction,  
00:05:09 6 which we hope to begin in the first quarter of next year. In  
00:05:17 7 short, we are where we need to be in order to proceed with  
00:05:22 8 Phase I of the project.

00:05:23 9 So the reason we're here today is to request an  
00:05:26 10 extension of 7 years and 11 months to complete the project and  
00:05:32 11 there are several reasons for that. The primary one is to  
00:05:36 12 ensure that both the financial and operational viability of  
00:05:41 13 the project is achieved. Why now? Well, we know we can't  
00:05:46 14 complete the project by February of 2020, it is virtually  
00:05:49 15 impossible and we felt it would be irresponsible to come in  
00:05:53 16 later to request an extension when we know now that we need  
00:05:57 17 until 2027 to complete the project in three phases. We felt  
00:06:02 18 it was pono, the right thing to do at this time to be up front  
00:06:06 19 and transparent about our plans and why we need to complete  
00:06:10 20 the project in three phases.

00:06:13 21 We want the project to be successful for the  
00:06:16 22 community, the employees, and the investors. First, the  
00:06:20 23 community: We want to maximize the use of local contractor  
00:06:24 24 labor and the local labor market to operate the project. It's  
00:06:29 25 important to the project and it's important to the community.

00:06:33 1 Our objective is to recruit, hire, train, and retain qualified  
00:06:40 2 local labor. Currently, as we all know, there's pretty much  
00:06:45 3 full employment here on Maui and around the state and that has  
00:06:48 4 had an impact on the local labor market and the contractor  
00:06:52 5 market. So spreading the project out over time will help to  
00:06:57 6 us employ both local contractors and local labor to the  
00:07:00 7 greatest extent possible.

00:07:02 8 Secondly, we plan to install all of the offsite  
00:07:08 9 infrastructure in Phase I. Typically offsite infrastructure  
00:07:13 10 is not completed until the end of the project, but we've  
00:07:17 11 committed to complete it in Phase I which we believe is good  
00:07:22 12 for the community. Operational benefits is important in that  
00:07:26 13 large projects require internal infrastructure development  
00:07:30 14 that requires finding, hiring, training hundreds of employees  
00:07:34 15 to run this resort: Food and beverage, housekeeping,  
00:07:38 16 engineering, management, etc. And it's critical to find and  
00:07:42 17 retain good employees. Phased development allows HGV to  
00:07:48 18 maximize the use of local labor by staging the employment as  
00:07:53 19 the resort grows.

00:07:54 20 Finally, financial feasibility and this is critical.  
00:07:57 21 Significant capital is required to implement a project of this  
00:08:03 22 side and complexity. Over \$400 million will be invested over  
00:08:07 23 time, including land acquisition, work performed to date, and  
00:08:11 24 the future construction. Phased outflow of capital is normal  
00:08:16 25 and necessary for projects of this size and essential to make



00:08:21 1 the project financially feasible. In other words, we seek to  
00:08:26 2 balance the construction, sales, operations, and financing  
00:08:30 3 responsibly. As you may know, most time share projects are  
00:08:36 4 phased and particularly projects of this size, so this is not  
00:08:40 5 unusual, but it is critically important. So the extension  
00:08:45 6 request we're making today is our up front effort to be  
00:08:49 7 transparent so that the project can be developed in three  
00:08:52 8 phases and be financially feasible.

00:08:55 9 Next slide.

00:08:56 10 The phasing plan which was included in your packet  
00:08:59 11 is shown here. Basically there are three phases: Phase I is  
00:09:06 12 on the right-hand side of the screen. It includes four time  
00:09:11 13 share buildings or 131 units and all of the support buildings  
00:09:16 14 on site, which include a -- let me use this pointer here.  
00:09:20 15 Includes a clubhouse right here and includes a super pool,  
00:09:26 16 includes an operations building back here in the corner,  
00:09:30 17 includes the beach club and the amenities there. It also  
00:09:34 18 includes, as I mentioned, all of the offsite improvements  
00:09:37 19 which I'll go through in more detail which are located on  
00:09:41 20 South Kihei Road, Kaonoulu, and Kenolio.

00:09:46 21 MS. CUA: Alulike.

00:09:46 22 MR. BEATON: Oh, that's Alulike right there. I'm  
00:09:51 23 sorry, my mistake.

00:09:53 24 Phase II, which is located here in the center of the  
00:09:56 25 site, is four buildings, 149 units, and the expected

00:10:04 1 construction schedule is September 2022 to July of 2024.

00:10:09 2 I failed to mention in Phase I an important point is  
00:10:14 3 that the estimated initial opening date is December of 2020,  
00:10:19 4 so all of Phase I and all of the public improvements would be  
00:10:25 5 completed by December of 2020. On Phase II, the opening is  
00:10:29 6 estimated to be August of 2024. And then Phase III is this  
00:10:35 7 section over here which adds four more buildings and 108  
00:10:40 8 units. The expected construction schedule is November 2025 to  
00:10:45 9 June of 2027 and the estimated opening date is July of 2027.

00:10:52 10 Next slide.

00:10:53 11 This slide shows all of the public and beach  
00:10:58 12 improvements that we have committed to do. First of all,  
00:11:03 13 along South Kihei Road there's extensive road widening, a  
00:11:08 14 landscape median down the center of the road, a sidewalk on  
00:11:14 15 the mauka side of the road, and all the utilities put  
00:11:20 16 underground including the sewer expansion. We also remove the  
00:11:26 17 northern rock revetment at this end of the northern beach and  
00:11:33 18 connect that to the remaining beach area there. We are  
00:11:37 19 committed to a small scale beach nourishment of these three  
00:11:42 20 areas: The northern beach, the pocket beach here, and the  
00:11:47 21 property just south of our site.

00:11:49 22 We have public beach parking lot, 12 stalls, located  
00:11:53 23 here to connect to the public park here, Kalepolepo --  
00:12:00 24 Kalepolepo Beach Park area, pardon my language, and that is to  
00:12:09 25 allow for public beach parking. There's a new lateral beach

00:12:13 1 access walkway that runs around the makai site to connect the  
00:12:19 2 public beach park with the northern beach area. We have new  
00:12:23 3 curbs and gutters, sidewalks, up on Alulike and we have road  
00:12:28 4 widening and a bike lane on Kaonoulu. So those are the public  
00:12:35 5 improvements that we will be building out in Phase I.

00:12:41 6 Next slide.

00:12:42 7 This is a summary of the phases and the number of  
00:12:47 8 employees and construction workers that we anticipate.  
00:12:51 9 Basically Phase I is 131 units, estimated opening date is  
00:12:57 10 December 2020, we have estimated 180 employees for sales,  
00:13:03 11 marketing, and operations; 300 employees for construction.  
00:13:10 12 Phase II is 149 units opening in August of 2024 with 296  
00:13:15 13 employees at that time and 250 estimated construction workers.  
00:13:19 14 And Phase III, 108 units to be completed in June of 2027 with  
00:13:26 15 a total of 346 employees for sales, marketing, and opps and  
00:13:32 16 250 employees for construction.

00:13:36 17 Next slide.

00:13:37 18 In summary, Maui Bay Villas is a very special  
00:13:44 19 project on a unique and special property. We believe this  
00:13:47 20 project will dramatically improve Kihei and provide many  
00:13:52 21 benefits to the community. We take our role as stewards of  
00:13:55 22 this land very seriously and want to make sure that we do the  
00:13:59 23 right thing, both now and in the future. Both Kupono Partners  
00:14:04 24 and HGV are committed to doing just that. We have secured the  
00:14:09 25 financing needed to complete the entire project in three

00:14:12 1 phases. We just have entered into an agreement with HGV to  
00:14:17 2 provide that financing and we feel very fortunate to have that  
00:14:21 3 arrangement, but we need your support today in order to  
00:14:25 4 finalize that agreement so that the project can move forward.  
00:14:29 5 We respectfully request that you approve our extension request  
00:14:33 6 today. And I'm happy to answer any questions.

00:14:39 7 VICE CHAIR HUDSON: Thank you.

00:14:41 8 MS. CUA: So if I could, Mr. Chair, I have a couple  
00:14:56 9 comments before you ask any questions of the applicant or  
00:14:58 10 myself.

00:14:59 11 Again, I think that an important thing to note here,  
00:15:04 12 although they're asking for an extension till 2027 is that  
00:15:08 13 you're not going to need to wait until -- the community, we  
00:15:11 14 all are not going to need to wait until 2027 to have the  
00:15:15 15 property open, people working, and it functional. As was  
00:15:21 16 mentioned, in December of 2020 the first phase will open, the  
00:15:27 17 property will be open for use and they'll have employees  
00:15:33 18 working and at the same time they're going to be starting the  
00:15:37 19 next phase and in August of 2024, you know, that whole second  
00:15:43 20 phase is going to be open. So although it does sound like a  
00:15:46 21 long period of time, I think the important distinction here is  
00:15:50 22 that throughout that time there's going to be parts of the  
00:15:53 23 project opening.

00:15:54 24 The applicant's -- well, one thing before I mention  
00:16:00 25 our analysis. We -- attached to your department's report is a

00:16:10 1 letter that we received. We received a waiver of the public  
00:16:14 2 hearing and a statement of no opposition to the time extension  
00:16:18 3 from the previous intervenor Maui Beach Vacation Club and  
00:16:23 4 that's attached as Exhibit 12. And even though they waived  
00:16:31 5 the public hearing, it was decided by the department that we  
00:16:34 6 would do a public -- that we would bring it to the commission  
00:16:39 7 anyway. But since the department prepared their report, we  
00:16:43 8 also received I believe yesterday and I believe you also  
00:16:46 9 received it, a letter from Mike Moran from the Kihei Community  
00:16:53 10 Association. And although I don't see Mike here, I believe  
00:16:56 11 there is a representative here that I'm assuming will be  
00:17:00 12 addressing you.

00:17:01 13 In terms of the department's analysis, the  
00:17:03 14 applicant's request for a time extension was timely filed well  
00:17:09 15 in advance of the February 2020 expiration date and we've  
00:17:14 16 heard the reasons why. The applicant has indicated that the  
00:17:16 17 project's development plan requires that the project be  
00:17:20 18 constructed in three phases and you've heard that  
00:17:22 19 justification as well. And there's really been no new  
00:17:26 20 development in the immediate area of the proposed project and  
00:17:29 21 there's been further -- there's, further, been no change in  
00:17:33 22 the Special Management Area in this vicinity.

00:17:35 23 Relative to infrastructure, the applicant has  
00:17:39 24 indicated that the proposed redevelopment project has already  
00:17:41 25 been allocated water capacity and they believe sewer capacity

00:17:45 1 is still available. The project will be -- will construct  
00:17:47 2 offsite improvements to storm drainage and roadway  
00:17:52 3 infrastructure to mitigate the impacts of the proposed  
00:17:55 4 redevelopment. The impacts to infrastructure and public  
00:17:58 5 services will be minimal.

00:18:00 6 And so at this point in time I guess we'll take any  
00:18:03 7 questions of you for both myself and of the applicant.

00:18:06 8 VICE CHAIR HUDSON: Hold on a second. We're going  
00:18:09 9 to do public testimony first.

00:18:10 10 MS. CUA: Oh, sorry. That's right.

00:18:12 11 VICE CHAIR HUDSON: Okay. We're going to open up  
00:18:15 12 the floor to public testimony now.

00:18:17 13 Charlene Schulenberg. Please state your name.

00:18:38 14 MS. SCHULENBERG: Aloha. Charlene Schulenberg.

00:18:41 15 VICE CHAIR HUDSON: Charlene, do you promise to tell  
00:18:44 16 the truth.

00:18:45 17 MS. SCHULENBERG: Yes, absolutely, and -- but with  
00:18:47 18 the caveat that I am not an expert in this. I am representing  
00:18:50 19 KCA.

00:18:50 20 VICE CHAIR HUDSON: Charlene, we just want to know  
00:18:52 21 that you're going to tell the truth.

00:18:54 22 MS. SCHULENBERG: Yes.

00:18:54 23 VICE CHAIR HUDSON: Thank you. Your 3 minutes start  
00:18:56 24 now.

00:18:56 25 MS. SCHULENBERG: Okay. Thank you. KCA is opposed

00:18:59 1 to the requested amendment to this condition -- we had it as  
00:19:03 2 Condition No. 7, so we didn't know if it was a typo or not,  
00:19:08 3 but we believe it's Condition No. 4 of the Maui Bay Vista SMA.  
00:19:13 4 We believe that the project is out of touch with the current  
00:19:14 5 knowledge and the practices of the community. The SMA was  
00:19:17 6 granted originally -- originally is not appropriate to today's  
00:19:23 7 conditions in Kihei; therefore, we do not want to see the  
00:19:27 8 construction timeline extended without proper remedy to an  
00:19:30 9 extremely negative impact that this development may cause to  
00:19:34 10 Kihei if it goes ahead with its infrastructure and build out  
00:19:38 11 as planned. We ask you to not extent the construction  
00:19:41 12 timeline at this time, please defer it until this issue is  
00:19:46 13 properly resolved.

00:19:47 14 It is our understanding that the developer has  
00:19:50 15 designed the road and will be installing the infrastructure  
00:19:54 16 for a future signal at the intersection of South Kihei Road  
00:19:59 17 and Kaonoulu. KCA has spent countless hours and thousands of  
00:20:05 18 dollars offering an alternative to this requirement. A signal  
00:20:08 19 at this intersection would ruin the beauty and flow of this  
00:20:11 20 treasured road. Alternatively, a roundabout would function  
00:20:15 21 beautifully, creating great value to our community rather than  
00:20:19 22 a detriment.

00:20:20 23 We do have exhibits, I was under the impression that  
00:20:24 24 KCA was submitting this to everybody, but I'm not sure if  
00:20:28 25 everybody has it.

00:20:28 1 MS. CUA: They got it.

00:20:30 2 MS. SCHULENBERG: Okay. Wonderful. Thank you.

00:20:31 3 So there are exhibits provided. Again, I'm not the  
00:20:34 4 expert, I'm standing in for Randy Wagner, who is an architect  
00:20:37 5 and who is the chair of the design review committee, so I'll  
00:20:42 6 do my best here. But KCA has worked with the adjacent land  
00:20:47 7 owner, who is willing to provide the land needed. These  
00:20:49 8 exhibits show the dedication that KCA has to protecting and  
00:20:52 9 improving our community in this situation. To date, this has  
00:20:57 10 all been to no available (*sic*) because the developer did not  
00:20:59 11 want to be slowed down by having to come back to the planning  
00:21:02 12 commission and open the SMA to amend the Condition No. 2.A of  
00:21:06 13 a signal in order to make it a roundabout. They were not  
00:21:09 14 opposed to the roundabout, as we understand it, they merely  
00:21:13 15 did not want to be slowed down by the process. To that end,  
00:21:17 16 we even asked if corp counsel could allow the signal  
00:21:20 17 requirement to be changed to a roundabout, as they are both  
00:21:23 18 traffic mitigation devices, without amending the SMA. This  
00:21:27 19 went nowhere.

00:21:28 20 Today the developer is here requesting an amendment,  
00:21:31 21 we respectfully ask that at this time you do not approve this  
00:21:34 22 amendment because the project needs to become aligned with  
00:21:37 23 current community knowledge and practices before it should be  
00:21:41 24 granted a construction extension. As it stands, a future  
00:21:44 25 signal or the infrastructure and road design for a future



00:21:47 1 signal is very detrimental to Kihei. The planning commission  
00:21:50 2 is in a position to help support our community, we ask to --  
00:21:54 3 we ask that you recommend to the developer to make this  
00:21:57 4 modification to the SMA before the construction of this  
00:21:59 5 project should be allowed to be extended. And thank you very  
00:22:02 6 much for your consideration and respect for Kihei.

00:22:05 7 VICE CHAIR HUDSON: Thank you, Charlene.

00:22:06 8 Commissioners, any questions?

00:22:06 9 (No response.)

00:22:09 10 VICE CHAIR HUDSON: Thank you.

00:22:10 11 MS. SCHULENBERG: Thank you.

00:22:13 12 VICE CHAIR HUDSON: Okay. Next, Bruce U'u.

00:22:19 13 MR. U'U: Aloha, everyone. Good morning. Happy  
00:22:26 14 holidays. My name is Bruce U'u.

00:22:29 15 VICE CHAIR HUDSON: Bruce?

00:22:29 16 MR. U'U: Yes.

00:22:30 17 VICE CHAIR HUDSON: Do you promise to tell the  
00:22:32 18 truth?

00:22:32 19 MR. U'U: Yes. Yes, I do.

00:22:32 20 VICE CHAIR HUDSON: Thank you.

00:22:33 21 MR. U'U: Yes, I will.

00:22:34 22 VICE CHAIR HUDSON: Good to see you.

00:22:35 23 MR. U'U: I'm a field rep for the Hawaii Carpenters  
00:22:39 24 Union, also a lifelong member of Maui County and a former  
00:22:41 25 planning commissioner. I'm coming here asking for support to

00:22:44 1 amendment Condition No. 4 to extend the SMA Permit from 2020  
00:22:49 2 to 2027. You know, to my knowledge -- in fact, to my  
00:22:54 3 background, history, information about Maui Lu, it's been  
00:22:59 4 around since the '60s, so it's been in existence for, you  
00:23:04 5 know, longer than I've been involved alive. Along with the  
00:23:07 6 Suda Store, by the way. So everything else, everything else  
00:23:11 7 within that area, most of the things came after these people  
00:23:15 8 were in place already, Maui Lu and Suda Store.

00:23:19 9 Construction just started last month with Goodfellow  
00:23:22 10 Brothers there, you know, for us, which is great going into  
00:23:25 11 the holiday season. Normally work typically declines at this  
00:23:29 12 time, so for that part, I see the guys working, I love it. I  
00:23:32 13 like the fact that it's being done in three phases. The first  
00:23:36 14 phase is a direct public benefit: road work, beach parking,  
00:23:40 15 beach nourishment. And even with the expedited process in  
00:23:44 16 this phasing out plan, it'll still take a minimum of 5 years  
00:23:48 17 to build.

00:23:49 18 The process of stretching out the duration of the  
00:23:52 19 permit -- what is ongoing now is that our local workforce,  
00:23:55 20 along with our local contractors will be the ones on site  
00:24:00 21 working. And we've all heard about this: They're getting  
00:24:04 22 paid the living wage and that's something I'm proud about when  
00:24:06 23 our construction workers get -- 'cause we've all heard about  
00:24:09 24 the difficulties in maintaining livelihood here. Along with  
00:24:12 25 the contractors they went local, they committed to local,

00:24:17 1 they're paying a living wage, you know, that part I really  
00:24:20 2 like and I'm proud that that's what the jobs provide.

00:24:23 3 As one of the testifiers mentioned about a  
00:24:26 4 roundabout, in the condition it states, "The design for all  
00:24:30 5 traffic improvements shall be approved by the Department of  
00:24:34 6 Public Works and, where applicable, by DOT." That's what it  
00:24:38 7 states within the conditions. Nothing to do with the  
00:24:40 8 developer on his part or her part; again, that's just what the  
00:24:45 9 condition states. I'm no expert.

00:24:49 10 The time extension has had a positive impact for  
00:24:53 11 Kupono Partners LLC. It eliminated buildings, it created open  
00:25:01 12 view planes, less density. So I'm here asking you guys for  
00:25:08 13 support for this project that it continues to move forward.  
00:25:10 14 I'm asking for your support on behalf of the workers who are  
00:25:14 15 currently working on site and for those who have yet to step  
00:25:17 16 on site. Mahalo for taking the time.

00:25:21 17 Mahalo for Michele. Congratulations and mahalo, by  
00:25:21 18 the way.

00:25:26 19 And thank you guys for your time in serving. Hope  
00:25:29 20 this project moves forward, I'd hate to tell the guys, Get off  
00:25:31 21 the site, you know, it's something I wouldn't want to do, but  
00:25:34 22 it's in you guys' hands. Thank you very much. Aloha.

00:25:38 23 VICE CHAIR HUDSON: Thank you, Bruce.

00:25:39 24 Any questions from the commissioners? Yes.

00:25:44 25 COMMISSIONER PALI: Do you know if the developer has

00:25:48 1 considered the roundabout not as a required condition, but  
00:25:52 2 just as another kind of fluff for the community? Has it been  
00:25:56 3 a consideration?

00:25:57 4 MR. U'U: You know, I wouldn't be able to understand  
00:25:59 5 that, that would be a lie according to Larry Hudson.

00:26:03 6 COMMISSIONER PALI: Okay.

00:26:04 7 MR. U'U: And I'm not -- I'm not putting myself in  
00:26:05 8 that position.

00:26:06 9 COMMISSIONER PALI: Thank you for pointing out that  
00:26:09 10 right now the SMA doesn't read that it is a required  
00:26:12 11 condition.

00:26:12 12 MR. U'U: But, again, within the conditions it  
00:26:14 13 states the traffic improvement shall be approved by the  
00:26:15 14 Department of Public Works and, where applicable, the State  
00:26:19 15 Department of Transportation, and not the developer.

00:26:20 16 COMMISSIONER PALI: That's right. Got it.

00:26:21 17 MR. U'U: Thank you.

00:26:23 18 COMMISSIONER PALI: Thank you.

00:26:25 19 MR. U'U: Aloha.

00:26:33 20 VICE CHAIR HUDSON: Any further questions?

00:26:33 21 (No response.)

00:26:33 22 VICE CHAIR HUDSON: Seeing none, is there anybody in  
00:26:33 23 the audience that would like to testify on this?

00:26:33 24 Please state your name.

00:26:40 25 MR. KAPAHULEHUA: Kimokeo Kapahulehua.

00:26:40 1 VICE CHAIR HUDSON: Good morning. Do you promise to  
00:26:41 2 tell the truth?

00:26:42 3 MR. KAPAHULEHUA: Yes, I do.

00:26:43 4 VICE CHAIR HUDSON: All right. Your 3 minutes  
00:26:45 5 begins now.

00:26:45 6 MR. KAPAHULEHUA: Chairman and Commissioners --  
00:26:47 7 First off, Michele, again, congratulations. It's  
00:26:51 8 really well deserved, yeah.

00:26:55 9 I'm a past president of Kihei Youth Center, I'm a  
00:26:59 10 past president of Kihei Canoe Club, I'm a past president of  
00:27:08 11 Au Ao`ao O Na Loko I`a, which is the fishpond that's directly  
00:27:08 12 adjacent to the Maui Bay Villa project. I'm currently the  
00:27:14 13 president of Hui o Wa`a Kaulua, which is the double-hull canoe  
00:27:21 14 located in Ma`alea, because to have HB 212 Governor  
00:27:26 15 Abercrombie to find that place -- to find a place for us. I  
00:27:28 16 tell you this stuff because of the fact that we have been --  
00:27:35 17 the Hui o Wa`a Kaulua is 20 years. We celebrate 35 years this  
00:27:41 18 year for the youth center, which is the oldest youth center.  
00:27:44 19 The canoe club since 1972. Our fishpond, this is our 20th  
00:27:51 20 year. Au Ao`ao O Na Loko I`a, I'm not longer the president,  
00:27:55 21 but still with the board and we have educated more than 40,000  
00:27:59 22 students in the last 20 years.

00:28:01 23 I say this so you can understand that -- who I am,  
00:28:05 24 what I am, and what I've done and where we're going with the  
00:28:08 25 ohana, you might say, in South Maui. We're going through

00:28:14 1 environmental and cultural challenges and these challenges are  
00:28:21 2 being worked together in the last 20 years with partnership of  
00:28:26 3 our federal government, the United States of America, our  
00:28:30 4 state government of Hawaii, our county, and our community.

00:28:35 5 And I say that because this project that comes  
00:28:38 6 before you, as an individual, I ask you to permit them to  
00:28:51 7 extend their extension for what is needed. They've explained  
00:28:57 8 that to you, but I can explain to you all our environmental  
00:29:01 9 challenges and our community challenges. Their challenges  
00:29:06 10 that they face is kind of a little different weather forecast  
00:29:09 11 in financial and labor versus us working with au, the tide;  
00:29:12 12 kai au i, the current; nalu, the wave; and makani, the wind,  
00:29:15 13 the storm; and all of the challenges. But I want to let you  
00:29:19 14 know that we've met up with our challenges and we have many  
00:29:22 15 more to come. Having any one of us to have challenges is not  
00:29:26 16 probably the best thing, yeah. So we've also -- we're not on  
00:29:32 17 the project as a contractor at all, but we have with Genesse  
00:29:37 18 Capital and with the present people you have here, been in  
00:29:41 19 discussion about environment and cultural and they're very,  
00:29:45 20 very sensitive. And it should show you how sensitive they are  
00:29:50 21 by putting infrastructure before that.

00:29:52 22 VICE CHAIR HUDSON: Mr. Kapahulehua, please  
00:29:54 23 conclude.

00:29:54 24 MR. KAPAHULEHUA: I conclude.

00:29:55 25 VICE CHAIR HUDSON: Thank you. Wait. Hold on a

00:29:57 1 second.

00:29:58 2 Any questions from the commissioners?

00:29:58 3 (No response.)

00:30:00 4 VICE CHAIR HUDSON: Thank you.

00:30:01 5 MR. KAPAHULEHUA: I conclude.

00:30:08 6 VICE CHAIR HUDSON: Anybody else in the audience

00:30:09 7 that would like to testify on this agenda item?

00:30:09 8 (No response.)

00:30:12 9 VICE CHAIR HUDSON: Seeing none, public testimony is

00:30:15 10 closed.

00:30:19 11 Go ahead.

00:30:25 12 COMMISSIONER CARNICELLI: I have all kinds of

00:30:26 13 questions to them.

00:30:26 14 VICE CHAIR HUDSON: We are now open for questions.

00:30:27 15 COMMISSIONER CARNICELLI: Thank you, Chair.

00:30:29 16 So -- and here's my question, is they're coming in

00:30:31 17 for a modification to the time to complete of the SMA, before

00:30:36 18 we get into all of the thises and the thats, because they're

00:30:42 19 doing that, do other conditions in the SMA also become open

00:30:48 20 for change?

00:30:50 21 MS. CUA: My understanding from what we've been told

00:30:53 22 from corp counsel is that, no, it does not.

00:30:56 23 COMMISSIONER CARNICELLI: Okay. So we are here to

00:30:58 24 decide on just this condition?

00:30:59 25 MS. CUA: Correct. Correct.

00:31:01 1 COMMISSIONER CARNICELLI: And this time extension  
00:31:03 2 and that's all?

00:31:03 3 MS. CUA: Correct.

00:31:05 4 COMMISSIONER CARNICELLI: Okay. Thank you for that  
00:31:07 5 clarification.

00:31:07 6 MS. CUA: And I don't know if corp counsel wants to  
00:31:10 7 add to that.

00:31:11 8 MR. HOPPER: There are -- there are criteria in  
00:31:14 9 submitting the time extension that'll determine whether or not  
00:31:16 10 to grant the time extension that the -- the SMA rules discuss  
00:31:19 11 that. For example -- oh, it just reloaded. In any case,  
00:31:24 12 there are time -- there are criteria dealing with the issues  
00:31:28 13 such as changing conditions in the area that the applicant is  
00:31:31 14 required to address when they submit their application and  
00:31:34 15 that you'll have in your staff report.

00:31:37 16 Ultimately if you decide not to grant the time  
00:31:40 17 extension, I think -- and Ann correct me if I'm wrong -- they  
00:31:44 18 would be in the position of applying for a new permit, in  
00:31:47 19 which case you would look at other conditions if the time  
00:31:50 20 extension is denied. Now, if you do that, you would need a  
00:31:52 21 basis for it, you would need to submit written findings,  
00:31:55 22 conclusions, and decision and order setting forth your basis.  
00:31:58 23 And I don't think there -- it's a mandatory time extension,  
00:32:02 24 which is why you're looking at it, but you would need a basis  
00:32:05 25 to not grant the time extension to deal with -- that has to do



00:32:07 1 with the criteria set forth in the time extension rule, which  
00:32:10 2 I can read if we need more detail on it, I just have to pull  
00:32:14 3 it up, I believe it was addressed in your staff report. But I  
00:32:19 4 think at this time your issue is whether or not to grant the  
00:32:21 5 time extension based on the record and that that -- if that is  
00:32:24 6 denied, then you'd be in a position of them having to apply  
00:32:27 7 for a new permit.

00:32:32 8 VICE CHAIR HUDSON: Is that clear?

00:32:34 9 COMMISSIONER CARNICELLI: Yeah.

00:32:36 10 VICE CHAIR HUDSON: Okay. Do you want explain it to  
00:32:39 11 me, then?

00:32:39 12 COMMISSIONER CARNICELLI: No.

00:32:43 13 VICE CHAIR HUDSON: Any other questions?

00:32:44 14 Go ahead.

00:32:47 15 COMMISSIONER CARNICELLI: So then, Ann, if I  
00:32:50 16 understand what Mr. Hopper is saying, you know, the Kihei  
00:33:00 17 Community Association's concern about the roundabout versus,  
00:33:02 18 you know, a stoplight -- Mr. U'u, you know, had read from the  
00:33:11 19 conditions as far as what public works and what DOT is going  
00:33:18 20 to have to do. So I guess at this point, maybe this is  
00:33:21 21 another question for you, Michael, is: If the developer is on  
00:33:29 22 board with that and they make representation that, yeah, I'm  
00:33:33 23 okay with a roundabout, is that something that then becomes  
00:33:36 24 part of the record as a representation and that would be, for  
00:33:42 25 lack of a better word, enforceable?

00:33:45 1 MR. HOPPER: If the roundabout is an issue, I think  
00:33:48 2 the better process would be for the submission of an amendment  
00:33:52 3 to the permit conditions. Again, if the -- if there's some  
00:33:56 4 way to table the time extension, if the commission wants  
00:33:59 5 this -- and I don't know what the applicant's position is on  
00:34:01 6 this, they should speak to it, but the item would be --  
00:34:05 7 because there is a permit condition saying a traffic signal  
00:34:08 8 shall be built and approved by the Department of Public Works,  
00:34:12 9 etc., I think that that condition would most likely need to be  
00:34:15 10 amended to say instead a roundabout would be built. And  
00:34:17 11 there's a way to amend conditions that's by application and  
00:34:20 12 that's not before the commission at this time. You know,  
00:34:23 13 that's what would have to be done. And, you know, that is not  
00:34:28 14 necessarily germane, though, to the issue of the time  
00:34:32 15 extension.

00:34:32 16 And I wanted to further clarify my earlier  
00:34:36 17 statement. The application for a time extension is required  
00:34:38 18 to contain the following: The reasons for the permit time  
00:34:42 19 extension, the length of the time extension, an analysis of  
00:34:45 20 whether any changes have occurred within the Special  
00:34:49 21 Management Area since the granting of the permit that may  
00:34:51 22 cause the permit holder's development to have a substantial  
00:34:54 23 adverse environmental or ecological effect, and an analysis of  
00:34:59 24 whether any changes have occurred within the Special  
00:35:02 25 Management Area since the granting of the permit that may

00:35:05 1 cause the permit holder's development to adversely affect the  
00:35:08 2 capacity or condition of -- or the condition of the  
00:35:09 3 infrastructure.

00:35:10 4 And then the analysis in the report, I believe the  
00:35:14 5 recommendation states -- the recommendation states in the  
00:35:20 6 report that -- or the analysis discusses that there have been  
00:35:25 7 no new developments in the immediate area of the proposed  
00:35:28 8 project and there has been no change to the Special Management  
00:35:32 9 Area in this vicinity. As the shoreline fronting the subject  
00:35:35 10 property is armored with rock revetments, there has been no  
00:35:37 11 change to shoreline conditions. As such, the proposed  
00:35:40 12 development will not have a substantial adverse environmental  
00:35:44 13 or ecological effect. That's in your report at this point.  
00:35:49 14 If you disagree with that or have different -- different  
00:35:51 15 evidence of record, then that's something that you could  
00:35:55 16 change if you don't agree with that -- that analysis. But  
00:35:56 17 that analysis, I think, goes to your requirement, which is to  
00:35:59 18 review those two criteria that you have in your rules for  
00:36:04 19 whether or not to grant or deny this permit extension, which  
00:36:06 20 goes to basically: Have conditions changed in the area?

00:36:09 21 MS. CUA: Mr. Chair, could I --

00:36:12 22 VICE CHAIR HUDSON: Go ahead.

00:36:13 23 MS. CUA: So a couple of things. I think you might  
00:36:15 24 want to at this point hear from public works, you know, as the  
00:36:19 25 condition does clearly state that the traffic signal shall be

00:36:22 1 installed, that's the -- that's Condition 2.A. Condition 2.B,  
00:36:28 2 though, however, does talk about the roundabout, that, you  
00:36:31 3 know, at the time as represented by the applicant, that they  
00:36:35 4 had definitely considered a roundabout, but it says here, "as  
00:36:37 5 approved by the Department of Public Works." So I know there  
00:36:40 6 has been discussion about that, it's not that it was just left  
00:36:44 7 undiscussed, but I think at this point you need to hear from  
00:36:48 8 public works because that is, I understand, how the -- why the  
00:36:52 9 applicant is moving forward in the way that they are.

00:36:55 10 VICE CHAIR HUDSON: Ms. Andaya.

00:36:56 11 MS. DAGDAG-ANDAYA: Thank you, Chair. And for the  
00:36:58 12 record, Rowena Dagdag-Andaya, Department of Public Works.

00:37:03 13 We were informed of the KCA's request some time ago  
00:37:07 14 and actually did, you know, work on -- or did an analysis with  
00:37:12 15 our staff. And looking at the existing conditions at the  
00:37:17 16 site, there really -- there's no warrant for a traffic  
00:37:19 17 improvement in the area at this time. So there really is no  
00:37:23 18 need for a traffic signal and even a four-way stop, let alone  
00:37:29 19 a traffic or a roundabout.

00:37:31 20 As mentioned earlier, there have been no changes to  
00:37:35 21 the project area or any changes to the site conditions since  
00:37:39 22 the granting of the SMA Permit back in 2014 and when -- when  
00:37:48 23 we heard about the request from KCA, we took a look at  
00:37:53 24 existing or some -- the total approach volumes for the peak  
00:37:59 25 hours, the a.m. and the p.m. peak hours, and have noticed a

00:38:03 1 decline from 2003. So there has been less -- and contrary to  
00:38:11 2 what was said earlier, there is data that shows that there is  
00:38:17 3 less traffic in the area or less traffic generated at least  
00:38:20 4 during the p.m. peak hours, so that wouldn't even support the  
00:38:24 5 need for a traffic improvement at the intersection.

00:38:27 6 When we look at or when we consider roundabouts,  
00:38:31 7 staff, we -- the Department of Public Works internally has a  
00:38:36 8 policy to consider roundabouts first, but we consider  
00:38:40 9 constructing roundabouts if -- in the areas that are feasible.  
00:38:44 10 You have the right-of-way, you know, you have the right amount  
00:38:48 11 of space, that's one question that we look at. Are there any  
00:38:52 12 environmental factors in the area? Are there any other  
00:38:58 13 existing infrastructure issues like bridges, culverts,  
00:39:03 14 drainage issues that may be detrimental to a project, a  
00:39:08 15 roundabout project? So those are things that initially pop up  
00:39:13 16 into mind when we're looking at a roundabout in the area.

00:39:16 17 There are drainage issues at the site, there may be  
00:39:20 18 a need for a flood development permit that might be  
00:39:23 19 problematic when constructing a roundabout. Site conditions,  
00:39:28 20 according to the handout that we were provided from the KCA's  
00:39:33 21 consultant, it looks like it would probably cut into the sand  
00:39:37 22 dunes area across the street and adjacent to the shoreline,  
00:39:40 23 that may touch upon some archaeological issues. There is also  
00:39:46 24 some right-of-way issues because now you're cutting into that  
00:39:49 25 private property on the south side of Kaonoulu Road. We don't

00:39:55 1 have control of that site and neither does the applicant.

00:39:58 2 So a traffic signal is actually an appropriate  
00:40:02 3 mitigation at that interaction when warranted. Currently,  
00:40:07 4 there's no warrant for a traffic signal. For the Department  
00:40:10 5 of Public Works, we gradually -- we make gradual improvements  
00:40:14 6 to an intersection, so we first -- we start out with a  
00:40:18 7 four-way or in this case it would be a three-way stop to see  
00:40:22 8 how operations at the intersection would flow. And if  
00:40:25 9 warranted, then we would consider a traffic signal or a  
00:40:29 10 roundabout in the area. But at this time the department feels  
00:40:32 11 that a traffic signal would be the appropriate -- an  
00:40:36 12 appropriate mitigation when, when warranted.

00:40:39 13 VICE CHAIR HUDSON: Thank you.

00:40:40 14 Any questions? Go ahead.

00:40:43 15 COMMISSIONER CARNICELLI: Direct question for you,  
00:40:45 16 Rowena. When mitigation is warranted and it may be 30 years  
00:40:51 17 from now, is what you're saying is it doesn't have to be a  
00:40:59 18 streetlight? It could be a roundabout, it could be a stop  
00:41:02 19 sign, it could be a street light, but it doesn't have to be a  
00:41:06 20 street light?

00:41:08 21 MS. DAGDAG-ANDAYA: It doesn't -- yeah, it doesn't  
00:41:11 22 have to be a roundabout, IT doesn't have to be a streetlight.  
00:41:13 23 You could also have a four-way -- or a three-way stop.

00:41:16 24 COMMISSIONER CARNICELLI: Okay. That's all. That's  
00:41:18 25 great.

00:41:18 1 MS. DAGDAG-ANDAYA: That would be perfectly fine --

00:41:16 2 COMMISSIONER CARNICELLI: Thank you.

00:41:20 3 MS. DAGDAG-ANDAYA: -- when warranted.

00:41:21 4 COMMISSIONER CARNICELLI: Okay.

00:41:21 5 VICE CHAIR HUDSON: Go ahead, Ms. Pali.

00:41:24 6 COMMISSIONER PALI: No.

00:41:27 7 VICE CHAIR HUDSON: Go ahead. We're still in

00:41:28 8 discussion.

00:41:29 9 COMMISSIONER LA COSTA: Thank you, Chair.

00:41:31 10 Again, a question for Rowena. In the traffic survey

00:41:36 11 that looked at the flow, did you consider the number of cars

00:41:38 12 that will be within the project?

00:41:42 13 MS. DAGDAG-ANDAYA: That question, Commissioner, I

00:41:45 14 think I would have to defer to the applicant with -- because

00:41:50 15 they created their own traffic analysis and they would have

00:41:52 16 the numbers off the -- I mean, immediately before them.

00:41:56 17 But, you know, when you're looking at a traffic

00:42:00 18 signal versus a roundabout, you know, generally you -- pretty

00:42:04 19 much you get the same kind of level of service with the -- in

00:42:09 20 other projects proposed in the area, there have been traffic

00:42:16 21 analyses done with a signal at Kaonoulu and South Kihei Road

00:42:20 22 and those -- the levels of service that are forecasted in

00:42:25 23 those analysis show either an A or B type of situation, which

00:42:32 24 is generally pretty good, that won't warrant any type of

00:42:34 25 improvement.

00:42:36 1           So there are benefits to a traffic signal, there's  
00:42:39 2           also a lot of benefits to roundabouts as well, but, again, the  
00:42:46 3           department would be in support of a traffic signal in this  
00:42:47 4           area based on the site conditions, environmental factors, and  
00:42:56 5           just -- you know, I've got to say this, the department  
00:43:01 6           generally is in favor of roundabouts. I mean, we've pushed  
00:43:04 7           for a roundabout at Maui Lani and Kamehameha Avenue in this  
00:43:09 8           year's budget and we like roundabouts, but they have to be  
00:43:13 9           situated in an area that's appropriate and that's feasible.  
00:43:18 10          And in this case when we looked at all the different site  
00:43:22 11          conditions, the factors, you know, the next best thing would  
00:43:26 12          be to have a traffic signal at that intersection.

00:43:29 13                 And going back to what I said earlier, there  
00:43:32 14          really -- there's no warrant at this time for an improvement  
00:43:35 15          in the area and if there was a warrant that some -- that would  
00:43:40 16          be needed, we would start with a three-way stop first and see  
00:43:44 17          how that goes before we go on and move on to a more involved  
00:43:50 18          type of improvement.

00:43:52 19                   COMMISSIONER LA COSTA: Thank you.

00:43:53 20                   VICE CHAIR HUDSON: Any further questions?

00:43:53 21                   (No response.)

00:43:56 22                   VICE CHAIR HUDSON: Have the department's  
00:43:57 23          recommendation, please.

00:43:58 24                   MS. CUA: Yes, Chair. The department is  
00:44:01 25          recommending approval to extend the time to complete



00:44:05 1 construction of the project from February 2nd, 2020 to  
00:44:08 2 December 31st, 2027 and amendment of Condition No. 4 as  
00:44:14 3 follows:

00:44:14 4 That construction of the project shall be completed  
00:44:17 5 by December 31st, 2027. Failure to complete construction of  
00:44:21 6 this project will automatically terminate the subject SMA Use  
00:44:25 7 Permit. A time extension shall be requested no later 90 days  
00:44:29 8 prior to the completion deadline. The director shall review  
00:44:33 9 and approve a time extension request, but may forward said  
00:44:36 10 request to the planning commission for review and approval.  
00:44:40 11 All other conditions of approval shall remain in effect. In  
00:44:44 12 consideration of the foregoing, the department recommends that  
00:44:47 13 the commission adopt the planning department's report and  
00:44:49 14 recommendation prepared for the December 11, 2018 meeting as  
00:44:53 15 its findings of fact, conclusions of law, and decision and  
00:44:57 16 order and authorize the director of planning to transmit said  
00:45:00 17 decision and order on behalf of the commission.

00:45:03 18 VICE CHAIR HUDSON: Thank you.

00:45:04 19 The chair will entertain a motion.

00:45:07 20 COMMISSIONER TACKETT: I would like to move to  
00:45:12 21 approve the time extension as presented.

00:45:18 22 VICE CHAIR HUDSON: Second?

00:45:20 23 COMMISSIONER CASTRO: Second.

00:45:21 24 VICE CHAIR HUDSON: The motion on the floored is to  
00:45:22 25 approve as recommended. Any discussion?

00:45:30 1 Mr. Carnicelli.

00:45:30 2 COMMISSIONER CARNICELLI: Thank you, Chair.

00:45:31 3 I'm going to go ahead and be support of the motion.

00:45:34 4 I think that what they have presented and -- basically what's

00:45:39 5 before us; right? Again, what is before us is basically an

00:45:43 6 extension of time to complete; not to start, not to change

00:45:47 7 anything, but just to complete. I like the fact that the

00:45:50 8 applicant is doing this ahead of time, they're doing this 2

00:45:52 9 years ahead of time. They going, Listen, we're not going to

00:45:55 10 finish on time, but to go ahead and be proactive about this.

00:45:58 11 They're going to phase it, they're using local labor, so, you

00:46:01 12 know -- and then the concerns about the traffic for me have

00:46:05 13 been resolved in that a streetlight light which is what, you

00:46:09 14 know, a lot of folks do not want is not mandatory, so that to

00:46:15 15 me is we'll cross that bridge -- no pun intended -- when we

00:46:18 16 get to or if we get to it. So I'm in support of the motion.

00:46:22 17 Thank you, Chair.

00:46:22 18 VICE CHAIR HUDSON: Kellie?

00:46:25 19 Ms. La Costa?

00:46:29 20 COMMISSIONER LA COSTA: Thank you, Chair. I too am

00:46:31 21 in support of the motion to extend. I am concerned about

00:46:33 22 Condition No. 2 that says that there shall be installed a

00:46:36 23 traffic light, so I don't know if that language needs to be

00:46:41 24 corrected or --

00:46:41 25 COMMISSIONER CARNICELLI: We can't.

00:46:43 1 VICE CHAIR HUDSON: Commissioner Castro.

00:46:47 2 COMMISSIONER CASTRO: I too am in support of this  
00:46:49 3 project. I like the fact it's being done in phases and in  
00:46:51 4 2020, that's the first opening and we're going to get people  
00:46:55 5 to work and contribute to the community; so, therefore, I  
00:46:59 6 would be supporting this project.

00:47:01 7 VICE CHAIR HUDSON: Mr. Tackett.

00:47:03 8 COMMISSIONER TACKETT: I'd also like to speak to the  
00:47:06 9 motion. I wanted to say that there -- it's pretty refreshing  
00:47:08 10 to see somebody come in and build a project -- for one thing,  
00:47:14 11 it's an -- it's an interior project, which is something that  
00:47:17 12 is lessening the footprint, and it is something that is going  
00:47:24 13 to be helping our beaches, going to be helping our access to  
00:47:27 14 our beaches. And I think it's admirable that contractors come  
00:47:30 15 in and they decide to pay a living wage to people in this  
00:47:36 16 community, you know, people in this community that have been  
00:47:39 17 here a long time and they don't -- they don't come from  
00:47:44 18 another place and retire here, they have to make a living  
00:47:47 19 here. And so it's nice when you see guys come in and they're  
00:47:50 20 not motivated by strictly greed, that they're motivated by  
00:47:54 21 doing something good as they progress and I think that's what  
00:47:58 22 we have here. And so that's -- that's the reason that I'm in  
00:48:04 23 favor of this motion. Thank you.

00:48:06 24 VICE CHAIR HUDSON: Thank you.

00:48:09 25 I'll have the director reread the motion and then

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we'll vote.

DIRECTOR McLEAN: Thank you, Chair. The recommendation is to approve the time extension to complete construction of the project from February 2nd, 2020 to December 31st, 2027, which would amend Condition 4 appropriately.

VICE CHAIR HUDSON: Thank you.

All those in favor, signify.

(Response.)

VICE CHAIR HUDSON: It's five ayes. Motion carries.

MS. CUA: Thank you.

VICE CHAIR HUDSON: The commission will take a recess of 12 minutes, to resume at 10:25 hours. (Gavel.)

(Pause in Proceedings: 10:12 a.m.-10:28 a.m.)

VICE CHAIR HUDSON: (Gavel.) The Maui Planning Commission on December 11, 2018 is back in session. A couple of things: First off, I'd like to recognize the Deputy Director of the Planning Department Joe Alueta will be sitting in on this agenda item. The second thing I'm going to make note of is that there is no public testimony for this agenda item.

Deputy.

DEPUTY DIRECTOR ALUETA: Thank you, Chair. Your Unfinished Business is your Hearings Officer's Report dated July 13, 2018 from Judge E. John McConnell, Retired Judge,

01:05:03 1 Hearings Officer, containing proposed Findings of Fact,  
01:05:07 2 Conclusions of Law, and recommendations regarding the  
01:05:09 3 following remanded actions. So it's from September 25th, 2018  
01:05:15 4 agenda, there was hyperlinks to that hearings officer report.

01:05:20 5 And it's dealing with the County Special Use Permit  
01:05:22 6 applications for Seashore Properties, LLC proposed nine-room  
01:05:26 7 transient vacation rental on the property referred to as Paia  
01:05:29 8 Inn at 93 Hana Highway. Kirk was the original planner.  
01:05:35 9 There's both a CUP application and Country Town Business  
01:05:40 10 Permit as well as an SMA assessment application as well.

01:05:44 11 And the action you're taking today is on the  
01:05:47 12 county -- or on the hearings officer's report with regards to  
01:05:51 13 the County Special Use Permit.

01:05:53 14 Basically from the past meetings you've had, you're  
01:06:02 15 basically having to do over. You're back to where I was when  
01:06:06 16 we came in, as some of you remember, and I guess there's been  
01:06:11 17 some heartache, but --

01:06:12 18 Was there anything else, I'm sorry, Chair, before  
01:06:14 19 I --

01:06:14 20 VICE CHAIR HUDSON: No, no. You're good.

01:06:16 21 Commissioner Carnicelli, would you like to say a few  
01:06:19 22 words?

01:06:20 23 COMMISSIONER CARNICELLI: Yes. Thank you, Chair.

01:06:22 24 So late last night I received a transmittal from the  
01:06:26 25 department and it is a -- it's a submission to the -- let's

01:06:35 1 see -- to the planning commission and it's a -- it's a motion  
01:06:40 2 or it's -- I don't even know if you'd call it a motion, but it  
01:06:42 3 says -- it's titled, "Applicant Seashore Properties' Motion to  
01:06:47 4 Disqualify Commission Lawrence Carnicelli," and then there's  
01:06:50 5 declarations and things like that. So I was able to read  
01:06:53 6 through this and I don't agree with all of the things in here,  
01:06:59 7 I disagree with them. I want to say that in any decisions  
01:07:07 8 that I made before this commission, it was only based on the  
01:07:11 9 evidence that was here and provided to us. However, even  
01:07:20 10 though I disagree and I find this, you know, just not to be  
01:07:27 11 truthful, I'm -- to preserve the process and to not make this  
01:07:35 12 about Lawrence and to make it about the application and to  
01:07:39 13 avoid any seemingly -- any seemingly improprieties and out  
01:07:46 14 of -- out of an abundance of caution, I am going to recuse  
01:07:52 15 myself from this agenda item.

01:07:56 16 VICE CHAIR HUDSON: Thank you. Well, then -- hold  
01:07:58 17 on one second, Mr. Castro.

01:08:00 18 That begs the question that we have a minimum  
01:08:04 19 quorum. Before we go on, I'm going to ask each one of you  
01:08:07 20 guys and I want an affirmative or a negative: Do you feel up  
01:08:11 21 to date and capable of voting on this item? In other words,  
01:08:16 22 have you reviewed all the necessary material to make an  
01:08:18 23 informed decision.

01:08:19 24 Let's start with you, Ms. La Costa.

01:08:22 25 COMMISSIONER LA COSTA: I am always truthful and I

01:08:25 1 will have to say I have not because we have received some  
01:08:28 2 things this morning that I have not reviewed.

01:08:31 3 VICE CHAIR HUDSON: Okay. Mr. Castro?

01:08:33 4 COMMISSIONER CASTRO: I too am going to have to hold  
01:08:36 5 off in making a decision because I need to also review the  
01:08:40 6 additional information, in all fairness.

01:08:43 7 VICE CHAIR HUDSON: Mr. Tackett?

01:08:44 8 COMMISSIONER TACKETT: I'm good at this time to make  
01:08:48 9 an informed decision. Thank you.

01:08:49 10 VICE CHAIR HUDSON: Ms. Pali?

01:08:51 11 COMMISSIONER PALI: I stayed up late and read it  
01:08:57 12 all. However, I would actually feel more comfortable if we  
01:09:02 13 had more of a full attendance on the board to give this item  
01:09:07 14 the attention it needs, that's how I feel.

01:09:12 15 MR. HOPPER: Chair.

01:09:12 16 VICE CHAIR HUDSON: Yes.

01:09:13 17 MR. HOPPER: Commissioners, just of note, if the  
01:09:15 18 only item is the motion that was filed yesterday, then I think  
01:09:21 19 that it would be possible to get copies of those printed out  
01:09:24 20 to you so you could review those. Those do deal only with the  
01:09:28 21 recusal of the commissioner, which has happened. If that's  
01:09:32 22 the only item remaining, I think we could provide that, give  
01:09:36 23 you time to read it, and then we could go forward. If there's  
01:09:39 24 other items, absolutely, you should review the entire record  
01:09:41 25 before you -- and that's very important -- and be prepared to

01:09:45 1 deliberate. But if the only item is the item that was filed  
01:09:47 2 yesterday, I think we would have the ability to get those to  
01:09:51 3 you so you could review them if you're comfortable taking the  
01:09:54 4 time to review them. I don't want to get to ad nauseam where  
01:09:59 5 something's filed the day before a hearing and then because  
01:10:01 6 you don't have to time to review, you can't go forward with  
01:10:04 7 action. So if that's an option for the commissioners, I think  
01:10:08 8 that's probably -- if the department could confirm --  
01:10:10 9 something we could do. Again, if that's the only item  
01:10:13 10 remaining. If there's other items in the record, then that's  
01:10:16 11 fine to review -- to finish reviewing those and that's a  
01:10:18 12 requirement, but if it's only about this item, then I think  
01:10:20 13 you can get it before you. And, again, that deals only with  
01:10:23 14 the recusal issue.

01:10:25 15 VICE CHAIR HUDSON: Thank you, Mr. Hopper.

01:10:28 16 MR. HOPPER: So there you are.

01:10:28 17 VICE CHAIR HUDSON: I'll ask again, is it for --  
01:10:30 18 fore review of testimony or is it just for Mr. Carnicelli's  
01:10:34 19 thing? In other words, even if you had an opportunity to  
01:10:38 20 review Mr. Carnicelli's thing, would you feel capable of  
01:10:42 21 voting? And that's a question that will be repeated to all of  
01:10:44 22 you.

01:10:45 23 It's a yes or no. If you don't feel comfortable,  
01:10:49 24 just say you don't feel comfortable.

01:10:52 25 COMMISSIONER LA COSTA: Chair, I don't know what's



01:10:53 1 on here, so I do not feel comfortable.

01:10:56 2 VICE CHAIR HUDSON: That's all.

01:10:57 3 Mr. Castro?

01:10:58 4 COMMISSIONER CASTRO: Well, being that you restated  
01:10:59 5 it that way, I would feel comfortable in voting.

01:11:04 6 VICE CHAIR HUDSON: Okay. That would still, you  
01:11:06 7 would still vote -- okay. That would still leave four people  
01:11:09 8 capable of voting, so I don't know how that plays out because  
01:11:12 9 we no longer --

01:11:15 10 UNIDENTIFIED SPEAKER: It's not quorum.

01:11:17 11 VICE CHAIR HUDSON: Thank you, Hale(?).

01:11:18 12 It's not quorum.

01:11:21 13 MR. HOPPER: Well, just for Commissioner De Costa, I  
01:11:24 14 mean --

01:11:24 15 COMMISSIONER LA COSTA: La Costa.

01:11:26 16 MR. HOPPER: Oh, I'm sorry.

01:11:26 17 VICE CHAIR HUDSON: Mr. Hopper, tell us what we can  
01:11:26 18 do, whether or not we can make quorum or not. She already  
01:11:28 19 gave her answer, that was asked and answered twice, so let's  
01:11:30 20 move on.

01:11:30 21 MR. HOPPER: I think in this case if a commissioner  
01:11:35 22 has said she has not reviewed all of the record and is not  
01:11:38 23 capable of making a decision, then you only have four votes at  
01:11:42 24 this point so you would not be capable of making a decision.

01:11:45 25 VICE CHAIR HUDSON: So we cannot defer because we

01:11:47 1 can't even vote to defer. We have to just table the item.

01:11:50 2 COMMISSIONER LA COSTA: Excuse me, Chair. If I  
01:11:52 3 might, please.

01:11:53 4 VICE CHAIR HUDSON: Yes.

01:11:54 5 COMMISSIONER LA COSTA: I want to know what's on  
01:11:55 6 here. If I know what's on here, I have read all the -- like  
01:11:59 7 Kellie, I stayed up and read what was sent to me. But I have  
01:12:03 8 no idea what's on this thumb drive, so if the -- whomever  
01:12:07 9 provided it can tell me, I didn't bring my laptop today.

01:12:12 10 COMMISSIONER PALI: I have it. Would like to --

01:12:12 11 MR. HOPPER: I believe -- I don't know if we can  
01:12:13 12 confirm with the department, because they received it, but I  
01:12:14 13 believe these are the exhibits.

01:12:15 14 COMMISSIONER LA COSTA: Is that all there is?

01:12:18 15 MS. TAKAYAMA-CORDEN: Yes.

01:12:20 16 MR. HOPPER: And this provided yesterday, so I think  
01:12:22 17 that's -- that, yeah, it appears that the department is  
01:12:25 18 confirming these are the exhibits to the motion that was filed  
01:12:28 19 yesterday.

01:12:29 20 MS. TAKAYAMA-CORDEN: And the video of the last  
01:12:32 21 meeting.

01:12:29 22 MR. HOPPER: And the video of the last meeting.

01:12:32 23 COMMISSIONER LA COSTA: Then I will change my  
01:12:34 24 negative to an affirmative.

01:12:37 25 VICE CHAIR HUDSON: We have five people capable of

01:12:37 1 voting, we have established quorum.

01:12:38 2 Mr. Castro, you have a question?

01:12:40 3 COMMISSIONER CASTRO: Yes. I'd like to make a  
01:12:41 4 motion to go into executive session.

01:12:44 5 COMMISSIONER LA COSTA: Second.

01:12:45 6 VICE CHAIR HUDSON: Okay. The motion is to go into  
01:12:47 7 executive session. All those in favor, say aye.

01:12:54 8 (Response.)

01:12:54 9 VICE CHAIR HUDSON: We will recess and then go into  
01:12:57 10 executive session. A 3-minute recess, then we start executive  
01:13:01 11 session.

01:13:03 12 (Pause in Proceedings: 10:37 a.m.-11:04 a.m.)

01:39:57 13 (Commissioner Hill is now present. Commissioner  
01:40:09 14 Carnicelli is not present.)

01:40:44 15 VICE CHAIR HUDSON: (Gavel.) Okay. Maui County  
01:40:46 16 Planning session, December 11, 2018 is back in session,  
01:40:54 17 regular session. Executive session is ended.

01:40:57 18 I'd like to recognize Kahu Hill, Commissioner Kahu  
01:41:01 19 Hill who has joined us. And I'm going to ask her -- I'm going  
01:41:02 20 to remind -- let her know that Commissioner Carnicelli has  
01:41:06 21 recused himself from voting on this agenda item. I'm going to  
01:41:10 22 ask you point-blank, like I did with the other commissioners:  
01:41:15 23 Do you feel comfortable in voting on this agenda item? Do you  
01:41:19 24 feel that you've had all the testimony and all the evidence to  
01:41:21 25 make an informed decision?

01:41:23 1 COMMISSIONER HILL: Yes.

01:41:23 2 VICE CHAIR HUDSON: Thank you.

01:41:25 3 During -- while we had executive session, there was  
01:41:27 4 no new evidence, it was just lots of talking.

01:41:34 5 I'm going to turn the floor over to the deputy  
01:41:37 6 director, who has a few words.

01:41:39 7 DEPUTY DIRECTOR ALUETA: Thank you, Mr. Chair.

01:41:41 8 I just wanted to kind of bring everybody back to  
01:41:46 9 where, I guess, you've reconsidered your motion, you're  
01:41:49 10 basically back to what -- reviewing the hearings officer's  
01:41:55 11 report at this point in time, so -- on whether or not the  
01:41:58 12 project meets the criteria for a County Special Use Permit.  
01:42:04 13 I'm going to tell you a funny story about another county --  
01:42:08 14 another permit and what I'm -- and it was very contentious  
01:42:15 15 like this and it was ultimately denied. And the staff planner  
01:42:21 16 Darren Suzuki, who's well respected, was going over and  
01:42:26 17 explaining to the applicant why it was denied and the  
01:42:29 18 applicant went on and said, Well, what about the aloha spirit  
01:42:34 19 as far as that? And with a straight face, all the planner  
01:42:39 20 Darren could say is, That's not a criteria. Okay? Aloha  
01:42:45 21 spirit is not a criteria. On the flip side, being an asshole  
01:42:51 22 is also not a criteria. Okay? And you need to separate the  
01:42:58 23 application from the applicant. Okay?

01:43:03 24 Now, you're going -- the other thing that -- overall  
01:43:09 25 is: How did you get to the point where you have a County

01:43:15 1 Special Use Permit for a transient vacation accommodation  
01:43:18 2 within the Business Country Town District? Well, that was one  
01:43:23 3 of my ordinances that I had drafted and put forth and was  
01:43:26 4 adopted by the county council. Okay? It was modeled off the  
01:43:31 5 Small Town code that Wailuku has which allows for up to 20  
01:43:37 6 rooms in Wailuku, no permit required, just a permitted use.  
01:43:41 7 We followed that same procedure, we got it down to 12 rooms at  
01:43:44 8 the time, I believe, and proposed that for many of our Country  
01:43:48 9 Town Districts because we felt small inns were an appropriate  
01:43:52 10 mixed component within our Small Town communities.

01:43:55 11 The other side of that was I was trying to move the  
01:43:59 12 demand of -- because tourists were moving into our  
01:44:03 13 agricultural districts, the residential districts, and I felt  
01:44:06 14 that the best way to combat that was to provide the inventory  
01:44:10 15 within the commercial core, have commercial businesses compete  
01:44:14 16 with other commercial uses rather than commercial transient  
01:44:18 17 vacation rentals competing with residents, so that's why. And  
01:44:22 18 it went through council, it was approved. Council, in their  
01:44:28 19 discussion and decision making, chose to require a County  
01:44:35 20 Special Use Permit for this type of use within the Business  
01:44:38 21 Country Town District. That is -- and that's pretty -- that's  
01:44:41 22 the application before you. Okay?

01:44:43 23 And there was a contested case and a hearings  
01:44:48 24 officer. We have -- we don't object to anything that -- the  
01:44:54 25 final conclusions, I guess you could say, of the hearings

01:44:57 1 officer. I do want to note that, you know, the department  
01:45:01 2 does have some concerns with some of the facts or some of the  
01:45:05 3 points presented. And I didn't have an opportunity at the  
01:45:12 4 September meeting to discuss this, as you know, it went rather  
01:45:16 5 quickly. I will pass these out and these are -- this is from  
01:45:21 6 me that was originally intended, so make sure all of you --  
01:45:24 7 you can pass one copy down.

01:45:27 8 MR. HOPPER: Maybe give a copy to the applicant.

01:45:30 9 DEPUTY DIRECTOR ALUETA: Yes.

01:45:31 10 MR. HOPPER: And to Thomas Kolbe as well.

01:45:35 11 DEPUTY DIRECTOR ALUETA: Okay.

01:45:54 12 (Handing out paper.)

01:45:57 13 DEPUTY DIRECTOR ALUETA: So, again, we don't object  
01:46:11 14 to the overall conclusion of, you know, obviously from the  
01:46:15 15 standpoint of -- from planning aspect for small inns within  
01:46:21 16 town, we don't object to the conclusions as far as the  
01:46:26 17 hearings officer's report goes. We just -- from certain  
01:46:29 18 points of it, we feel that there needs to be -- and we just  
01:46:35 19 want to -- we're in favor of the process of having a clear  
01:46:39 20 record, of -- and going through the record as well as the  
01:46:45 21 criteria for a special use, a County Special Use Permit for  
01:46:51 22 the project and then -- but I'll leave that discussion and,  
01:46:56 23 again, you were going to go -- you also have the hearings  
01:47:00 24 officer's report and you're going to go through that. You  
01:47:03 25 also have the criteria that is used for a County Special Use

01:47:06 1 Permit and I -- hopefully you guys can come to some type of a  
01:47:11 2 good deliberation and render a decision at some point.

01:47:15 3 Thank you, Mr. Chair, for the opportunity to make  
01:47:18 4 those comments.

01:47:19 5 VICE CHAIR HUDSON: Thank you, Joe.

01:47:20 6 Commissioners, do we have any questions for the  
01:47:29 7 department?

01:47:29 8 (No response.)

01:47:32 9 VICE CHAIR HUDSON: No questions for the planning  
01:47:36 10 department?

01:47:36 11 (Vice Chair and Corporation Counsel conferring.)

01:47:58 12 VICE CHAIR HUDSON: Does any of the commissioners  
01:48:00 13 have a question for the applicant who's in attendance?

01:48:04 14 COMMISSIONER LA COSTA: I have, Chair.

01:48:05 15 VICE CHAIR HUDSON: Go ahead.

01:48:06 16 Applicant, are you willing to respond to questions?

01:48:11 17 MR. REVERE: Thank you, Chair. Terry Revere, I'm  
01:48:14 18 here for the applicant. I'm just here as an observer because  
01:48:18 19 as we explained at the last hearing, we believe that the  
01:48:21 20 commission is taken too long -- this is probably longer than  
01:48:25 21 you want to hear, but we don't believe that the commission  
01:48:28 22 actually has jurisdiction at this time, so we're just here as  
01:48:32 23 an observer.

01:48:33 24 VICE CHAIR HUDSON: Thank you.

01:48:33 25 Commissioner, they will not be responding to

01:48:36 1 questions.

01:48:36 2 COMMISSIONER LA COSTA: May I make a comment for the  
01:48:40 3 record?

01:48:41 4 VICE CHAIR HUDSON: Sure.

01:48:41 5 COMMISSIONER LA COSTA: Thank you.

01:48:42 6 On the motion on page 15 you have shown -- or it has  
01:48:47 7 been shown as Mr. La Costa. I just want to correct that, I'm  
01:48:52 8 not a Mister.

01:48:53 9 Thank you, Chair.

01:48:53 10 VICE CHAIR HUDSON: Thank you, Ms. La Costa.

01:48:58 11 Before we ask for the actual reading and then I'm  
01:49:01 12 going to call for a motion, I'm going to remind the commission  
01:49:05 13 that you have one of four possibilities with this hearings  
01:49:08 14 officer's report: Either you can approve the hearings officer  
01:49:12 15 report as is, you can deny the hearings officer's report as  
01:49:16 16 is, or you can approve the hearings officer report with  
01:49:20 17 modifications, or we can defer. Those are your possibilities.

01:49:25 18 Is there any further discussion on this?

01:49:25 19 (No response.)

01:49:31 20 VICE CHAIR HUDSON: Seeing none, the chair will  
01:49:34 21 entertain a motion.

01:49:35 22 MR. HOPPER: Just quickly. You should probably  
01:49:38 23 clarify about the motion.

01:49:41 24 VICE CHAIR HUDSON: Oh, yeah. Go ahead.

01:49:41 25 MR. HOPPER: I just wanted to clarify there was some



01:49:43 1 discussion about the opportunity to review the motion that was  
01:49:46 2 filed yesterday. Did everybody have the opportunity to do  
01:49:48 3 that either at the recess we had or clarify that because this  
01:49:52 4 thumb drive only had the exhibits to the motion, that they had  
01:49:54 5 already reviewed the motion? I just wanted to get that on  
01:49:57 6 record, because previously a couple members raised concerns  
01:49:58 7 that they hadn't had a chance to review what was on the thumb  
01:50:03 8 drive.

01:50:04 9 VICE CHAIR HUDSON: Any concerns with that?

01:50:07 10 COMMISSIONER LA COSTA: No, sir.

01:50:09 11 MR. HOPPER: Okay.

01:50:10 12 VICE CHAIR HUDSON: Okay. The chair will entertain  
01:50:14 13 a motion. Go ahead.

01:50:23 14 COMMISSIONER LA COSTA: Thank you, Chair. I  
01:50:25 15 entertain a motion to deny the findings of the hearings  
01:50:28 16 officer based on No. 4, "The proposed development will not  
01:50:33 17 adversely affect or interfere with public and private schools,  
01:50:37 18 parks, playgrounds, water systems, sewage and solid waste  
01:50:40 19 disposal, drainage, roadway and transportation systems, or  
01:50:43 20 other public requirements, conveniences, and improvements."  
01:50:48 21 Excuse me.

01:50:49 22 VICE CHAIR HUDSON: Thank you.

01:50:52 23 COMMISSIONER TACKETT: I second the motion.

01:50:59 24 VICE CHAIR HUDSON: Discussion?

01:51:03 25 DEPUTY DIRECTOR ALUETA: Can I ask one question?

01:51:05 1 VICE CHAIR HUDSON: Yes.

01:51:06 2 DEPUTY DIRECTOR ALUETA: Thank you. Thank you,  
01:51:07 3 Mr. Chair. I just want to -- in your point of Criteria No. 4,  
01:51:12 4 Commissioner, do you feel that there's no conditions that  
01:51:15 5 could be placed on the project to mitigate that, to mitigate  
01:51:20 6 your concerns?

01:51:20 7 COMMISSIONER LA COSTA: I think the only way these  
01:51:23 8 concerns would be mitigated is not to allow that many  
01:51:27 9 occupants in the building because it will tax the  
01:51:30 10 infrastructure as stated in No. 4.

01:51:35 11 VICE CHAIR HUDSON: I have a question for corp  
01:51:36 12 counsel. What happens if we want to add another one that I  
01:51:41 13 think was -- like the Condition No. 5 because I think there  
01:51:46 14 will be -- I'm pretty sure there will be -- adversely impact  
01:51:50 15 the social, cultural, economic, environmental, and ecology  
01:51:55 16 character and quality of the area. Her -- her -- that would  
01:52:00 17 be better, 4 and 5 would be better.

01:52:02 18 MR. HOPPER: Well, what you have is a motion that's  
01:52:04 19 been seconded before you for discussion. If someone would  
01:52:06 20 like to bring a motion to amend to add additional reasoning in  
01:52:12 21 favor of the motion, then they could do that. It would need  
01:52:13 22 to be on the record, though, with what the reasoning was and  
01:52:16 23 what criteria they felt was problematic if that was the  
01:52:20 24 motion. You could do a motion to amend to approve, you would  
01:52:24 25 need to vote on the motion, but if there are additional

01:52:27 1 reasons for -- in support of the motion where you want to  
01:52:33 2 amend, you get those as part of the record, you would do that  
01:52:36 3 by a motion to amend. So someone would need to make a motion  
01:52:39 4 to amend to do X, Y, and Z and then it would have to be  
01:52:42 5 seconded and then that would be discussed and disposed of.

01:52:45 6 VICE CHAIR HUDSON: Thank you.

01:52:46 7 Mr. Tackett.

01:52:46 8 COMMISSIONER TACKETT: I would like to make a motion  
01:52:48 9 to amend to include No. 5, "The proposed development would not  
01:52:52 10 adversely impact the social, cultural, economic, and  
01:52:56 11 environmental and ecology character and quality of the area."  
01:53:02 12 And why I say that is because -- if I could speak to --

01:53:09 13 VICE CHAIR HUDSON: Yes, you can.

01:53:11 14 COMMISSIONER TACKETT: Is this an appropriate time?  
01:53:12 15 Because through all this process which has gone on for an  
01:53:16 16 extremely long time, I've been here when the room has been  
01:53:21 17 packed with people against it, I've heard a huge amount of  
01:53:25 18 testimony against it, I've seen on TV large amounts of  
01:53:31 19 testimony against it, and then when I read -- when I read the  
01:53:36 20 findings that were -- that were given to us, none of those --  
01:53:41 21 none of those -- none of those testimonies were -- were  
01:53:48 22 included or seemed to have been given any sort of clout as to  
01:53:53 23 this decision. And the way -- the way I see it is any time  
01:53:58 24 people that live in a place where it's very difficult to  
01:54:02 25 survive, it's very difficult to pay their bills, it's very

01:54:06 1 difficult just to -- just to do your day-to-day things, when  
01:54:10 2 people are willing to show up multiple times and take money  
01:54:14 3 out of their family to be here and to go against something, to  
01:54:19 4 me it's a red flag that there's social discontent for that  
01:54:25 5 project in that area, and that's what I see.

01:54:29 6 VICE CHAIR HUDSON: Thank you.

01:54:29 7 Is there a second to the motion?

01:54:31 8 COMMISSIONER LA COSTA: I second.

01:54:32 9 VICE CHAIR HUDSON: Thank you. So the motion has  
01:54:34 10 been amended.

01:54:35 11 Deputy, could you read the new motion?

01:54:39 12 DEPUTY DIRECTOR ALUETA: Thank you, Mr. Chair. My  
01:54:42 13 understanding is that the current motion is to reject the  
01:54:48 14 hearings officer's report and to deny the application for a  
01:54:54 15 County Special Use Permit in that the application does not  
01:54:56 16 meet Criteria No. 4 or No. 5 for the County Special Use  
01:55:04 17 Permit.

01:55:04 18 MR. HOPPER: In order to take this -- because this  
01:55:05 19 was by motion to amend, you would need to take this one at a  
01:55:08 20 time. So you would be voting right now on the motion to  
01:55:10 21 amend, which would be to add the commissioner's motion. So  
01:55:13 22 you would want to dispose of that first and then you could  
01:55:16 23 take other motions to amend the main motion if you would like.

01:55:20 24 DEPUTY DIRECTOR ALUETA: Thank you.

01:55:21 25 VICE CHAIR HUDSON: Okay. I'm going to take a vote

01:55:23 1 on amending the motion to include No. 5. All those in favor,  
01:55:27 2 say aye.

01:55:27 3 (Response.)

01:55:31 4 VICE CHAIR HUDSON: Five ayes. All of those  
01:55:32 5 opposed?

01:55:32 6 (No response.)

01:55:33 7 VICE CHAIR HUDSON: No opposed.

01:55:37 8 DEPUTY DIRECTOR ALUETA: So you currently are on  
01:55:38 9 your main motion.

01:55:39 10 VICE CHAIR HUDSON: That's right. Which is No. 4.

01:55:37 11 DEPUTY DIRECTOR ALUETA: Yeah.

01:55:41 12 VICE CHAIR HUDSON: Any further discussion on No. 4?  
01:55:44 13 Any further add-ons? Any further friendly amendments?

01:55:50 14 COMMISSIONER CASTRO: I think -- I'd also like to  
01:55:56 15 include No. 6, "The public shall be protected from deleterious  
01:56:01 16 effects of the proposed use." The reason for that is we have  
01:56:05 17 like 50 percent of the people that were opposed, you know, to  
01:56:12 18 the -- to the permit and the judge I don't believe talked to  
01:56:21 19 any of them, mostly whoever he spoke to was a few that were in  
01:56:27 20 favor. So I'd like to include No. 6 as well.

01:56:32 21 VICE CHAIR HUDSON: Very well. We have a motion on  
01:56:34 22 the floor, do we have a second?

01:56:36 23 COMMISSIONER HILL: I second.

01:56:39 24 VICE CHAIR HUDSON: Okay. The motion on the floor  
01:56:41 25 has been moved and seconded.

01:56:42 1 Deputy, once again, please.

01:56:44 2 DEPUTY DIRECTOR ALUETA: Thank you, Mr. Chair.

01:56:46 3 The motion on the floor right now is to amend the

01:56:49 4 motion to include No. 6 that, "The project" -- "The public

01:56:55 5 shall be protected from the deleterious effects of the

01:56:57 6 proposed use," and that your finding is that it does not meet

01:56:59 7 that criteria.

01:57:01 8 VICE CHAIR HUDSON: All those in favor signify.

01:57:01 9 (Response.)

01:57:01 10 VICE CHAIR HUDSON: All those opposed?

01:57:14 11 (No response.)

01:57:14 12 VICE CHAIR HUDSON: No opposed. The motion carries.

01:57:16 13 Back to original motion. Now we're back to original

01:57:17 14 motion No. 4.

01:57:19 15 MR. HOPPER: As amended to add the other two.

01:57:22 16 VICE CHAIR HUDSON: As amended now with 4 and 5.

01:57:25 17 Any further amendments?

01:57:25 18 (No response.)

01:57:26 19 VICE CHAIR HUDSON: Seeing none, all those in favor

01:57:28 20 of the motion signify saying aye.

01:57:28 21 (Response.)

01:57:34 22 VICE CHAIR HUDSON: All those opposed?

01:57:34 23 (No response.)

01:57:35 24 VICE CHAIR HUDSON: No opposed. The motion carries

01:57:39 25 and denied the hearings officer's report.

01:57:44 1 DEPUTY DIRECTOR ALUETA: And the County Special Use  
01:57:47 2 Permit.

01:57:47 3 VICE CHAIR HUDSON: And the County Special Use  
01:57:47 4 Permit.

01:57:51 5 Take a 5-minute recess and re-adjourn at 11:27  
01:57:57 6 hours. Thank you. (Gavel.)

01:58:02 7 (Pause in Proceedings: 11:22 a.m.-11:25 a.m.)

02:01:41 8 VICE CHAIR HUDSON: (Gavel.) Maui County Planning  
02:01:47 9 Commission meeting of December 11, 2018 is back in session.

02:01:50 10 It is 11:27 hours.

02:01:54 11 Director.

02:01:55 12 DIRECTOR McLEAN: Thank you, Chair. Next is  
02:01:57 13 director's report. The first item is Reports from members who  
02:02:01 14 attended the December 7, 2018 Native Hawaiian Law Training.  
02:02:07 15 This is on the agenda because when members who constitute less  
02:02:11 16 than a quorum attend these events, they're required to report  
02:02:15 17 back to the commission to members who did not attend. I saw  
02:02:21 18 Commissioner Kahu Hill at the training and I saw Commissioner  
02:02:29 19 Pali.

02:02:29 20 Were you folks there? You folks? Just the two  
02:02:32 21 members then. So would those commissioners have anything that  
02:02:36 22 they wish to report at this meeting or if you're not prepared  
02:02:39 23 at this meeting, it can be on a future agenda.

02:02:43 24 COMMISSIONER HILL: I'm ready. Mahalo. Can you  
02:02:47 25 hear me?

02:02:47 1 VICE CHAIR HUDSON: Yeah.

02:02:50 2 COMMISSIONER HILL: So I wrote some notes and it was  
02:02:54 3 really an honor to go. Oh, the rooster's in back of me. So I  
02:03:00 4 attended Ka Huli Ao, a course on Native Hawaiian Law, and they  
02:03:07 5 spoke at the beginning that it was based on the Act 169, which  
02:03:11 6 is a training course on Native Hawaiians and Hawaiian rights.  
02:03:18 7 Professor MacKenzie opened with an ole, so it was really nice  
02:03:22 8 opening Hawaiian style something like this.

02:03:24 9 OHA Trustee Carmen Hulu spoke about natural and  
02:03:27 10 cultural resources, historical landmarks, oral history. She  
02:03:33 11 shared a lot about the aina and cultural sites, the ahupuaa  
02:03:38 12 system, the moku districts. She shared about Maui and  
02:03:43 13 Piilani, very important cultural and historic information.

02:03:49 14 Also Professor McGregor shared about Hawaiian  
02:03:53 15 history and the foundations of kuleana and, boy, that, that  
02:03:57 16 word went really deep and the levels of kuleana to the  
02:04:03 17 planning commission and that we all have a responsibility for  
02:04:06 18 certain things and to know them.

02:04:08 19 We were taught about public land and trust by  
02:04:13 20 Professor MacKenzie, who had worked on cases asserting  
02:04:18 21 Hawaiian customary rights and dealing with quiet title, land  
02:04:22 22 issues, etc. She did share about a -- or it was shared about  
02:04:26 23 the Declaration of Rights in 1839, talked about 1840 and the  
02:04:30 24 constitutional election. A lot to remember, a lot to learn  
02:04:36 25 and relearn.



02:04:36 1 In the -- about the land also, it belonged to the  
02:04:40 2 people. There was a lot shared in the workshop about water  
02:04:45 3 and how important water is. When you looked at the maps of  
02:04:49 4 Hawaii Ne and the different islands, wow, it was really  
02:04:53 5 focused up here in one part up in Iao and -- versus other  
02:04:58 6 islands, but the importance of water.

02:05:02 7 And there's books, there was a couple books that  
02:05:06 8 came away -- in fact, part of it, this one, *Olaika Wai* and  
02:05:18 9 that was really great for any of us to learn -- by Sproat --  
02:05:20 10 the depth of water. And I know as my kapuna taught me, we  
02:05:25 11 shared that about the kona, the deeper meanings of water as  
02:05:30 12 well. Where there's water, there's life, you know, the water  
02:05:34 13 is kane and the aspects of not only life and living it, but  
02:05:40 14 the meaning, the deeper kona of the water.

02:05:45 15 They spoke about the kuleana, again, of us as  
02:05:52 16 commissioners and how important it is for the AIS and the EAS  
02:05:59 17 and SHPD, as they call it, S-H-P-D, and that we really need to  
02:06:05 18 get these. It was intense, though, when one wahine shared,  
02:06:10 19 she was speaking about the kupuna and she said the AIS is guns  
02:06:14 20 for hire, she called it, hope they don't find anything. But  
02:06:18 21 she mentioned how important it is that we look at those, we  
02:06:21 22 see these documents. That we need to see these documents and  
02:06:24 23 ask for them and make sure we're -- we're there.

02:06:30 24 They had shared in the workshop so -- so powerful  
02:06:33 25 that if there are sand dunes, we need to just be aware because

02:06:37 1 of the ancient history of the Hawaiian people. If there's  
02:06:41 2 sand dunes, there's probably burial grounds and that's really  
02:06:45 3 something to breathe in very deep here, because they're all  
02:06:50 4 over and there's so much that hasn't been touched. So we  
02:06:53 5 really have to keep that inside of ourself and make sure that  
02:06:56 6 we know what's coming with the lands.

02:06:58 7 The workshop really emphasized the rights of  
02:07:02 8 Hawaiian cultural practitioners and still being able to gather  
02:07:06 9 and on undeveloped land or partially developed land, whether  
02:07:10 10 it's limu or whether it's opae or pa'akai or salt, the rights  
02:07:17 11 of the Hawaiian people and how important that is. We spoke  
02:07:21 12 about the declaration of rights again in 1939 and in that the  
02:07:26 13 reservation of the land being reserved for the people.

02:07:29 14 So this one book, *A Legal Primer For the Water Use*  
02:07:33 15 *and Management of Water in Hawaii*, I think is really important  
02:07:37 16 to have and is printed from the Office of Hawaiian Affairs.  
02:07:42 17 As well *A Legal Primer For the Traditional and Customary*  
02:07:46 18 *Rights of Hawaii*. David Foreman was amazing, the depth of  
02:07:51 19 what he teaches in law. So this is the other book that was  
02:07:56 20 given upon completion, I believe those are also available or  
02:08:00 21 you can find this information online.

02:08:03 22 And speaking about the iwi, the iwi kapuna was very,  
02:08:10 23 very fascinating. One of the -- one of the things she shared,  
02:08:14 24 and only by going to something like this can you hear it,  
02:08:18 25 there was recently a -- there was a -- the iwi of the -- of a

02:08:22 1 whale and they were looking for that as we've seen dinosaurs,  
02:08:26 2 as we've seen, you know, the skeletal remains of different  
02:08:30 3 mammals and those of the ocean or the land in museums and  
02:08:34 4 places and they're -- they've come together now and said, This  
02:08:37 5 is part of Kanaloa, this is part of the embody -- the  
02:08:42 6 embodiment of what they consider is the God Kanaloa. So  
02:08:47 7 (speaking in Hawaiian), so Kanaloa is of the ocean. So this  
02:08:49 8 was going to go to for -- educational purposes, I believe, to  
02:08:53 9 the Maui Ocean Center and then as they looked at it more and  
02:08:56 10 they came forward and this one lady that was speaking, they  
02:09:02 11 felt it wasn't pono, that it wasn't right to have the bones of  
02:09:06 12 their ancestors who (speaking in Hawaiian), showing that they  
02:09:12 13 came from the ocean to the land and then to us and this  
02:09:17 14 evolvement is how many Hawaiians see it, that that -- that  
02:09:19 15 those bones shouldn't be on display. And so they didn't bring  
02:09:23 16 it into an educational place, they actually did a ceremony and  
02:09:28 17 protocol and what they need to do to cremate those bones and  
02:09:33 18 return them to the ocean, back into the (speaking in  
02:09:36 19 Hawaiian), back into creation so that those whales and the  
02:09:39 20 lineage of their ohana, their family and future generations  
02:09:43 21 could continue.

02:09:44 22 So it was very profound, the depth that came out of  
02:09:48 23 here. It was just not only for law, but reminding us we're in  
02:09:54 24 a culture, reminding us that there's so much that we need to  
02:09:57 25 look at from Kamehameha, from different places in history,

02:10:01 1 that -- that we're different than anywhere else in the United  
02:10:07 2 States, different than anywhere in the nation, and we might  
02:10:10 3 look at certain things a different way and that we need to  
02:10:13 4 because of ceded lands, because of different lands and the  
02:10:17 5 rights. And so I just invite all of us to continue to learn  
02:10:22 6 and hopefully that we can all learn and it was really good. I  
02:10:27 7 believe that Ige passed that Act 169 I think -- was it 2015,  
02:10:33 8 is that what you heard?

02:10:34 9 COMMISSIONER PALI: I missed that last one.

02:10:38 10 COMMISSIONER HILL: Yeah. So -- but bringing this  
02:10:42 11 forward, that the people of county and state can learn this.  
02:10:43 12 I think it's important for all of us and this is also deeply  
02:10:46 13 enriched in the culture, the (speaking in Hawaiian), the  
02:10:50 14 foundation, the aloha, the spirit, the ohanas, what the mokus  
02:10:54 15 are and what the ahupuaas are and what -- how we're impacting  
02:10:58 16 that, how we're there. So we -- as things continue to  
02:11:02 17 develop, continue to move forward, we do have a kuleana, we  
02:11:06 18 have a kuleana to be aware, to know, to make conscious  
02:11:10 19 decisions and know the information and know the history. So  
02:11:13 20 if there's anything we're not sure about, let's make sure that  
02:11:16 21 we know, that we continue to ask questions and continue to  
02:11:19 22 relearn. And it's really an honor that any of us and all of  
02:11:23 23 us that are part of being part of Hawaii now and what will be  
02:11:28 24 here in the future. So it was an honor to go. Mahalo.

02:11:31 25 VICE CHAIR HUDSON: Thank you.

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Kellie.

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COMMISSIONER PALI: I actually really enjoyed hearing that from you, I love that you and I, although we are -- our hearts are knitted together, we are so different in our perspective. And I agree with everything you said from that perspective, but then here I am with the analytical brain and I was looking at legal, legal, legal. So this is what I -- these are my takeaways. I was -- and all of that is spot on and totally accurate. I saw it -- I saw that and I felt it, but I was more -- my takeaways from the meeting, and I did miss the last one and a half sessions, but was the title issues. I -- my biggest takeaway was in the first hour and a half and I loved hearing, number one, that private ownership was not created after the throw over and the missionaries and we were -- it was actually created under our Hawaiian King Kamehameha and government, and that's one of the biggest misconceptions with the current kanaka maoli or Hawaiians, they don't realize that King Kamehameha had private ownership and they -- they have the documents and they can trace it back.

And I loved seeing the tiers of how it happened. They had this slide and it showed three tiers and when a family that worked a certain parcel of land, they were given a third interest, they had a supervisor of the area that had a third interest, and then the king still owned a third

02:12:57 1 interest. So it was -- for me on a legal standpoint, when we  
02:13:00 2 hear people that say, Oh, that's my family's land, that's my  
02:13:02 3 family's land, and then I guess without this kind of training,  
02:13:06 4 I -- I didn't really know how did we go from eight generations  
02:13:10 5 or ten generations till today, what happened, how does  
02:13:14 6 paperwork get lost, how do you claim that it's still your land  
02:13:17 7 that in today's society in our local government, it's not. So  
02:13:21 8 fundamentally piecing it together on how we went from there to  
02:13:24 9 here really helped me on a legal standpoint, as we're making  
02:13:27 10 legal decisions on people claiming that, This is my family's  
02:13:31 11 land when legally it isn't record, on record that it is any  
02:13:35 12 longer.

02:13:35 13 So my takeaway was:

02:13:35 14 1. Understanding that private ownership interest  
02:13:38 15 was actually a King Kamehameha thing and not us later after  
02:13:43 16 the throw over.

02:13:43 17 No. 2. The other thing that was really more eye  
02:13:48 18 opening to me was OHA's position and from my takeaway of the  
02:13:51 19 generic fundamental structure was that's why they created OHA,  
02:13:56 20 that's why that the state and the federal government made sort  
02:13:59 21 of an agreement that, Yes, these lands may have been taken,  
02:14:04 22 here's our settlement to you. We are going to establish OHA,  
02:14:06 23 we are going to promise -- I believe the figure was 15  
02:14:10 24 million, 15.1 million dollars a year. And I think we forget  
02:14:14 25 as a society that if anyone has a gripe, if they are the

02:14:18 1 beneficiary of this area or this parcel of land -- we're in  
02:14:23 2 today now, that was then, but you probably have rights as a  
02:14:27 3 beneficiary with OHA. Like that was my takeaway.

02:14:31 4 And so I'm going to definitely be a lot more  
02:14:33 5 proactive with sort of holding OHA accountable. What are you  
02:14:38 6 doing with all this money? Why -- where is -- where are the  
02:14:42 7 benefits to all the beneficiaries? Where is that funneling  
02:14:46 8 down? It really kind of struck a cord with me when I realized  
02:14:47 9 that the trade-off for all of our land being taken and in our  
02:14:52 10 current government trying to make right, we got OHA and a  
02:14:57 11 guarantee of 15 plus million dollars a year, year after year  
02:15:01 12 after year. And that was hugely expose -- a huge exposure for  
02:15:05 13 me and eye opening. And so I was kind of connecting that, but  
02:15:08 14 those were kind of my takeaways legally and claims to land and  
02:15:12 15 so forth, so...

02:15:13 16 COMMISSIONER HILL: Chair, one more?

02:15:15 17 VICE CHAIR HUDSON: Sure.

02:15:15 18 COMMISSIONER HILL: Mahalo, Kellie. I just want to  
02:15:19 19 say one thing on what you said. It was very eye opening and  
02:15:22 20 it was so cultural to know that there was something as far as  
02:15:25 21 is it our land and a -- you know, one of the descendants  
02:15:30 22 saying, That was my family, that is my family, that's my land.  
02:15:33 23 Well, they didn't have the paperwork, didn't have the  
02:15:37 24 paperwork and they denied that guy. And so he ended up coming  
02:15:40 25 back, he ended up coming back another time and he chanted his

02:15:45 1 entire lineage. He did it, he came in and they heard  
02:15:50 2 everyone, all the family names in the lineage, and then  
02:15:54 3 recognized, of course, he is a descendent, he has -- this is  
02:15:56 4 his right. That's where his kupuna were and he has rights to  
02:16:00 5 this land. And those are things that can happen here that  
02:16:02 6 won't happen anywhere else, that we may hear Hawaiians coming  
02:16:06 7 forward and the kanaka maoli and so we need to listen to them  
02:16:10 8 and the kupuna that come in here and share.

02:16:13 9 COMMISSIONER PALI: And the lady said -- she read  
02:16:17 10 some piece -- excerpt of the law, it's written into the law  
02:16:18 11 that you actually don't need landowner's permission to  
02:16:21 12 practice your cultural rights in that area that normally used  
02:16:25 13 to be practiced with your family's history. So she read  
02:16:30 14 something to show we don't need to add it in because you don't  
02:16:34 15 actually need that kind of permission. But, for instance, it  
02:16:37 16 would have to be like shoreline because you were fishing. I  
02:16:40 17 mean, you can't really go into someone's private property that  
02:16:43 18 is not near a resource to say, Oh, I'm going to practice my  
02:16:47 19 heritage here, when it's kind of out of order. So that was  
02:16:50 20 kind of interesting to me.

02:16:52 21 COMMISSIONER HILL: Yes.

02:16:54 22 DIRECTOR McLEAN: Chair, if I could add. First, the  
02:16:56 23 members of this commission and our two other planning  
02:17:00 24 commissions and advisory committees are required to attend  
02:17:04 25 this training. It's usually given on Oahu. They were able to



02:17:07 1 come to Maui for this session. So when it is next offered on  
02:17:11 2 Oahu, we'll be again asking if members are able to attend and  
02:17:15 3 I would encourage you to attend if you're able to. It's a  
02:17:18 4 requirement per the code for you folks.

02:17:20 5 A number of our staff attended and it -- typically,  
02:17:24 6 as you know, when we get applications to process applications,  
02:17:27 7 we rely on the expertise of these agencies to review those  
02:17:31 8 applications and give us their comments, so we send them to  
02:17:34 9 SHPD, sometimes to OHA. And so we're looking for their  
02:17:40 10 objective expert agencies to give us their feedback on how  
02:17:45 11 proposed developments might impact historic properties,  
02:17:48 12 cultural resources, natural resources. However, our staff has  
02:17:53 13 now had that training and one thing that was emphasized with  
02:17:55 14 us is that we're responsible for doing that analysis too and  
02:17:59 15 overall I think we do a good job. Again, we rely on the other  
02:18:03 16 agencies, but we can also do our own analysis and ask for more  
02:18:07 17 information from the applicant or ask for further comments  
02:18:10 18 from an agency. So we will be putting that into play in our  
02:18:16 19 future work, so I just wanted to add those comments.

02:18:21 20 We'll keep you posted when the next training session  
02:18:24 21 is available. Thank you, Chair.

02:18:26 22 VICE CHAIR HUDSON: Thank you.

02:18:27 23 I had a quick question: Those books that you have,  
02:18:29 24 are they were readily available? Can we purchase them  
02:18:34 25 somewhere?

02:18:34 1 COMMISSIONER HILL: I think all of these are  
02:18:36 2 available through OHA and they were given at the end. After  
02:18:40 3 you completed the survey on what you learned, they gave them  
02:18:43 4 to you as you were leaving, so -- and also two of them come  
02:18:47 5 with disks. And also the transcripts of what happened they  
02:18:51 6 were going to email, if that's okay, then I could email it to  
02:18:54 7 you that you could share that, what was shared in the  
02:18:56 8 workshop.

02:18:58 9 DIRECTOR McLEAN: We do also have some extra books.  
02:19:01 10 They gave us some extras, so if there are any members who want  
02:19:03 11 one or all three, just let me know and we can get those to  
02:19:08 12 you.

02:19:08 13 COMMISSIONER HILL: I highly recommend them.

02:19:13 14 VICE CHAIR HUDSON: Thank you.  
02:19:13 15 Director.

02:19:15 16 DIRECTOR McLEAN: Next we had the SMA Minor and  
02:19:19 17 Exemptions report. Any there any questions on these reports?  
02:19:23 18 It's the bright yellow sheet, worksheet.

02:19:23 19 (No response.)

02:19:27 20 DIRECTOR McLEAN: And, lastly, discussion of future  
02:19:29 21 agenda items. We have the memorandum from Mr. Yoshida listing  
02:19:35 22 some of the items that should be on the next agenda in  
02:19:39 23 January, including the maps workshop, it looks like is on the  
02:19:43 24 next meeting agenda.

02:19:44 25 VICE CHAIR HUDSON: Okay. One last notification:

02:19:46 1 In April of 2019 I will be having additional responsibilities,  
02:19:51 2 so at the end of March I'll be resigning from the commission.  
02:19:54 3 I'm letting you know now so you have 3 months to get a  
02:19:59 4 replacement so there's no -- no gap.

02:20:01 5 Any further discussion?

02:20:03 6 COMMISSIONER LA COSTA: I have a question. Michele,  
02:20:05 7 on the Hololani revetment and shoreline and all of that other  
02:20:13 8 stuff, where does that stand? I mean, I've heard that there  
02:20:16 9 was a lawsuit, there was a end, there was a this, there was a  
02:20:19 10 that, but I still hear all kinds of chatter.

02:20:23 11 DIRECTOR McLEAN: I only know what you would know  
02:20:26 12 from the paper. I don't know anything internally or from corp  
02:20:29 13 counsel.

02:20:30 14 COMMISSIONER LA COSTA: Okay.

02:20:31 15 COMMISSIONER HILL: I have a question.

02:20:32 16 VICE CHAIR HUDSON: Yes.

02:20:33 17 COMMISSIONER HILL: Are we having a special meeting  
02:20:35 18 on December 18th?

02:20:36 19 DIRECTOR McLEAN: No. We are not having a special  
02:20:39 20 meeting.

02:20:40 21 COMMISSIONER HILL: Okay. So this is the last  
02:20:42 22 meeting of the year?

02:20:43 23 DIRECTOR McLEAN: This is our last meeting of the  
02:20:42 24 year.

02:20:44 25 COMMISSIONER HILL: Merry Christmas, everybody.

02:20:46 1 COMMISSIONER CARNICELLI: Merry Christmas.

02:20:48 2 COMMISSIONER LA COSTA: Happy Hanukkah.

02:20:50 3 COMMISSIONER CARNICELLI: Happy New Year. Happy

02:20:50 4 Hanukkah. Happy Kwanzaa.

02:20:52 5 VICE CHAIR HUDSON: Happy birthday.

02:20:52 6 COMMISSIONER HILL: Happy birthday. Happy

02:20:54 7 everything.

02:20:54 8 VICE CHAIR HUDSON: Anything else, Guys?

02:20:54 9 COMMISSIONER TACKETT: Happy trails.

02:20:57 10 COMMISSIONER CARNICELLI: Thank you, Chair.

02:20:58 11 VICE CHAIR HUDSON: If there's no further

02:20:59 12 discussion, the meeting is adjourned. (Gavel.)

00:17:20 13 (The proceedings were adjourned at 11:45 a.m.)

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C E R T I F I C A T E

STATE OF HAWAII                            )  
  )    SS.  
COUNTY OF MAUI                        )

I, Sandra J. Gran, Certified Shorthand Reporter for  
the State of Hawaii, hereby certify that on December 11, 2018,  
at 9:01 a.m. the proceedings was taken down by me in machine  
shorthand and was thereafter reduced to typewritten form under  
my supervision; that the foregoing represents, to the best of  
my ability, a true and correct transcript of the proceedings  
had in the foregoing matter.

I further certify that I am not an attorney for any  
of the parties hereto, nor in any way concerned with the  
cause.

DATED this 18th day of December, 2018, in Maui,  
Hawaii.



\_\_\_\_\_  
Sandra J. Gran, RPR  
Hawaii CSR 424