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**MAUI PLANNING COMMISSION  
PORTION OF REGULAR MINUTES  
ITEM C.1  
AUGUST 13, 2019**

Mr. Carnicelli: Good morning, Maui Planning Commission of August 13, 2019 is back in session. So at this point we are at Item C.1 which is a continuation of the meeting of May 28, 2019 and June 25, 2019. Did I just steal your job?

Ms. McLean: You did a great job.

**C. UNFINISHED BUSINESS**

1. **LEW ABRAMS representing the SACRED EARTH ASSEMBLY, a non-profit interfaith church, requesting a State Land Use Commission Special Permit to utilize approximately 14.8 acres of the Ahimsa Sanctuary Farm and a 7,693 square foot two-story agricultural building for church-related activities at 4504 Hana Highway, TMK: (2) 2-8-003:075 (por.), Haiku, Island of Maui. (SUP2 2017/0011) (T. Furukawa) (Public Hearing held on May 28, 2019) (Continued from 6/25/19 meeting)**

*(Item B.1 begins at 01:19:05 of the audio recording.)*

Mr. Carnicelli: Thank you. I think what we'll do is at this point in time we'll go ahead and start with Tara if you could go ahead and just kinda let us know where we are.

Ms. Tara Furukawa: Okay, so the item was first heard by you on May 28, 2019. At that time, the Maui Planning Commission voted to defer review of the project until a survey map could be provided that shows the acreage proposed for church use is less than 15 acres.

On June 25<sup>th</sup>, the item was heard by you again. At that time, the hearing on the item was recessed until today, August 13, 2019 so that the Department could check with the Land Use Commission on whether they need to review the application because the parcel is greater than 15 acres.

So the applicant is proposing a church on approximately 14.8 portion of a 25-acre parcel of land in Haiku. The agricultural building proposed for church use is two stories and approximately 7,693 square feet. There's a natural gulch surrounding the property that comprises 30 percent pasture that comprises 30 percent of fruit trees that comprise 20 percent in bamboo, vegetables and herbs that comprise 20 percent. The applicant is proposing to utilize the 3,623 square foot main floor as an assembly and worship hall. The lower level which has a kitchen is for meetings and potluck gatherings. At the first meeting the applicant also requested to use a portion of the lower level as a bookstore and gift shop for churchgoers only. The minimum required parking is 26 parking stalls and there will be 65 stalls on site.

The church will have a congregation of no more than 100 members. Plans to hold weekly services on Wednesday and Friday from 6:00 to 9:00 p.m., however they may be held at other times. Typically attendance will range from 10 to 30 people. Holiday celebrations will occur between 4:00 to 9:00 p.m. with estimated attendance of approximately 50 to 75 people and this excludes New Year's when the applicant has requested to operate outside of those times and in

1 excess of the amount of people. The applicant is here and can respond to any questions you  
2 might have about the application.

3  
4 Mr. Carnicelli: Thank you Tara. And then also just to reiterate for the Commissioners and  
5 everybody that's here is that the public hearing portion of this, public testimony sorry has been  
6 closed. I was made aware that there was additional written testimony submitted however that  
7 was not distributed to us as Commissioners and will not be considered as part of the record or  
8 as part of what it is that we consider in our deliberations. I believe at this point we'll go ahead  
9 and defer to Mr. Abrams. Mr. Abrams.

10

11 Dr. Lew Abrams: Yes, Dr. Abrams.

12

13 Mr. Carnicelli: Dr. Abrams, sorry.

14

15 Mr. Leslie Ickovitz: Good morning Commissioners.

16

17 Mr. Carnicelli: I need you to speak into the mic please.

18

19 Mr. Ickovitz: Good morning Commissioners, my name is Leslie Ickovitz.

20

21 Mr. Carnicelli: Good morning Les, Leslie.

22

23 Mr. Ickovitz: I'm the attorney for Sacred Earth Assembly and the Abrams and at the close of the  
24 June 25<sup>th</sup> meeting, Corporation Counsel, Mr. David Galazin told that we would have this  
25 opportunity to put on whatever evidence we want in rebuttal of the neighbor's complaints and to  
26 basically put on the record whatever we want to support our application and you know, there's  
27 been questions that have been raised regarding jurisdiction that I want to discuss a little bit later,  
28 and there's also discussions about it going to Land Use Commission. Since the Land Use  
29 Commission is entirely dependent upon the record and there's a lot of confusion about what's  
30 actually in the record and I'm gonna get to that. So we've actually...we're submitting a folder of  
31 documents to each of you and to the Commission to make sure the record is complete. So Lew  
32 is gonna go around.

33

34 One of these, the top one is gonna be a map, the new map that we've drawn up with the  
35 driveway included within the 14.8 acres. The next letter is the...or my letter to Michele McLean  
36 regarding our position why the jurisdiction does not go to Land Use Commission and it also  
37 includes a fully elaborated farm plan showing that more than 50 percent of the land is in  
38 agriculture as concluded. We just got the...renewed our organic certification which is not an  
39 easy inexpensive thing to do and we also had Dr. Abram's resume that shows what he's been  
40 doing his whole life as far as helping people. On the left side there's been a lot of issues about  
41 ...(inaudible)...neighbors so we still stills, we going to show a drone video that really  
42 dramatically shows you where the perspective of the property and the neighbors and you have  
43 the stills from that drone right here, then you also have the fall equinox flyer. This one just as an  
44 example of free celebration equinox showing our events going till 9:30. This memorandum is

1 something I went through especially for...to summarize things especially for the new  
2 commissioners who weren't here perhaps in the original hearing, but this goes through the  
3 entire Department of Planning report and recommendations and it clearly shows that the  
4 Abrams met and have or exceeded every single condition. You know the Commissions as I  
5 understand is really wants to protect agriculture and it wants to make sure that commercial  
6 operations don't take place on agriculture and people don't use special uses as a cover for a  
7 commercial operation. So you know, we're gonna basically demonstrate how, to what degree  
8 there's never been a commercial operation because he's been holding free celebrations for a  
9 long time, for 20 years supporting his people.

10  
11 On the right side because a lot of questions about how big is the congregation, how many  
12 people, what limits do you need in order to be able to satisfy you need to practice your religion  
13 with the people who quite frankly are already doing it. So got Mr....Dr. Abrams to go back and  
14 really come up with some criteria to show the Commission what kind of support they have. So  
15 on the right side you have a one-page memo that summarizes what's there. So what we did, on  
16 the bottom with a big clip you have a total of...a listing here, right here, so we're, we're  
17 submitting 26 new letters of support.

18  
19 Mr. Carnicelli: Okay, I get that...we want you to be quick and do this—

20  
21 Mr. Ickovitz: Yes, I'm trying—

22  
23 Mr. Carnicelli: But we're trying to, we're trying to follow you too, so like you're just going to all  
24 these things so it's just like—

25  
26 Mr. Ickovitz: I will slow down.

27  
28 Mr. Carnicelli: Yeah.

29  
30 Mr. Ickovitz: I'm a little sleep deprived so I apologize.

31  
32 Mr. Carnicelli: I have a three-year-old as well.

33  
34 Mr. Ickovitz: Okay, so anyway on the right side what we have is the evidence of support for  
35 Sacred Earth Assembly Church. So the top document is a Dr. and Mrs. Abrams co-led services  
36 two days ago at Temple of Peace like they have for the last 20 years every Sunday and we  
37 have a petition in support of Sacred Earth Assembly that we've submitted 62 signatures. That's  
38 just two days ago. We also put the petition online and we have 138 people who signed that  
39 petition online in less than 24 hours. The list of letters include the letters that were originally  
40 attached to Exhibit 23 of the Department of Planning report. Also the seven letters that we  
41 submitted at May 28<sup>th</sup> hearing and 26 letters that we are submitting for the first time here. The  
42 top letter is from Mark Sheehan, the expert talking about that the church will have no impact on  
43 property values. But what I'm encouraging the commissioners to do if you haven't already is  
44 look at the list of people who have come out there's 42 individual people who have taken the

1 time to read, to come either testify and/or write letters to this Commission and look who they  
2 are. They're all, you know, half of them are elders, they're all over 50 years old, 60 years old,  
3 70 years old, they're reverends of all crafts and creeds and they've all testified and they've all  
4 written talking about the community service that Dr. and Mrs. Abrams have provided a unique  
5 gathering space for people who don't have family here. A lot of people don't have Thanksgiving  
6 opportunities and the Abrams provide that. So the right shows...we also have, there's a two-  
7 page thing here, these are signed...two of the 56 pages are sign-in sheets that the Abrams  
8 have accumulated. We have 566 signatures of people who have expressed their support for the  
9 Abrams ministry. So the issue of jurisdiction, so we're at this time two things, one we're  
10 requesting that this...all these documents, this folder documents be submitted into the record at  
11 this time.  
12

13 Mr. Carnicelli: Thank you Leslie. Corporation Counsel before I admit this into the, into the  
14 record could you clarify how this is not new written testimony since you know we've not allowed  
15 that. So is this I guess different than what it is that we've talked about earlier?  
16

17 Mr. Galazin: Thank you Chair. Yes it is in the sense that the public testimony portion of the  
18 hearing has been closed. You know anybody from the public who just wished of their own  
19 accord to come to you and bring forth evidence that opportunity was afforded and then closed.  
20 Now this is the applicant's opportunity to provide whatever evidence the applicant feels would  
21 be beneficial in support of the application itself. It appears that it does include names,  
22 signatures, you know letters that provide, you know, unsworn opinions about the application. I  
23 would suggest, you know you folks need to look through this before you decide that you're  
24 gonna take the kit and caboodle, but even if you accept all of these documents into the record  
25 itself, you do have a duty to consider the fact that you know as with any kind of you know written  
26 testimony that's presenting one side so that's...there's nothing precluding you from taking it in  
27 as long as you are able to weigh that with everything else that you have. So it is not public  
28 testimony because it's not being offered by the public, it's being offered by the applicant.  
29

30 Mr. Carnicelli: Okay, thank you. So if there are no objections I'll go ahead and accept this as  
31 part of the record. Seeing no objections it is now part of the record.  
32

33 Mr. Ickovitz: Thank you. So the next thing, the next question is after testimony was closed  
34 neighbors, Michelle Drewyer and Jerome Labat and Tim Robinson all submitted documentation  
35 via email to the Commission. Those documents were...should not have been forwarded to the  
36 Commissioners because it was after testimony was closed. I objected strongly about the  
37 documents at June 25<sup>th</sup> hearing. This meeting was given an opportunity to ask questions and  
38 cross examine these witnesses about the testimony and their documents. I sent each of them  
39 letters inviting them here for that purpose and none of them have shown up. So I submit that all  
40 the documents that were submitted by the...any and all neighbors after the May 28<sup>th</sup> hearing  
41 was closed be excluded from the record and not be considered by the Commissioners because  
42 there's nothing...you can't...if bring...allow these in, you're not allowing me to cross examine  
43 the person. You're letting them in without a cross examination of the person submitting them so  
44 that is totally against any kind of contested case procedural situation.

1  
2 Mr. Carnicelli: Corporation Counsel.

3  
4 Mr. Galazin: Thank you. So counselor you're going to allow this Commission to cross examine  
5 the people who submitted the written testimony in favor of your client?

6  
7 Mr. Ickovitz: Our representation is these people sent us letters and if you want to, if you want to  
8 defer this hearing so that you could have the opportunity to cross examine these people, sure,  
9 but I don't think that's necessary.

10  
11 Mr. Galazin: And also counselor at the last meeting we discussed two sets evidence. One  
12 consisted of written testimony that had been distributed in hard copy to the Commissioners and  
13 distributed to your client. Some of them involved written responses from your client to these  
14 very people, Labat and Drewyer, and your client at the time waived the objection to the inclusion  
15 of those based on the fact that they had commented...he commented back to those very  
16 testifiers when we discussed the possibility of wanting to bring back some of these people. We  
17 did have colloquy on the record about what you would do if they failed to appear because they  
18 were not mandated to do so. So because they are not here is as if I understand you correctly I  
19 hope that you're prepared to do that today.

20  
21 As it regards to the information that was not distributed in hard copy, I can let the Department  
22 speak to a little bit more. I am aware that there were some files maintained on a Dropbox, the  
23 link to which the Commissioners had access at one point. That Dropbox wasn't maintained by  
24 the Department, it wasn't maintained privately however I do not know for sure that the entirety of  
25 those contents were available continuously to all members by link. So my suggestion would be  
26 to the members if you would be so inclined to disregard, to go ahead and I think there was some  
27 illusion to objecting to that at the last time but at this point go ahead and move to disregard the  
28 information that was available by Dropbox link.

29  
30 Mr. Ickovitz: If I may—

31  
32 Mr. Carnicelli: I will go ahead and entertain a motion—Leslie go ahead.

33  
34 Mr. Ickovitz: You asked at the hearing whether or not we wanted Lew's letters to the neighbors  
35 to be in the record we...the one incorrect thing you said Lew's letters were responses to their  
36 letters. Actually, Lew's letters were sent before those letters were sent to the Commission.  
37 Instead of responding to Lew's letters they sent it to the Commission. So Lew's letters show his  
38 active effort trying to resolve things with the Commission. So the letters with the neighbors so  
39 I'm asking that because it was submitted and it shows the good faith of what he's been trying to  
40 do that Lew's letters to Michelle Drewyer and Jerome Labat be accepted into the record  
41 because it shows their efforts to make that happen.

42  
43 Mr. Carnicelli: Corporation Counsel.

44

- 1 Mr. Galazin: Thank you. So counselor I thought we had talked about this all last time. The  
2 hard copy documents that were received, that your client received in advance of the hearing,  
3 that the Commissioners received in advance of the hearing, that I in fact received in advance of  
4 the hearing all those documents, not the electronic ones, all of those documents were accepted  
5 as part of the record at the last hearing.  
6
- 7 Mr. Ickovitz: ...(inaudible-not speaking into the mic)...
- 8
- 9 Mr. Carnicelli: Please speak into the mic.  
10
- 11 Mr. Ickovitz: No, if you look at the transcript which I have the documents that were submitted by  
12 email that was...that Tara put up in the Dropbox those documents were never accepted into the  
13 record of the Planning Commission and I have a transcript of it that I made myself that I could  
14 guarantee that it was never accepted into the record.  
15
- 16 Mr. Galazin: Counselor, yes the Dropbox items those were not dealt with the last time that's  
17 why I brought them up for discussion and motion which I believe the Chair was just going to try  
18 and address it at the moment. However, the other documents the ones that were not sent by  
19 Dropbox, the ones that were physically delivered that were here.  
20
- 21 Mr. Ickovitz: Which one—  
22
- 23 Mr. Galazin: --your client seems to be shaking his head, I don't know do you—  
24
- 25 Dr. Abrams: ...(inaudible—not speaking into a mic)...I assume it's the letters—  
26
- 27 Mr. Galazin: Microphone.  
28
- 29 Mr. Carnicelli: You're gonna have to speak into the mic. Identify yourself and then speak into  
30 the mic.  
31
- 32 Mr. Ickovitz: Yes, but I apologize I have no idea what you're—  
33
- 34 Mr. Carnicelli: Okay, okay guys we're talking over the top of each other, we need to—  
35
- 36 Dr. Lew Abrams: Yeah, I'm Dr. Lew Abrams. I'm assuming that you're referring Counsel to the  
37 letters from Michelle Drewyer and Jerome Labat and Tim Robinson that were emailed to the  
38 County after the testimony was closed after the first hearing. It came in slightly before the  
39 second hearing.  
40
- 41 Mr. Ickovitz: I don't recall any hard copy documents that you're referring to at that June 25<sup>th</sup>  
42 hearing.  
43
- 44 Mr. Carnicelli: Recess at the call of the Chair.

1  
2 A recess was called at 11:25 a.m., and meeting was reconvened at 11:33 a.m.

3  
4 Mr. Carnicelli: ...August 13<sup>th</sup>, of course it's the 13<sup>th</sup> is now back in session. Leslie would you  
5 please clarify for the record what it is that you're asking from us?

6  
7 Mr. Ickovitz: Yes, on June 12<sup>th</sup> Tara Furukawa sent a memorandum, one with documents to the  
8 Commission via email. And so going through it, the documents, the first document that  
9 we're...there's some documents we want for the record because we think it's important and  
10 relevant so I'm gonna go just go through it. So June 2<sup>nd</sup>, the first document, Exhibit A was the  
11 revised map at that time which now we're submitting a new revised map today potentially if you  
12 need to have the driveway included. Newsletter to Jerome Labat that we want in record.  
13 Jerome Labat's letter—

14  
15 Mr. Carnicelli: Exhibit B?

16  
17 Mr. Ickovitz: That is Exhibit B, yes.

18  
19 Mr. Carnicelli: Okay.

20  
21 Mr. Ickovitz: Exhibit C is Jerome Labat's letter to the Commission. This is the one that we  
22 wanted to cross examine so...and he's not here, we would like to exclude his letter.

23  
24 Mr. Carnicelli: So could I just...I wanna, I wanna ask you a question on that.

25  
26 Mr. Ickovitz: Sure of course.

27  
28 Mr. Carnicelli: Because you want your letter in but not his, but I, I recall my recollection is at the  
29 last meeting when we came out of executive session and we said that we were going to go  
30 ahead and defer this to today because you wanted the opportunity to cross examine them we  
31 actually did say they may not be here, they might not be here 'cause they're not...they don't  
32 have to be here so be prepared to go ahead and address, you know your concerns with their  
33 testimony should they not be here. So that's where we're at now and so now you're saying oh,  
34 because they're not here I want their testimony stricken.

35  
36 Mr. Ickovitz: Well, I believe and I'm not the one who can advise the council, it's Corporation  
37 Counsel's job, but I believe in any kind of contested case situation Mr. Galazin said you're  
38 treating this as a contested case. He told me that verbally last week that you cannot allow  
39 things in the record that have not been vetted through cross examination and that's what those  
40 letters represent. So you know those letters are just hearsay, they're saying things offered for  
41 the truth asserted and they have no relevance unless you give me an opportunity to cross  
42 examine them. That would just be against every procedural rule. Now you don't follow the rules  
43 of evidence but that have to be relevant and according to the contested rule, Administrative  
44 Hearing Rules for the State of Hawaii you have to give me the opportunity to cross examine the

1 person submitting the documents before you accept the documents into the record. That is just  
2 procedural law in the State of Hawaii.

3  
4 Mr. Carnicelli: Corporation Counsel.

5  
6 Mr. Galazin: Thank you Chair. So as you, as you pointed out you are not gonna be able to tell  
7 the Commission what to do so frankly if that's the basis for your objecting to any particular  
8 exhibit why don't you just say that's why you're objecting and just go exhibit by exhibit and we'll  
9 just get through it that way.

10  
11 Mr. Ickovitz: Okay. I mean, but—

12  
13 Mr. Carnicelli: Okay, so then fine, so you're objecting to Exhibit C of this—

14  
15 Mr. Ickovitz: Yeah, I'm objecting to Exhibit C, Jerome Labat's letter. I'm objecting to the  
16 104 pages of documents that he submitted that are listed in the Dropbox folder because again  
17 there's 104 documents my representation will tell you that at least 48 of them involve events that  
18 did not take place at Ahimsa Sanctuary Farm, and you know 12 pages are regarding one event  
19 it was a New Year's Eve, another 12 pages are from five other New Year's Eves. Most of these  
20 events, in fact all of these events were not church services they were holiday celebrations that  
21 the Abrams have been doing with their neighbors and their friends in the community for the last  
22 20 years. So you know a lot of accusations have been made about zoning violations. The fact  
23 is they haven't...there aren't zoning violations. They have never had a commercial operation in  
24 their farm which is what this Commission I know is dead set against.

25  
26 And the other thing I want to clear up is that at the last meeting is that three of the  
27 Commissioners voted against the Abrams application under the mistaken belief that all the  
28 neighbors were there before Dr. Abrams and his wife. The fact of the matter is Jerome Labat  
29 and Tim Robinson bought after Lew, Dr. Abrams had the property, after their built their temple  
30 and they knew, Labat was...you know but he was there, and they knew what was going on for  
31 years. So this is not a surprise and this is not something...and the other thing that we'll  
32 represent is that Mr. Robinson never once called to complain about noise to Dr. Abrams.

33  
34 Mr. Carnicelli: Okay, so we're gonna—

35  
36 Mr. Ickovitz: And so we're going back to...okay, so then—

37  
38 Mr. Carnicelli: Exhibit C and the Dropbox associated with Exhibit C?

39  
40 Mr. Ickovitz: Yes.

41  
42 Mr. Carnicelli: Okay, and how about Exhibit D.

43  
44 Mr. Ickovitz: That's again, Exhibit D is a letter from Lew Abrams.



1  
2 Mr. Carnicelli: Okay, you want to keep that in there?  
3  
4 Mr. Ickovitz: Yes.  
5  
6 Mr. Carnicelli: Okay, and then Exhibit E?  
7  
8 Mr. Ickovitz: And Exhibit E, keep that in there.  
9  
10 Mr. Carnicelli: You want to keep Exhibit E as well?  
11  
12 Mr. Ickovitz: Yes.  
13  
14 Mr. Carnicelli: So the only thing you're objecting to then in this is Exhibit C and the Dropbox  
15 associated with that Exhibit C.  
16  
17 Mr. Ickovitz: And Michelle's letter which is I guess D-1.  
18  
19 Mr. Carnicelli: Which is a separate thing.  
20  
21 Mr. Ickovitz: Yes.  
22  
23 Mr. Carnicelli: So I'm just going, I'm just—  
24  
25 Mr. Ickovitz: Yeah, this one was not sent by—  
26  
27 Mr. Carnicelli: Hang on. Hang on.  
28  
29 Mr. Ickovitz: This was not sent by Tara.  
30  
31 Mr. Carnicelli: Right. Right now we're going through Tara's letter—  
32  
33 Mr. Ickovitz: Yes.  
34  
35 Mr. Carnicelli: --dated June 12<sup>th</sup> and so what you would like to have stricken from this is  
36 Exhibit C of Tara's letter dated June 12<sup>th</sup> and the Dropbox associated with it?  
37  
38 Mr. Ickovitz: Yes, that's correct.  
39  
40 Mr. Carnicelli: Okay. Corporation Counsel.  
41  
42 Mr. Galazin: Thank you Chair. And for the Members as I mentioned because of the problems  
43 associated with the access to the Dropbox itself my recommendation would be to go ahead and  
44 disregard the items that are there purely because you know it's not, it's not reliable at the

1 moment. You know, I tried to access the site the other day and could not pull up everything so  
2 without knowing exactly what may have been working at the time and what may not be working  
3 now it might be safer to just go ahead and disregard everything in the Dropbox.

4  
5 Regarding the letter, you know it was from June 12<sup>th</sup>, two weeks before the hearing, you can  
6 choose to reject that letter, you can keep it in the record and note the objections and...or if you  
7 want to discuss in more detail exactly how to, to use it should you want to include it that would  
8 probably be something better for a closed session. But if you want to move on the Dropbox and  
9 then separately deal with everything else that might be one way.

10  
11 Mr. Carnicelli: Okay, so at this point in time I'll go ahead and entertain a motion to remove the  
12 Dropbox from the record.

13  
14 Ms. La Costa: I so move.

15  
16 Mr. Carnicelli: Moved by Commissioner La Costa. May I have a second?

17  
18 Mr. Robinson: Second.

19  
20 Mr. Carnicelli: Second by Commissioner Robinson. Any discussion on the motion?  
21 Commissioner Robinson.

22  
23 Mr. Robinson: Chair, I apologize but I could not hardly follow all the talk and jumping around. I  
24 assume that the recommendation from Corp. Counsel is that it's...that it's okay, and so I'm  
25 basing it on top of that. Thank you.

26  
27 Mr. Carnicelli: Likewise.

28  
29 Ms. La Costa: Ditto.

30  
31 Mr. Carnicelli: All those in favor of the motion raise your hand. That is...please raise your hand  
32 again so I can look around. That is five ayes. Opposed, seeing none. One abstained. So the  
33 motion passes, the Dropbox from Exhibit C has been removed from the record.

34  
35 **It was moved by Ms. La Costa, seconded by Mr. Robinson, then**

36  
37 **VOTED: To Remove the Dropbox of Exhibit C from the Record.**

38  
39 **(Assenting – P. D. La Costa, K. Robinson, D. Thompson, C. Tackett,**  
40 **S. Castro, K. Pali - Abstained)**  
41 **(Excused – T. Gomes)**

42  
43 Mr. Carnicelli: At this point Leslie and Corporation Counsel what I'm gonna do is I'm gonna hold  
44 off on trying to make a decision on Exhibit C because if we have to...I don't want to like as we're

1 walking through this, if we have to go executive session every single time we're gonna be here,  
2 you know, for forever. So I'm gonna go ahead and hold off on Exhibit C and then we can go...I  
3 think you said you wanted to go to D.1 which was the letter from the Department.

4  
5 Mr. Ickovitz: The letter from Michelle Drewyer to the Department that was submitted the Friday  
6 before the Tuesday hearing, I don't know if—

7  
8 Mr. Carnicelli: Got it. Okay. So then, and then what is it—

9  
10 Mr. Ickovitz: I want to make sure, I don't know where, what, what the status of this document is  
11 but I want to make sure it's excluded from the record.

12  
13 Mr. Carnicelli: Okay, so you're asking for exclusion from the record on this one as well?

14  
15 Mr. Ickovitz: Yes.

16  
17 Mr. Carnicelli: And based on the same reasons that you gave for Exhibit C?

18  
19 Mr. Ickovitz: Yes, and I mean quite frankly the offer of proof is that if you want us to go through  
20 and show you every line that Ms. Drewyer contained in this letter we will do so. We have no  
21 desire to besmirch her reputation on the record but I can guarantee you and I'm speaking as a  
22 lawyer of 40 years I'm giving you my word as a lawyer who will only speak the truth to this  
23 Commission that this letter is full of lies, misrepresentations and—

24  
25 Mr. Carnicelli: Okay, so I'm gonna go ahead and note those objections and I'm gonna also just  
26 hold off on this with Exhibit C to then potentially go into executive session to make a decision  
27 with...recommendations from our counsel. So what else is it that you would like to have  
28 removed from the record Leslie?

29  
30 Mr. Ickovitz: I believe that's as far as removal of the record. Oh, there's also a letter from  
31 Tim Robinson that was sent to the Commission via email, also it was sent June 20<sup>th</sup>, but Tara  
32 didn't, wasn't in that day I think and we didn't get it forwarded to us until June 24<sup>th</sup>. He  
33 submitted an email along with two letters from the ... one from the Maui Department of...Hawaii  
34 Department of Transportation, another one from Maui Police Department about travel statistics  
35 back from 2016. Again, he's not here. I invited him and I don't know if the Commissioners ever  
36 saw that but I just want to make sure that that letter and enclosures excluded from the record.  
37 Yes, this is another one marked D.1 and also I'm objecting to it with the same reason of just no  
38 opportunity to cross examine.

39  
40 Mr. Carnicelli: Okay, so if you would please hand that back to me. Thank you Leslie.  
41 Commissioners I just want to make sure that okay, if you don't have this in front of your I'm  
42 gonna give you time to go ahead and look at this now and see if any of you object to removing  
43 these three things which would be this D.1, and this is also D.1 but this is the letter from

1 Michelle Drewyer. Oh, okay, we'll put both D.1s together and then this is the letter June 12<sup>th</sup>  
2 from Tara and Exhibit C. So I think at this point in time...

3  
4 Mr. Robinson: Chair can I ask a question please?

5  
6 Mr. Carnicelli: ...go ahead Commissioner Robinson.

7  
8 Mr. Robinson: The people aren't here to be cross examined but isn't the...doesn't the applicant  
9 have a chance to verbally or written do a rebuttal to that letter? I mean, to wipe out somebody's  
10 testimony because they're not present because they have a job. We don't...we're not here 5:30  
11 at night after people's working hours to just eliminate this. What is the, what is the legalese on  
12 people being able to say something and then somebody have you know, point...counterpoint  
13 and that's it and let us be the judge?

14  
15 Mr. Carnicelli: Corporation Counsel.

16  
17 Mr. Galazin: Thank you Chair. And Commissioner Robinson that's a great question. What the,  
18 what the remedy is is actually what we have right now. The applicant if you have written  
19 testimony, the applicant has the ability to object to it and state specific reasons on the record  
20 why, and in addition as you noted submit rebuttal testimony. Right now, you know, you've  
21 already excluded the Dropbox link and everything that was included with that. If you are just  
22 talking about these three specific letters that were sent in if you want to hold onto making a  
23 decision on it for now that's fine, the applicant can go ahead and objections are noted on the  
24 record, they can present rebuttal into that as well as whatever other evidence wanted to present  
25 today and you can move forward that way. Because this is written testimony that came in after  
26 the first hearing before the second day of the continued hearing it's a little bit different than  
27 written testimony that comes in before the first hearing and you know nothing says that written  
28 testimony is unreliable or that you can't use it, it's just this is somewhat of a unique case and the  
29 applicant's make an objection and you know if you want to talk about the specific legal aspects  
30 of other specific objections I would probably go into an executive session to do that, but for time  
31 being rather than you know if the Chair not rather tie everything up we can just go on and then  
32 perhaps if you have other questions we can just address them all at once.

33  
34 Mr. Robinson: Okay.

35  
36 Mr. Ickovitz: And if I can make one statement just to clarify, Michelle Drewyer who is the  
37 neighbor who wrote this letter on June 21<sup>st</sup> was present at the May 28<sup>th</sup> hearing. She sat in the  
38 front row and she chose not to testify. She chose not to give any information. She waited until  
39 after—

40  
41 Mr. Carnicelli: Okay, thank you.

42  
43 Mr. Ickovitz: --waiting until after the hearing to submit information literally the Friday before the  
44 Tuesday hearing.

1  
2 Mr. Galazin: Okay, and Commissioners I would just ask that you disregard the counsel's  
3 testimony about what was possibly in Michelle's Drewyer's mind at the time. Thank you.

4  
5 Mr. Robinson: Chair?

6  
7 Mr. Carnicelli: Commissioner Robinson.

8  
9 Mr. Robinson: Commissioner Pali.

10  
11 Mr. Carnicelli: Oh, Commissioner Pali.

12  
13 Ms. Pali: Counsel I have a couple questions for you. We just had with a previous case today  
14 this whole timing on just new information and closed testimony and open testimony, and if  
15 there's new information potentially then we can open back up for open testimony and so I just...I  
16 don't have a timeline. I don't want to make decisions on guessing or relying on others because  
17 that's not my judiciary responsibility in my opinion so I have a question for you. With new  
18 information that was presented at the first hearing does that then make any other additional  
19 testimony like this particular letter we're talking about does that make it allowed or does it not.  
20 As it stands with our rules now does that second letter become allowable potentially based off of  
21 maybe what was conveyed on the first hearing and then to follow up on the question when we  
22 had the second hearing was more information presented to then allow other information? I just  
23 want to know as it's written what is allowed, what isn't based off of information.

24  
25 Mr. Carnicelli: Corporation Counsel.

26  
27 Mr. Galazin: Thank you. So right now the record is developed during the hearing and it can be  
28 closed and can be reopened to admit more evidence it's what we're doing today is the applicant  
29 here has more information to share with you or going to be supplementing the record today.  
30 The question becomes when you have a record and there is testimony that comes in and you  
31 have to make a decision whether to reopen the record and for what purpose and I think each  
32 case is going to fall individually on its merits. There no hard and fast rule of yes you can always  
33 do it and no you can never do it. It's really dependent on the circumstances. Whether  
34 somebody testified previously it has no bearing on whether to reopen a record to take more  
35 testimony.

36  
37 Ms. Pali: So to answer the question then when these other written testimonies came in after the  
38 first hearing before the second hearing was it open, did we accept it or was it all coming after it  
39 was closed and now we're deciding today which ones we want to allow and reopen and which  
40 ones we won't. I'm not understanding when they were submitted was it open at the time?

41  
42 Mr. Galazin: So prior to the second hearing date in June, on June 25<sup>th</sup> the first hearing date  
43 was on May 28<sup>th</sup>. Between May 28<sup>th</sup> and June 25<sup>th</sup> there was some written testimony that was  
44 received by the Department and forwarded onto the Commission. At that hearing on June 25<sup>th</sup>

1 the applicant raised an objection to some of that information. Although the applicant did note  
2 that he had responded to some of those testifiers it's my understanding that it was unclear at  
3 that time which items had the applicant was okay with accepting and which items the applicant  
4 was not so that's what we're attempting today.

5  
6 Ms. Pali: So I'm...I'm not asking what the applicant's okay with. I'm just asking on record was it  
7 open or closed for us.

8  
9 Mr. Galazin: Well, that's—

10  
11 Ms. Pali: ...(inaudible)...

12  
13 Mr. Galazin: There's no real close date for public testimony per se. There is...there's the public  
14 hearing where people show up, but you know, written material, this...the Department's always  
15 received it and forwarded it on to this Commission as it's staff, however—

16  
17 Ms. Pali: It evolves.

18  
19 Mr. Galazin: as it evolves. However there was an objection to some of that so that's what we're  
20 trying to deal with.

21  
22 Ms. Pali: And is it precedent in the past that it would be okay if we did decide to open up the  
23 record that we would only take just one side and do the testimonies or the witnesses do they  
24 bear the burden to carry the burden of proof like the applicant does or are we talking about the  
25 same responsibility here and are we saying that we don't...they don't have a right to rebuttal  
26 when they do have the opportunity to rebuttal. Does the rebuttal have to be in person or can it  
27 just be against a letter or the testimony? I just...I'm trying to compartmentalize like what is  
28 really being offered and what really isn't and what's true and what's not true.

29  
30 Mr. Galazin: Mr. Chairman, may I?

31  
32 Mr. Carnicelli: Yeah, go ahead.

33  
34 Mr. Galazin: Thank you. So this is a good time for me to probably you know, helping make  
35 sure that everyone's understanding where we are in this process. Because it is a contested  
36 case hearing this is a quasi-judicial function that you're exercising right now. You're all are  
37 sitting as, you know the judges in this situation. You are taking in evidence and the parties have  
38 different rights and responsibilities. Now right now there is only one party if you will. There's  
39 the applicant, and the applicant you know being party to these proceedings has certain rights,  
40 rights to open, rights to close, rights to provide rebuttal testimony. This is not a question of  
41 reopening a record because right now the only thing that had closed had been the public  
42 testimony portion. The hearing itself was never closed and the hearing is in its entirety is the  
43 opportunity for the applicant to present whatever evidence the applicant thinks is necessary to  
44 prove beyond a reasonable doubt that it will meet the standards and criteria necessary within

1 the Code. So you may want to make sure that you keep those two things distinct and you don't  
2 want to conflate what we have under the rights for a public hearing which is afforded by the  
3 County Code which is mandated before this type of permit can be granted or denied and the  
4 contested case hearing procedures set forth in Chapter 91 in the Hawaii Revised Statutes.  
5 There are contested case procedures that apply just to the applicant and then there are public  
6 hearing procedures that apply to public testifiers. They are slightly different although they're  
7 interrelated. Hopefully that answers.

8  
9 Mr. Carnicelli: Do you have any other questions? Okay—

10  
11 Mr. Ickovitz: If I may, can I make one statement though?

12  
13 Mr. Carnicelli: Let me ask you a question is, so right now those Exhibit C and D.1 we've noted  
14 your objections. We haven't made the decision as to whether or not to remove them from the  
15 record or not. What is your, your intention as far as where you're gonna go with your  
16 presentation I guess that's kinda like...is like what can we expect 'cause we are up against  
17 lunch and yet, I also want to be respectful to everybody that's here and everything like that so  
18 kinda like what's your sort of intent?

19  
20 Mr. Ickovitz: Sure. Okay, so I was gonna just add maybe five or ten minutes myself, about just  
21 the overview of what you're doing here and the objection to the record. I was going to discuss  
22 jurisdiction, the jurisdictional issue.

23  
24 Mr. Carnicelli: Okay.

25  
26 Mr. Ickovitz: And then I was going to turn it over to Lew to talk about the needs of the...of this  
27 ministry because now that there's no...the neighbors have...I mean if assuming you exclude the  
28 letters, and the reason why you have to exclude the letters—

29  
30 Mr. Carnicelli: Okay, I don't want...don't go into the...just tell me where you're going.

31  
32 Mr. Ickovitz: No, but this one issue is Michelle Drewyer has multiple times accused Dr. and Mrs.  
33 Abrams of stealing water. That there is a greater defamatory thing that any neighbor can do  
34 towards another neighbor who's a farmer. So if you allow this in, you would allow in a public  
35 record, making a false accusation against Dr. and Mrs. Abrams and if this letter said he slept  
36 with my teenage daughter it have the same effect. It's a statement saying he did something  
37 illegal and without any opportunity to cross examine her as to what evidence do you have for  
38 this statement and what evidence do you have for this statement. So if you allow these letters  
39 in without...that's allowing these people to lie without allowing me to cross examine them would  
40 be just horrible and legally just not allowed in any kind of judicial proceeding or your  
41 administrative proceeding...(inaudible)...

42  
43 Mr. Carnicelli: Your rebuttal is noted. Thank you.

44

1 Mr. Ickovitz: Okay. So anyway but that's the idea is that we finish up talking jurisdiction and  
2 then hand it over to Lew.

3  
4 Mr. Carnicelli: Okay, so I think what we might do is let you go ahead and finish up and then we  
5 may take the break then have, have Lew go after the...after lunch.

6  
7 Mr. Ickovitz: So I just wanted—

8  
9 Mr. Carnicelli: To get our blood sugar back up.

10  
11 Mr. Ickovitz: I wanted to clarify and Lew will go into similar perhaps is that these events that  
12 they talk about, you know these neighbors said all these events, all these zoning violations, all  
13 these events are celebrations they have held with their community and friends every year for  
14 20 years and they've provided community gathering space, these are free events, alcohol free.  
15 You know accusations were made that they're a party house. You don't have parties with 50 to  
16 80-year-old people who don't serve alcohol. Those aren't parties, these are gathering that are  
17 very meaningful to these people.

18  
19 There's multiple questions were asked that whether there were church activities before. The  
20 semantic question about what is a church? A spiritual gathering is not a church activity. We  
21 submit how we define a church and I think how most...the Commission would is if you hold  
22 weekly services that's what a church does, but mostly what a church is used for is to use that  
23 entity as a way of making money or raising money. If you're a public church you can do, you  
24 can do all sorts of things and that's why people try to be a church. This is very different from the  
25 Spirit of Aloha which right now is in...Federal...(inaudible)...trial, on a three week trial because  
26 that was the situation where the person was doing commercial wedding operations for 20 years  
27 and when you shut them down then he became a church and applied for a permit. That was a  
28 commercial operation trying to legalize with his...with a church. All the evidence in the record is  
29 that these two amazing people, the most inspiring people, ...(inaudible)...if you read the letters  
30 from the community from the elders it will bring tears to your eyes what they say from their  
31 bottom of their hearts what these two people have done out of the goodness of their heart and  
32 of the givenness to the community that to accuse them of anything disreputable is just wrong. It's  
33 just not right. There's just no evidence and I just really want to encourage the Commission  
34 to...you know the agricultural use, so shall I wait for the jurisdiction or do you want me to go into  
35 the jurisdictional argument?

36  
37 Mr. Carnicelli: Go ahead.

38  
39 Mr. Ickovitz: So in front of you, you have the file. The letter that I wrote to Planning Director  
40 McLean, Planning Director McLean and I lay out, this is in response to the August 1<sup>st</sup> letter that  
41 the Land Use Commissioner, yes...it's response to the Land Use Commission letter to  
42 Ms. McLean in response to two possible hypotheticals as to whether or not the Land Use  
43 Commission would be asking for...saying they want jurisdiction. Now the issue what has been  
44 repeatedly stated and I've been told by multiple people that historically the Maui Planning



1 Department has never considered the driveway into the special use area to be part of the  
2 special use designated space because it's just access and that has always as far as I know that  
3 has always been the position.

4  
5 Now based upon the Land Use Commission letter it may be that the Planning Commission may  
6 be changing its position with regard to that and now including that. I don't know if the  
7 Commission's adopted that or plans to, but just in case, if not, if it's not included we want to go  
8 with the map that we submitted in June 25<sup>th</sup>. If they do submit it, we want to go with the map  
9 that we just submitted which includes the driveway within the 14.8. So...and the letter from the  
10 Land Use Commissioner clearly said if you make these findings regarding that the agricultural  
11 use is going to go away or the church use is going to limit it that is...Lew is, Dr. Lew is going to  
12 talk about that the more...we're an earth based spirituality church. We educate people so the  
13 more churchgoers we have, we more people being farm volunteers, they're helping us do more  
14 so the more people in our church, the more agricultural activities we actually do, and that's you  
15 know, it's unusual what they do is unique but it's true, every word we're saying is absolute.

16  
17 So jurisdiction wise I say there's no reason to go to the Land Use Commission because  
18 there's...you cannot make the findings that commissioner, the Land Use Commission says you  
19 have to make if you make those findings then it goes to the LUC. But if here's no evidence in  
20 the evidence that agriculture is going to be impacted negatively by this church use which there  
21 isn't any evidence then there's no...the findings cannot be made I submit and there's no reason  
22 to go to the Land Use Commission because without making those findings Land Use  
23 Commission does not have jurisdiction.

24  
25 Dr. Abrams: And there's also the piece about spilling over into the non-designated area--

26  
27 Mr. Ickovitz: Right. Right.

28  
29 Dr. Abrams: And there's no reason...(inaudible-not speaking into a mic)...

30  
31 Mr. Ickovitz: Yeah, you know both of those two findings there's no evidence to support either of  
32 them, but you know if we wanted, if the Commissioners want to discuss actual details of that  
33 we'll be happy to respond.

34  
35 Mr. Carnicelli: Sure. Leslie, Corporation Counsel has a question for you.

36  
37 Mr. Ickovitz: Sure.

38  
39 Mr. Galazin: Thank you counselor, so in terms of what this Commission does, this Commission  
40 isn't going to decide Land Use Commission jurisdiction. The Commission doesn't have that  
41 authority, but I do want to help the Commission understand what is being considered as the  
42 land use, the actual use here and the size of it and the scope of it. So what is the relationship  
43 between the church and the agricultural activities on the parcel?  
44

1 Mr. Ickovitz: That's good. Dr. Abrams is gonna have to speak.

2  
3 Dr. Abrams: It's Lew Abrams. So we have an active organic recertified farm. We're with  
4 diversified agriculture and we also have this agricultural building that we built as a multipurpose  
5 space where we originally permitted it for drying and packaging herb teas, making bamboo  
6 musical instruments and toys and our intention was also to use it to host free community  
7 gatherings.

8  
9 So the church activity that we're proposing is to be able to utilize that building more freely and  
10 the church activities would be contained within that space. However, the people who are  
11 coming are interested in organic agriculture and permaculture and part of what we are inviting  
12 them to do is to get their hands into the aina and do some volunteer work and learn in an  
13 applied way how to grow food naturally without chemical pesticides and on.

14  
15 So the land around it would only...any activity of the churchgoers on the land outside the temple  
16 would also be agricultural in nature and part is I will get more help on the farm as volunteers and  
17 be able to educate our congregants about the earth-based spirituality which is part of the  
18 unpinning of our ministry since it's in honoring the earth and being stewards for future  
19 generations part of the challenge is we need to figure out how to grow food in a way that doesn't  
20 lead to environmental degradation and as well as to generate energy in a renewable sustainable  
21 way. So we do have solar and wind demonstration projects and farming that people...that's one  
22 of the reasons people are interested in coming is 'cause they want to learn more about that.  
23 Nothing that would happen would preclude any kind of agriculture. I mean, our orchards are  
24 planted, the fish ponds are in, the greenhouse is you know being used for starts. None of that  
25 would change except maybe I could get some volunteer help from the people who come to  
26 church to help work in the greenhouse and weed and you know harvest thereby learning and  
27 helping with our farm production.

28  
29 Mr. Galazin: Okay, thank you Chair.

30  
31 Mr. Carnicelli: Sure. Thanks Leslie, go ahead.

32  
33 Mr. Ickovitz: Well, I think that for now I can...so jurisdictionally I'm just summing up the question  
34 that I'd ask the Commission to make findings that based upon the record that there is no impact,  
35 the church use will have no impact on the outside...on the agricultural because that is based  
36 upon the testimony of Dr. Abrams there will be no impact on ag. The church use will not have  
37 any negative impact on agricultural use will expand into agricultural use that would take  
38 agricultural use out of production. It's all about agriculture and so there's no finding...there's no  
39 possible way and we're asking the Commission to make findings that there's no adverse effect  
40 on agriculture, the scenario that the letter suggested are not met and therefore Commission  
41 says that the LUC does not have jurisdiction on it.

42  
43 Dr. Abrams: Can I add one thing? 'Cause in that letter from the Land Use Commission they  
44 also talked about if it's obvious that the use associated with the special use will spill over onto

1 the adjoining acreage outside the less than 15 acres that that would be a reason that they would  
2 take an interest in a special use permit of less than acres. But the way our land is laid out the  
3 driveway just comes right off the Hana Highway and there's a straight shot down to the  
4 14.8 acres which is away from our home and more where we have our farming activities. So we  
5 have a sort of private section on the upper part of the land where we're not inviting churchgoers  
6 to come. It's fenced. They just drive down the driveway and they're in this 14.8 section where  
7 we have our agriculture activities, greenhouse and so on and the main ag building that we're  
8 here today to ask you to approve so that we can hold church activities in that temple space.

9  
10 Mr. Ickovitz: To give an idea Hana Highway is right here, Ms. Drewyer's house is right here,  
11 these are...Dr. Abrams will talk about the very limited sight in...even the driveway this is all  
12 bamboo from protected from the neighbors there. You have this whole gulch, so Dr. Abrams is  
13 going to go into the...go into the relative impact, but we're basically submitting that based upon  
14 the evidence that we're providing that we will have minimal, minimal adverse effect on the  
15 neighbors and that basically that it's time to go back to the Department of Planning report and  
16 recommendations and I'd like to have Dr. Abrams speak to that after lunch.

17  
18 Mr. Carnicelli: Okay, thank you very much. I appreciate that. One quick question just in the  
19 jurisdictional issue for Corporation Counsel. In reading their letter we don't transmit it to the  
20 Land Use Commission do we? I mean, do we transmit it?

21  
22 Mr. Galazin: Chair, we can, we can probably get into the mechanics of that after lunch might be  
23 a better time.

24  
25 Mr. Carnicelli: All right, so Leslie you're done for now?

26  
27 Mr. Ickovitz: I'm done for now.

28  
29 Mr. Carnicelli: And then we got Lew after lunch. Go ahead Lew.

30  
31 Dr. Abrams: Before adjourning I know that some of our supporters have taken time out their  
32 day, I was just hoping that maybe they have something to do after lunch I'm wondering if we  
33 could have them raise their hand and just identify if they're here in support of our special use is  
34 that possible?

35  
36 Mr. Carnicelli: I don't think that...not at this time. We'll—

37  
38 Dr. Abrams: So...

39  
40 Mr. Carnicelli: I think that we can note...I think we can note that there's only...you know who's  
41 in the congregation versus...so anyways we are now gonna go into recess till 1:05. Thank you.

42  
43 A recess was called at 12:08 p.m., and the meeting was reconvened at 1:07 p.m.

1 Mr. Carnicelli: The Maui Planning Commission meeting of August 13, 2019 is back in session.  
2 We're in the middle of Item C.1. Lew I believe you were gonna go ahead and do a presentation  
3 at this in time, correct?  
4

5 Dr. Abrams: I believe my attorney was going to make a statement...(inaudible-not speaking into  
6 a mic)...

7  
8 Mr. Carnicelli: You gotta, you gotta speak into the mic.  
9

10 Dr. Abrams: I believe, this is Lew Abrams, I believe that our attorney Les is just in the bathroom  
11 he was gonna make one statement, but I could make it. I just wanted to address the issue of  
12 receiving in the letters from the neighbors as well as my letter that I wrote them, if that feels  
13 unfair to exclude their letters but include mine, I would be fine to exclude both sets, you know  
14 the letter that I wrote to them offering how...explaining how I was going...would mitigate their  
15 concerns doesn't need to be included 'cause I'm here and I can speak to that. So if it feels  
16 more fair to just leave out everything that came in after the initial testimony I'm fine with that.  
17

18 Mr. Carnicelli: Okay, thank you. So noted. Don't put that microphone away 'cause you're still  
19 gonna need it if you're doing a presentation.  
20

21 Dr. Abrams: I'm going to stand up.  
22

23 Mr. Carnicelli: Oh okay.  
24

25 Mr. Robinson: I wasn't aware there was a wardrobe change requirement.  
26

27 Dr. Abrams: I was a little sweaty.  
28

29 Mr. Robinson: You look good, look good. I like your shirt. I like your shirt.  
30

31 Dr. Abrams: So, ...(inaudible—not speaking into the mic)...

32  
33 Mr. Carnicelli: You gotta speak into the mic. Yeah, come.  
34

35 Dr. Abrams: ...(inaudible—not speaking into the mic)...well, thank you ladies and gentlemen of  
36 this Commission. I truly appreciate this opportunity to reappear before you and clarify any  
37 misunderstandings that may have arisen in the first two hearings. I acknowledge the difficult  
38 situation that you all are in trying to balance the needs of competing parties. In my work as a  
39 psychologist I run into that frequently with couples where they just want different things and it  
40 can be very challenging to find out what's fair, have a win-win or quid pro quo arrangement and  
41 so I totally thank you for sparing us at the end of last session where it looked like we were being  
42 voted down and to allow us to come back and try to communicate our...with sincerity what this  
43 vision is and hopefully to instill in you guys an appreciation for our efforts and the ministry we're  
44 offering the community. So again thank you for this opportunity.

1  
2 I know there's a couple of people that may not have been here on my very first presentation.  
3 I'm not gonna go over all that but I did just want to speak briefly to my background. I am a PhD  
4 licensed clinical psychologist and I've worked on Maui since 1997. I started out at the  
5 psychiatric unit at Molokini Unit at the hospital then I worked for different agencies, then I  
6 developed a private practice, then I took some time off to develop this farm and build this  
7 building, and now I'm back to working as a therapist three days a week up in Lahaina at  
8 West Maui Counseling Center and enjoying that. It is my calling.

9  
10 But I do want to speak to the parallel development in addition to being a clinical psychologist,  
11 I'm also an organic farmer and have studied permaculture design. I'm a member of the  
12 Maui...the Hawaii Farmers Union, Maui Chapter. I'm also an artist. I do sculpture. I've been  
13 sculpting since I as 17 years old working in my clay and my wife also is a potter as well as the  
14 other arts she does. I do play music. Part of what I do at the Temple of Peace at  
15 Reverend Kedar's side is I sing backup vocals and play percussion and my wife also sings  
16 harmonies and leads a sacred movement at the end of the service each week.

17  
18 And then I have developed as an interfaith minister. We started hosting  
19 Reverend Kedar St. Johns informal singing circles at old house up Awalau Road in Haiku every  
20 Sunday for three years when we had small children we have to...we chose to clean house, get  
21 all the Legos stuck in the closet and host 20 to 40 people. Each Sunday I would make a big pot  
22 of chai, we would have signing circle and it was a very beautiful inspiring service that we were  
23 glad to host and then we also were glad when Kedar was able to find a public church in Haiku to  
24 move to. And so we participated when we hosted it at our house and as well all the different  
25 locations, the couple different location that Reverend Kedar has had the Temple of Peace and  
26 we became, both my wife and I, ordained ministers in the Temple of Peace in 2000 which is  
27 19 years ago I guess.

28  
29 But we also established our own ministry with the encouragement of Reverend Kedar, a more  
30 earth-based ministry because we did have this larger parcel of land where we could teach about  
31 permaculture design and organic gardening. I could just briefly describe that ministry. We invite  
32 people of all faiths who share the value of honoring the earth as sacred and who see human  
33 beings as stewards of the planet for the future generations to gather together in community to  
34 celebrate the gift of life by sharing locally grown food, sanctifying the holidays as in the Third  
35 Commandment, honoring rites of passage for our community members and we further assert  
36 that creative self-expression is divinely inspired so that's part of what we do when we gather to  
37 pray is we play music, and dance, and have spoken word, and share our visual arts as well  
38 together. So that's the mission of our ministry and part of it is exposing people to permaculture  
39 design and ways of growing food that doesn't deteriorate the earth, it actually enhances the life  
40 force and builds the microorganisms in the soil and so we have various kinds of gardens and  
41 orchards that need a lot of attention. The cane grass has been winning lately I'm sorry to report.

42  
43 So we were living on Awalau Road hosting the gatherings of the Temple of Peace and then we  
44 realized that we were outgrowing that place. I had planted fruit trees there and built a fish pond

1 and so on. We were looking at possibly putting up a gathering space in the back and then the  
2 neighbors subdivided their two-acre...it was a horse pasture next to us and then it became a  
3 place with two houses and one of the houses was built on stilts looking right down into our  
4 backyard so we started to look for a new place. We spent two years looking at many different  
5 properties on the island. Most of them were two-acre parcels in neighborhoods where it just all  
6 felt kind of too close. And after viewing 200 properties we did find this 25-parcel at 4505 Hana  
7 Highway which is where we live now and have established our organic farm.

8  
9 It's a unique location. It's right on the smooth road from the airport. It's like 20 or 25 minutes  
10 from the airport yet it feels completely rural. As I'll show you in a moment the parcel of land is  
11 surrounded on three sides by gulch and there's hundreds of acres of open land all around us.  
12 So it felt like we had found a place where we could practice and develop our permaculture and  
13 organic farm but also be able to host some community gatherings without disturbing others.  
14 And so we actually chose the site for this building the furthest away from the neighbors as  
15 possible way out on the northern point with gulches on three sides of us.

16  
17 And when we...and in answer to the question about why not find a different spot with more  
18 supportive neighbors, I just want to try to impart the amount of energy that we put into this place  
19 for 12 years we've been investing and rebuilding the soil, planting orchards, building  
20 aquaculture ponds, installing solar and wind grid tied system. We built a 20 x 48-foot  
21 greenhouse because it's really important to have some of the plants be protected from fruit flies  
22 in the tropics. And just as an aside that was one of the things in Ms. Drewyer's letter she keep  
23 saying, accusing us of not having a permit for this greenhouse which is very far from her land,  
24 not in her view and we did build it with a permit. The permit number is BX0062 it was an  
25 Act 203 ag building. We did it all by the books and I don't know somehow she wasn't able to  
26 find the permit number and accused us of doing it without a permit.

27  
28 And then we built a spacious, light, airy, comfortable gathering space with using long lasting  
29 materials like stucco and tile roof, and trex decking to serve multiple functions to be able to use  
30 for agricultural purposes. We dry our turmeric in the center, and package our herb tea there,  
31 but we also built it with the hope of someday being able to host the community there. And it's a  
32 very unique spot. It's a big open meadow, some sweeping ocean views, and when we set the  
33 intention, when we broke ground for that building we did it in ceremony in the way that often  
34 Hindu temples are initiated where typically a statue of Vishnu is buried at the center of every  
35 Hindu temple and then we wanted it to be interfaith so we included symbols of every possible  
36 tradition. We had a cross, a Jewish Star, Egyptian pyramid, Native American Medicine Wheel,  
37 Yin Yang, you name it, any spiritual tradition it was welcome and established from the very  
38 beginning in this, this space that we're asking for your approval to be able to use for church  
39 related activities and Reverend Kedar St. John was there at the breaking of ground for that  
40 building and blessed it.

41  
42 So today we're here seeking approval for this Special Use Permit before you so that we can  
43 begin holding regular weekly church services. What we've done today have been pretty  
44 sporadic, not on a set schedule, never weekly and not formal church services, but more rather

1 informal gatherings, spiritual gatherings of our friends, playing music, our sons have used that  
2 building too to practice music. They have a band. Now they live in Seattle but maybe five or six  
3 years ago when they were around more there was more sound coming out of the building as  
4 they are electronic, you know, musicians and so I just want to instill the sense that that has  
5 really changed. Our sons are now 25 and 31. They're pursuing their music career as the band,  
6 Wolf Child you might want to look them up out of Seattle and we're lucky if we can get them to  
7 come home and visit. They're not here inviting their friends over for loud music jams.

8  
9 The people that tend to come to our gatherings are elders as you saw in this outpouring of  
10 support that was truly humbling. I just gotta say hearing these community leaders that came  
11 and testified in support of us was really touching. I have never heard so many good things and  
12 validation for what we've been doing and usually you only hear that at memorials when  
13 someone dies. It was really touching to see how many people are valuing what we're doing.  
14 And as our attorney pointed out there's some other indicators that we actually are reflecting a  
15 community of people that are in support of what we're doing as evidenced by the petition that  
16 was signed and various...the sign in sheets that have over 500 signatures and just more letters  
17 of support have been pouring in. We now have I think 36 handwritten letters of support from  
18 community leaders and 17 of them were from elders over 65 years old. There's like three  
19 M.D.s, two PhDs, five ministers, four Kanaka Maole, indigenous Hawaiian cultural specialist  
20 including Uncle George Kahumoku and Alalani Hill who sat on this Commission, Leiohu Ryder,  
21 so it was very gratifying to feel recognized by those people.

22  
23 So I just want to turn to speaking to what the needs of our ministry are. Last hearing the focus  
24 was a lot about what the concerns of the neighbors were and as we see here today they didn't  
25 come back to this hearing to subject themselves to a cross examination about some of their  
26 claims. It's open to speculation why neither Jerome Labat or Michelle Drewyer or Tim Robinson  
27 are here. I did send them letters and reached out to them in the interim and ask to meet with  
28 them to see if we could work out something informally. And in those letters I reminded them of  
29 some of the concessions and things we would do to try to mitigate their concerns. I also offered  
30 to install speed bumps on the smooth driveway that leads in from the Hana Highway 'cause that  
31 was a concern that they were saying our guests drive really fast down this 500-foot length of  
32 driveway. They're mostly older people. It's hard to picture that happening but we are certainly  
33 willing to put in a speed bump if the neighbors would like that.

34  
35 And so in general in the last hearing I tried to embrace the conditions proposed by you  
36 Commissioners as we discussed different things like numbers and timing and so on and I did  
37 agree to them at that time on that day because I was really hoping that we would be granted the  
38 Special Use Permit that day, but then it was voted down. And so then I've had several, you  
39 know, couple months to be really reconsidering what the needs of our church really are and in  
40 discussions with people who want to come and participate at our place and with my mentor  
41 Reverend Kedar St. John basically we recognize that some of the suggested conditions  
42 imposed a substantially burdensome restriction on our freedom to gather and worship with our  
43 existing community of friends. So I'm gonna suggest that...I'm asking you all if you'd be willing  
44 to go back to the original report by Ms. McLean from the Planning Department with its set of

1 recommendations to the Commission. Those seemed to us to actually reflect our needs and  
2 seemed quite reasonable and we're ready to agree to them and so I'd like to suggest that we  
3 invite you to review what those recommendations were as a jumping off point for our discussion  
4 today. And so I'm just asking you in addition to being concerns about any impact on our  
5 neighbors that you also let into your hearts and minds the recognition of that what we're offering  
6 to the community is a positive service. It has value as reflected in all those letters and  
7 testimonies.

8  
9 So I do just want to just speak to some of the concerns that what we have done to mitigate the  
10 neighbor's concerns. You all asked me try to work it out with the neighbors and so I'm just  
11 gonna summarize what our efforts have been to date to give you the overall impression. It's not  
12 like we've just been blowing off the neighbors and don't care. We've talked to them and we  
13 tried to address their concerns so I'm just gonna run through this.

14  
15 To address Ms. Drewyer's concerns about car headlights shining onto her property when cars  
16 would be leaving our place we hired a big bulldozer and created a berm that would block the  
17 light so that as cars left our property they wouldn't shine up towards where her house was. That  
18 was a significant investment. We voluntarily stopped using an important section of our own loop  
19 road on our property to prevent guest cars from driving across Ms. Drewyer's view plain. If we  
20 could use our entire property without Ms. Drewyer complaining we have a perfect one-way loop  
21 where cars leaving would never encounter cars entering. But because she didn't like the cars  
22 driving on our own property, on our own driveway behind a berm where they're not visible to  
23 her, but she said she could see the glow of the lights and so even after we built the berm she  
24 didn't appreciate us using that section of the road and so to honor her we stopped using that  
25 area, that section of our road and then we...because she was coming up with more things that  
26 she was unhappy with we ended up voluntarily not using the whole acreage that adjoins  
27 Ms. Drewyer's property. It's never been surveyed but it's at least two to three acres of our land  
28 that we've just left as a buffer zone between our houses so that we could just have some space  
29 between us and I can show that when we get to the pictures that we're gonna show you.

30  
31 There was one New Year's Eve party where in part because Ms. Drewyer didn't want us to use  
32 that section of road where we could have a entrance gate that there was a backup of cars I  
33 believe it was in 2014 New Year's there was some cars that made it back out onto our driveway  
34 and since that time we changed the location of the front gate to just be at the church building  
35 itself and so there's plenty of room for more than a hundred cars to drive onto our 25-acre  
36 parcel and park off by the side of the road. We've never had any problems with parking  
37 overflowing onto the neighbor's land. I have no idea what Mr. Labat was talking about when he  
38 said that our guests were parking on his property or had damaged his property in some way. I  
39 don't know where he was coming from and it certainly hasn't happened in the last five years.  
40 So that was something that I wanted to bring to your attention. So by changing the location of  
41 the front gate we haven't had any more backups or parking issues or traffic issues in the last  
42 number of years.



1 We did move the place where we have our dogs. They're you know right by our house. We  
2 moved it over to the other side of our house so they're not right by the driveway where cars  
3 come and go and so they're not triggered to bark as much anymore. And when we do have  
4 gatherings now we've been taking the dogs inside. So we've gone to get lengths to reduce the  
5 disturbance of barking and it is better. I don't...you know if they were here I think they would  
6 acknowledge that there's less disturbance from the dogs. But I also have to point out that our  
7 neighbors also have dogs. Fedde has a couple of big dogs. Ms. Drewyer has three dogs.  
8 They also bark. Sometimes the dogs start barking back and forth. Even last night at three in  
9 the morning while I was preparing for this hearing Ms. Drewyer's dogs were going off, but I have  
10 to say they're so far away, over two berms and over 500 feet away now you can like barely hear  
11 them in the distance, yet somehow Ms. Drewyer has been concerned about whenever our dogs  
12 bark she apparently is very attentive and listening and I just question exactly...how much of a  
13 disturbance it really is.

14  
15 Our dogs bark when someone comes to the door, if we have a visitor, they're watch dogs, they  
16 bark for a few seconds, maybe up to a minute, we quite them down and then they're quiet. We  
17 do not have incessant dog barking, yelping every 30 seconds to drive you crazy. In the span of  
18 a 24-hour period I am quite sure that our dogs bark, you know that 23 hours and 57 or 50  
19 minutes of it they're not barking. They do have little bursts of barking when someone comes to  
20 the door but for whatever reason it's been very...you know it's been an issue with Ms. Drewyer  
21 where she, you know, has called me and complained about our dogs barking and so to address  
22 that concern we now keep our dogs on the other side of the house away from the road and so  
23 they're not triggered to bark when cars come and go.

24  
25 We also, she you know there's a mention she was concerned that people were driving kind of  
26 fast on the first stretch of driveway when they turn off the Hana Highway. It's a very smooth  
27 driveway and it's a little bit slanted downhill. So if you don't pay attention it is possible to pick up  
28 some speed but it's only 300 feet long before it disappears onto our property and the window of  
29 view that Ms. Drewyer has of that driveway is only about a hundred feet. And then once they go  
30 by that 100-foot section they enter our property and disappear from sight from all of our  
31 neighbors, Mr. Labat, Tim Robinson, no one can see onto our property and to be affected by  
32 these cars in part 'cause one of the first things I did when moving to this property is to plant a  
33 privacy hedge of bamboo and I can actually point that out to you. I don't know I guess this is as  
34 good of time about that as any. If you want to just pick up this colored, these stills, we do have  
35 a video to show actually...

36  
37 Mr. Ickovitz: ...(inaudible-not speaking into a mic)...

38  
39 Dr. Abrams: Go through this first. Okay. So the first page just gives an overview of the  
40 property and shows where the neighbors that were, you know, concerned where their houses  
41 are. And in the foreground you can see this giant gulch, almost a third of our property is this  
42 200-foot deep gulch that's a very thickly wooded and you know, definitely not a place of human  
43 habitation. And then if you look in the center you see that building with the blue tile roof that's  
44 the church, the proposed church building that we're addressing and you can see if you look in

1 circumference around that building there's I believe a thousand feet in every direction and in  
2 many directions way more of that where there are no other neighbor's dwellings. And you can  
3 see that Jerome Labat's house is off to the left. Tim Robinsons who I only spoke to once when  
4 he moved to the neighborhood to welcome him, he's completely across that gulch that's you  
5 know very far away and right next to the Hana Highway his house is probably within a hundred  
6 feet of the Hana Highway where we have 400,000 cars going by annually and he does not  
7 share our driveway and has no visual whatsoever onto our property. So I really, you know want  
8 to question how he could be affected by our activities. He did express some concerns about the  
9 curve of the road. His driveway is on the curve but as I'll show you in this...in these pictures  
10 and in the drone footage, our driveway is on a straight away. There is big open views in both  
11 directions of about 1,000 feet in each direction when you pull onto the highway or leave. And  
12 just as another aside, I've taken it on me to be the one to trim the vegetation around the mouth  
13 of that driveway 'cause when even the grass grows a little tall it can start to obstruct the view of  
14 the cars. So we've been staying on keeping that trimmed back.

15  
16 And then just to go back to my other point about the smooth driveway and a potential to  
17 increase speed. We have made a portable A-frame sign that we put up when we're expecting  
18 guests it says welcome, drive slow, five miles an hour and it's right at the mouth of our driveway  
19 so it reminds people even though there's maybe a natural tendency to pick up speed there to  
20 drive slowly.

21  
22 Okay, I'm just gonna go over these pictures really again. So that first one is the overview. It  
23 shows the gulch and the neighbor's houses. The next one again, points out how much open  
24 land there is around the blue roof proposed church building. The next picture again is just  
25 showing the relative position of the neighbor's homes that had come to testify and you can see it  
26 I believe it's well over 500 feet between the homes and there's hedges of bamboo, and gulch,  
27 and berms. This is not a congested little neighborhood. These are big parcels of land with a lot  
28 of space between the houses. And then if we turn to the next page there's a label there about  
29 the bamboo buffer. If you see one of the first things we did when we moved to this property was  
30 to plant the entire windward side of the property and much of the leeward side of the property  
31 with clumping bamboo at six feet on center so it forms a windbreak and visual privacy barrier.  
32 And now that it's filled in there is no view from the Labat's land onto our property or Michelle's or  
33 Robinsons, or Ms. Drewyer or Mr. Robinson. No one really has a view of what happens onto  
34 the property because we did plant perimeter with bamboo. And you can see this is a view of the  
35 gulch on the far western side of the property where Peahi Farms road goes down kind of across  
36 from Jaws Country Store and that is just a massive gulch with a lot of space that buffers us from  
37 any neighbors.

38  
39 And then I just wanted to turn the next picture that's taken right at Michelle Drewyer's home and  
40 then you can see all the way in the left-hand corner is where that proposed church building is.  
41 It's over a quarter mile away. It is...and our house is between. There's two berms and our  
42 home in between Michelle Drewyer's home and the proposed church building and so when  
43 there's music, when there's music playing at that church, proposed church building we can't  
44 hear it at our house. It could be loud, my sons jamming electronically it doesn't make it the

1 1,100 feet to our house so...and Ms. Drewyer had affirmed on multiple times, she said, Lew I  
2 can't hear or see anything going on down there. All I care about is the cars going by and the  
3 dogs barking. So I just wanted to make that point.

4  
5 And then if you look the next one is sort of a bird's eye view of the section of the farm where the  
6 proposed church building is including our greenhouse and photo voltaic system and our coconut  
7 orchard and so you could see there's a lot of open space with no, no neighbor's houses there.

8  
9 And then the next one is pointing to the shared driveway. What's ironic about this, the most of  
10 our land is completely isolated visually and auditorily from the neighbors. There's only this initial  
11 flag lot driveway that attaches us to the Hana Highway and that driveway is about 400 feet long.  
12 More than half of it is protected by a berm that is on Michelle Drewyer's land so she can't see  
13 the driveway except for a little 100-foot gap in the berm as cars leave the highway and enter our  
14 property, the lower portion of our property. And once they go by that 100-foot section they're  
15 completely contained on our land. All of the parking, all of the driving there's nothing impacting  
16 the neighbors. And there's a close up of that driveway at the last page you can see  
17 Michelle Drewyer's house on the left and it leads to a cul de sac there at the end and our  
18 entrance to our farm is the driveway off to the left, to the right it goes to Jerome Labats, and  
19 straight down goes down to his lower portion of land as well. So there's a really a very...it's  
20 probably 20 seconds from leaving the Hana Highway till disappearing onto our farm that  
21 either...that Ms. Drewyer could even see or hear a car and Jerome Labat has no visual on that  
22 driveway. So I just wanted to try to clarify that with you and we do have some...a two-minute  
23 drone video footage that really captures the situation of this building and why we chose to build  
24 it in this spot. So we're gonna see if we can get the...get it to play.

25  
26 Mr. Ickovitz: Unfortunately this project unit doesn't have a USB port...(inaudible-not speaking  
27 into a mic)...Unfortunately, the projection unit that the Commission has does not accept a USB  
28 connection and therefore we have a problem, we can't show the video. So I'm just gonna play it  
29 on my PC and just walk around it while he describes it.

30  
31 Dr. Abrams: Will that work with that you guys?

32  
33 Mr. Galazin: Chair if I may? So Dr. Abrams is that recording something that you have a copy of  
34 that we can keep for the record?

35  
36 Dr. Abrams: Yeah we can send it to you—

37  
38 Mr. Galazin: Into the mic please. Into the microphone.

39  
40 Mr. Ickovitz: Yes, we...I have it. It's YouTube that I was gonna provide to you on a disk drive.  
41 It was in my machine, it fell and it's broken.

42  
43 Dr. Abrams: So we can give you a link, a YouTube link to that video.

44

1 Mr. Ickovitz: But I can provide, get you a USB drive with that, the representation as soon  
2 as...(inaudible)...

3  
4 Dr. Abrams: But I still like you know...(inaudible-not speaking into the mic)...

5  
6 Mr. Carnicelli: One at a time.

7  
8 Ms. Furukawa: The YouTube videos we cannot access from our computers 'cause of Firewalls  
9 and stuff, so...

10  
11 Mr. Ickovitz: And I was expecting a USB.

12  
13 Ms. McLean: Just a flash drive would be...if you can give it to us on a flash drive.

14  
15 Mr. Ickovitz: Yeah, I can't do it right this moment but we can get it to you.

16  
17 Dr. Abrams: Is this flash drive broken...(inaudible-not speaking into a mic)...

18  
19 Mr. Ickovitz: Yes.

20  
21 Dr. Abrams: Okay, so the stills will have to suffice for now. But especially if you look at the top,  
22 the front picture you can see the building we chose to site it as far as possible from any  
23 neighbors. I do want to say another accommodation that we made to Ms. Drewyer, we had a  
24 plans to develop a commercial photo voltaic solar grid tied system on our land on the portion of  
25 the land closer to Ms. Drewyer's. We even applied for and were granted a building permit for  
26 this project and I discussed it with her, I mentioned I said, hey we're gonna put out some solar  
27 panels here and she was dead set against it. She felt like if we got our solar project installed  
28 that she would not be able to get her own grid tied solar system. I don't know if that's true  
29 there's an allocation for a neighborhood but in any case we went and met with her and her  
30 husband at the time. We sat with them and looked towards our property trying to see like what  
31 we were gonna do, would it impact her view, we erected a pole to see how tall the panels would  
32 be and whether they would be able to see I from their place. It really was not visible over the  
33 berm, but she was so insistent and somewhat threatening that if we did this she was going to  
34 make our life difficult, so we agreed and we withdrew the permit and canceled our project. First  
35 I just canceled the project then she called me and asked me to formally withdraw the permit to  
36 make room for her to apply for her solar permit and so we did that. And that potentially was a  
37 profitable installation that may have helped us financially but in order to accommodate to our  
38 neighbor's needs we ...(inaudible)...and canceled that project.

39  
40 Mr. Carnicelli: Lew, when was that?

41  
42 Dr. Abrams: That was when her husband was still alive, it's probably six years ago.

43  
44 Mr. Carnicelli: Okay. Thank you.

1  
2 Dr. Abrams: Something like that. And then one other thing that we did that was somewhat  
3 accommodating was there was a situation where we were trying to assess the fire protection  
4 available to our three homes from a fire stand centrally located up at that near that cul de sac.  
5 It's a shared interest, the Drewyers, Jerome Labat and our home they're all protected by the  
6 same fire stand and it didn't, it didn't...you know there was a question about whether the fire,  
7 the water pressure was sufficient there. So we were all talking about like how we want to make  
8 sure our homes are protected and in that research apparently Ms. Drewyer turned off an  
9 important valve coming out of the well tank and left it off for a day and a half without telling us.  
10 At first she admitted that she did it because the former owner of Labat's property had told her  
11 that if she change that valve it might affect the fire protection system. Then later when it turned  
12 out that that water had cut off property water to all of our three properties and our pump had run  
13 dry and burned out and required replacement then she changed her tune and said, no she didn't  
14 do it or she wasn't responsible for it. In any case, we had the pump replaced and did ask her if  
15 she might be willing to pitch in to cover the replacement cost of this pump that was damaged  
16 because she had cut off the water supply that feeds that pump and she said it wasn't her  
17 responsibility, she didn't want to help with that and we just let it go and accepted that. So that  
18 was another sort of neighborly accommodation.

19  
20 And I'm just gonna list a few other things, not that these are so major but one of them is a  
21 concern we noticed the signs of Roundup are being sprayed around our well, the shared well  
22 and the fence line that borders our organic farm and it was apparent that it was being sprayed  
23 on the Drewyer's fence line and so I called Michelle and expressed some concern and at first  
24 she denied spraying the Roundup but it was very apparent, there was the telltale dead brown  
25 grass along there and then I actually sent her some articles about the potential dangers of  
26 glyphosate and how it's in the tissues of every human being on the planet and that it was  
27 associated with cancer and then she admitted to have being spraying it she and her husband  
28 and agreed to stop but only if we took on the care of the shared well tank area 'cause the grass  
29 grow around there. So I immediately said yes, we will take this on, we'll do manual trimming  
30 with our weed eaters and sickles and so since then and that's again probably eight years ago  
31 that's something that we've been doing for the neighborhood even though that well tank and  
32 pump house is not on our land, it's actually on Jerome Labat's land we do have an easement to  
33 access it for our water supply. And I do have a picture of that tank. We've worked really hard to  
34 stay on top of the cane grass and trim there. So we asked her to stop spraying Roundup  
35 adjacent to our organic farm 'cause we're downhill from her property and she did agree to stop  
36 and stopped for some time. It feels like she may have started again. Sadly after I sent the  
37 article about the cancer causing potential of Roundup her own husband Darby did get  
38 diagnosed with brain cancer and died in like six, seven years ago. So that was a unfortunate  
39 thing that may explain some of you know her upset, and I feel sorry about that. Darby was a  
40 nice guy.

41  
42 So I'm just gonna go on to some of the other things. We took on taking care of the well house  
43 and the pump house, the well tank and hand trimming instead of allowing her to spray Roundup.  
44 We cut...we deal with the view plain out at the mouth of the driveway to make sure there's

1 ample view to the oncoming cars. On one occasion Ms. Drewyer asked me to cut or trim back  
2 some trees that had grown into her view. The very next day I was out there with a chainsaw  
3 and cut them down all the way to accommodate. It was just like a African tulip weed tree. I  
4 wasn't attached to it, was glad to remove it from her view. By the way, I don't recall her ever  
5 acknowledging or thanking us for any of these efforts. And then when asked by Ms. Drewyer to  
6 contribute financially to her project she decided she wanted to plant some palms out at the  
7 mouth of the driveway on her side, she basically told us that we should pitch in for the backhoe  
8 and we agreed. We never, we really weren't consulted and I don't know that there was a need  
9 for those palms but we did spent several hundred dollars without making an issue to help her  
10 with that project.

11  
12 Other small things, over the years we've brought Ms. Drewyer several harvest boxes when we  
13 were doing more commonly CSA boxes, sometimes we'd have extra produce and we would  
14 bring them as a gift to her and she accepted them a couple times but at the last time she was  
15 upset with us about something and she just left the box there by her gate and I called and said  
16 it's still there and she said she refused to pick it up and that we should send someone to retrieve  
17 the box but it shouldn't be me or Mariah 'cause if we approached her gate she might refile a  
18 restraining order on us so that was an unusual thing.

19  
20 So that's just some of our efforts to be neighborly, to accommodate to the concerns of the  
21 neighbors.

22  
23 And now I do wanna just address a couple of the misrepresentations that have appeared or that  
24 appeared in Ms. Drewyer's letter that we're still trying to decide whether it will be allowed into  
25 evidence, but I...whether...you know, you guys have a had a chance to read it already so it's  
26 basically like you can't unring a bell that's it's already been posted for the public to see. That  
27 letter from Ms. Drewyer was quite uncharitable about my character I have to say. I felt defamed  
28 and falsely accused of things and so I'm just gonna try to correct any misunderstandings around  
29 that. So in it she...there was this claim that we have this greenhouse on our property that was  
30 built without a permit. I have no idea where she came up with that. It was built with a permit.  
31 The permit number is BX2015-0062. And I also wondered why she would care it's nowhere  
32 near her property not in her view, it seemed like she was just trying to stir up trouble for us.

33  
34 Another important misrepresentation in her letter was reporting about the IWS Septic Report  
35 that we had done by an engineer. That report found that we have...we built a very large septic  
36 system to accommodate that proposed church building because we had thought about building  
37 an ohana that would feed into that same system. So it was like the maximum size septic  
38 system and ...(inaudible)... the engineer looked at the thing and certified in saying this system  
39 is big enough to hand a hundred people for a church dinner. So a hundred people coming for  
40 services and having dinner and washing dishes and using the toilet and that was estimated that  
41 that might take a thousand gallons if we had a hundred people eating dinner there. But  
42 Ms. Drewyer quoted report and deceptively conflated the maximum daily capacity of  
43 1,000 gallons with the estimated daily use. She said, oh yeah, the report shows that they do  
44 church there it's going to take a thousand gallons of water a day and that is definitely not true

1 because if we didn't do dinner that ten gallons per person rate it drops down to three gallons a  
2 person and so in theory our septic system is big enough for almost 200 people if we're not  
3 serving dinner. But she, but the way she spoke about it in the letter was to misrepresent that  
4 report and make it seem like the report proved that if we did host church activities there that we  
5 would be using an extra 1,000 gallons of water a day.  
6

7 And this might be a good place to insert this aside, that water system in the original subdivision  
8 was built to serve our three properties, now the five...Jerome Labat has two properties so  
9 there's two TMKs that he has, the Drewyers had one, we had one and there's a whole nother  
10 property across the gulch where Tim Robinson now lives. I believe that was like eight or twelve  
11 acres that were a part of the original subdivision of 75 acres. That well system was designed to  
12 supply across the gulch multiple home sites. It's overkill. We are not using all of the water that  
13 that well is a capable of producing. There's never been a shortage of water. As the County  
14 report shows we sit on a huge aquifer of water and in our private water agreement there's no  
15 stipulation about any maximum amount of water that any party to the water agreement can use.  
16

17 The only stipulation is is that maintenance cost would be shared equally, maintenance or  
18 replacement of the pump and that by metering the use of water each property can pay  
19 proportionately for the amount of water they use because it's basically the only bill is the electric  
20 bill associated with the well pump that pumps the water up into holding tank. And so by figuring  
21 out the use of the water we can have a monthly or quarterly is how it's turned out to be,  
22 Ms. Drewyer has been managing the water system and figuring out who owes what and sending  
23 us the bills. But the basic gist of that is there's ample supply of water and any water that we  
24 have used we have paid for. And we do use more water as a 25-acre farm than the other  
25 parcels which are primarily sort of gentleman estates without a lot of agriculture going on. But  
26 we're actually irrigating orchards and so on, so we have always been very willing to pay our fair  
27 share for the use of the shared water system. And we are up to date with our payments.  
28 There's been a couple times I've been a little late admittedly but also Ms. Drewyer was not very  
29 consistent in sending the bills. Sometimes she would send them every month, sometimes she  
30 would go a number of months, and I have made my best effort to make sure we always pay for  
31 our share of water so that was why it was a surprise when she started accusing us of stealing  
32 water. And I would say we don't need to steal water. There's plenty of water where are you  
33 coming from with that.  
34

35 And then she says, well I know that you're using the fire protection system to make an end run  
36 around paying your fair share of the well bill and this was news to me because I didn't know that  
37 the water that was set to be the fire protection systems of these buildings I had no idea that that  
38 water didn't run through the meters until she accused me of using it to avoid paying my share of  
39 the water bill. And I was really puzzled 'cause we've never done that. I've never even opened  
40 the fire hydrant and so I was saying...and she says I have proof, and I'm saying what proof?  
41 You can't have proof 'cause I didn't do it. But she's...what her proof was is that there was a  
42 discrepancy between the meter on the primary well pump and the three meters that divide up  
43 the use of the water by the individual properties. And so she inferred from that discrepancy that  
44 somehow we must be stealing water. Another more plausible explanation which would be

1 applying Occam's razor, a more simple explanation is that somewhere in the system there's  
2 some kind of leak that allows some of that water to drain off before it makes it to the meters.  
3 Anyways I'm just here to represent to you I am not a thief, I am a person of integrity. I would  
4 have no reason to steal the water. I didn't even know that there was a way of getting water that  
5 wasn't metered. And so even though I tried to explain this repeatedly to Ms. Drewyer she would  
6 keep coming back to it in this fixed way that was bordering on delusional. I actually called her  
7 that I'm saying look I'm telling you we're not doing it, there's no evidence we're doing it, but yet  
8 you keep thinking we are, I just don't understand. So that was an issue that I wanted to speak  
9 to 'cause that really does feel like a defamation of my character. That not only did she write that  
10 in the letter to you, ....(inaudible)...the commissioners, it got posted as link to the minutes of that  
11 meeting and everyone on the island was free to read this thing and see, you know possibly be  
12 influenced by it. So I am concerned. And in the letter that I sent to her asking to meet and talk  
13 about her concerns that we did ask her to withdraw that false accusation about us stealing water  
14 but she did not respond to that.

15  
16 Other misrepresentations. It's kind of cleared up to the degree that we're removing the stuff that  
17 was in the Dropbox this becomes sort of a nonissue. But...you know there were over a hundred  
18 pages of things that were submitted but a large majority of that stuff was about events that did  
19 not even happen at our property. They were things happening at the Studio Maui or at  
20 Charley's. There was just to the degree that it was represented that this was information  
21 proving that we are violating agricultural zoning it was really not. In fact it did not in contained  
22 that kind of incriminating evidence. So there was a definite misrepresentation like for example  
23 one of our friends has a band, they downloaded his website calendar of where he played and he  
24 played many places around island. They circled all these dates and sort of implied that that was  
25 all happening at our place when it was not. One time it did, but...

26  
27 Mr. Carnicelli: And Lew we've removed all of that from the record.

28  
29 Dr. Abrams: Thank you so much.

30  
31 Mr. Carnicelli: Yeah, yeah, everything in the Dropbox we've removed from the record.

32  
33 Dr. Abrams: Beautiful. A couple more points. I feel like there was a certain exaggeration about  
34 the traffic and sound disturbance associated with our gatherings. As I was telling you there's  
35 only a very little short stretch of driveway that is visible to the neighbors and again, her home is  
36 within 87 feet of the Hana Highway where over a thousand cars go by each day. Nubby trucks,  
37 nubby tired trucks, tour vans, all kinds of vehicles, we can hear them slightly at our house  
38 depending on if it's like a loud motorcycle or something. But clearly compared to this constant  
39 flow of tourist traffic on the Hana Highway within 90 feet of her bedroom it's hard to understand  
40 why she was feeling so disturbed by the few cars that would turn off the highway and come to  
41 visit us. But for whatever reason it was something that she would let me know that you know  
42 she would text me quite periodically saying lotta cars on the driveway, things like that, and I  
43 would respond and say, well we did have a friend stop by. You know, it just seemed like it was  
44 an exaggeration about...and that she was almost developing a paper trail to try to incriminate



1 us. So I am challenging that assertion that there's a huge or a significant disturbance of traffic  
2 or sound associated with the activities at this proposed church building as the other picture  
3 showed you it's more than 1,500 feet from Ms. Drewyer's home to the site of the proposed  
4 church building and that's about city blocks, three Wailuku blocks, it's not close.

5  
6 And then there was another thing in a statement made by Mr. Labat in his testimony where he  
7 said there's been parking issues and that cars have parked out on his land or maybe parked all  
8 the way out to the Hana Highway. This is bizarre to me. This 20...we have 25 acres of land,  
9 we have plenty of room to park literally hundreds of cars on our property. There's no reason  
10 that anyone would park on our neighbor's lands and to my knowledge they never have. So I  
11 don't know where that came from. So I'm challenging that as well. And in his testimony he said  
12 it's been happening more lately I believe when we went over it and that is clearly not the case  
13 because we've scaled down and we don't have very many visitors these days.

14  
15 And then see what else. False allegations that there had been property damage caused by our  
16 guests parking on neighbor's property. That doesn't...the only thing I can think of is when my  
17 son graduated Seabury we did have a graduation party for him that was crashed by the kids  
18 from King K and I had to break up a fight that happened and kicked one of the kids out and  
19 when he left he dug some ruts, donuts on the median alongside the driveway which mostly was  
20 on our ten feet that we own, but immediately the next day we went out there and filled in the ruts  
21 and reseeded the grass and it was done. It happened one time when my son was 18, he's now  
22 25 years old. That's the only property damage that I'm aware of that's ever happened in this  
23 place, but it was mostly on ours.

24  
25 And then I mentioned about the defamation and falsely accusing of stealing water.  
26 She's...Ms. Drewyer sort of threatened to file restraining orders on my wife at one point. I won't  
27 go into that. Let's see what else. Efforts on the part of the County regulation...oh yeah there  
28 was a representation in the letter of Ms. Drewyer saying that it looked like we hadn't been trying  
29 to work with the County to get the after-the-fact permit we were seeking. I spent two years with  
30 constant correspondence to the DSA Head Mr. Goode or Grood, David Goode, trying to work  
31 Rulan Waikiki down at the Planning Department. We were being stymied. We wanted to try to  
32 comply but we were caught between these two different branches of the Planning Department  
33 where we couldn't get Ms. Waikiki to release and approve of a building permit and the other  
34 people were fining us for something. So eventually we just stopped trying and removed the  
35 unpermitted work and resolved that issue. And I'll say all of the...you know there are few RFSs  
36 in the record from starting...you know, off to like 2016, we successfully addressed and resolved  
37 every one of those complaints and it's...they're nonissues at this time. And I did make a  
38 concerted effort believe me to try to get the permits that we wanted and it was quite frustrating.

39  
40 One other, couple things in Ms. Drewyer's letter she, you know, let me say this...after the first  
41 hearing we had a meeting at our place and Ms. Drewyer walked down our road to come to the  
42 church building and we met with my wife and Jerome Labat and Ms. Drewyer and afterward she  
43 wrote in the letter that our road was virtually impassable that she didn't think even a car could  
44 get down there that it was like a clay track. And that's just a misrepresentation. It's a well-

1 maintained road. I mean there might have been a few grooves from the rain but I do have  
2 pictures here that I can show you of the road. Just to you know set that record straight. Let just  
3 see if I can just...(inaudible-not speaking into the mic)...but this is like a close up that shows  
4 that the road is not this impassable track. We want a fire truck to be able to get down there to  
5 protect our building. We certainly would not want to endanger anyone.

6  
7 Okay, I'm almost through this. Oh yeah, in her letter she misrepresented our community  
8 gatherings...wrap it up, okay...as a party house and we do have a family friendly atmosphere.  
9 We have multi-generations. We have 80-year-olds and little babies. We do not serve alcohol  
10 and it is far from a party house.

11  
12 Okay, we're gonna go on. So now I just want to turn to ask you to consider what our church  
13 really needs and to hopefully be moved to pass this special use permit for us today and I'm  
14 going to just speak to the conditions that we are suggesting that you all consider and since the  
15 neighbors aren't here to be cross examined and I would like to suggest that we start back at the  
16 recommendations in Ms. McLean's Planning Department report to the Commission. Because  
17 those were reflective of the needs of our ministry and we were quite, you know satisfied with  
18 those. So I'm just going to go on to tell you what we would like you to consider, what you would,  
19 you know and I appreciate your having open minds and wanting to be fair and do the right thing  
20 by all the parties concerned. So please...and I do also want to acknowledge that there was an  
21 effort especially on your part Mr. Robinson to propose some compromises or alternatives and I  
22 really sat with that and as you recall I did agree to those but then we were voted down and then  
23 after-the-fact the more I looked into it and talked with our people who want to come to our place  
24 it really was not an adequate number of people. As our petitions show we really have more like  
25 30, 40, 50 people that would come to our gatherings. Who knows how many people would  
26 come regularly but 25 is definitely not adequate and we would like to have a weekly...at least a  
27 weekly service of up to 40 people. So I'm gonna just read this to you.

28  
29 So thank you for considering this and note that they are very close to what Planning Director  
30 McLean recommended in her report to this Commission.

31  
32 So A, Services shall occur no more than three times per week plus holiday celebrations and we  
33 shall maintain an average of no more than 40 people for weekly services and an average of no  
34 more than 100 people for holiday celebrations.

35  
36 We...B, we're asking for a 10:00 p.m. sound curfew with amplified music being turned off by  
37 9:30 p.m. and this comes from the experience actually hosting community gatherings.  
38 Oftentimes we'll call the potluck for 6 o'clock but people who work during the week by the time  
39 they get home and shower and make potluck dish, get there oftentimes they don't show up till  
40 6:30 or 7:00 which means our potluck fellowship time kinda runs to about 7:45 which leaves us  
41 from 8:00 to 9:30 as the time when we can actually have a prayer circle or sharing and so that,  
42 that flow works better. To have it over by 9:00 would really feel like an undue burden and not be  
43 as conducive to our pursuit of our, you know, religious freedom so I'm asking that the same  
44 sound curfew that applies to any other business or any other private party you know typically I

1 believe the County ordinance is that the music needs to come down at 10:00 p.m. We're willing  
2 to turn the amplified music off at 9:30 p.m.  
3

4 And then back to the sound levels issue, one of the things we discussed in the previous hearing  
5 I appreciate your reasonableness and moving back from that first stipulation about it being not  
6 detectable past the boundaries of the property. We're asking for you to approve sound levels to  
7 stay within County established decibel levels beyond property limits and of course, we agree to  
8 turn down the volume if we were to be bothering the neighbors. If they call or text whatever the  
9 volume is I'm glad to turn it down. And what we found is if we just close up the windows and  
10 door and turn the volume down, the master volume down a little bit, the sound is very much  
11 contained and we did have one experience. I don't...I think Jerome may have called me like  
12 twice over these nine years, one was when my son's band was rehearsing and they were  
13 playing electric music and he called and he said the music's kind of loud. I said, okay, I'm  
14 gonna work on this and so we turned down the music, we closed the doors. I called him back  
15 and he said, yes, that's much better, you've met...you know thank you. You've satisfactorily  
16 addressed our concerns and that's what neighbors do and we will be very glad to accommodate  
17 if there is any concern we will turn down the music without a problem. And I would note that if,  
18 you know, if concerns like that...well, I'll just go on.  
19

20 So D, New Year's Eve celebration. We do have this tradition of meeting on New Year's Eve.  
21 We collaborate with the Temple of Peace. We have a...you know we play, there's music  
22 playing but we always adjourn at 11:30 and have a midnight prayer ceremony where we light  
23 the peace flame that lives at the Temple and Peace and it's a beautiful, beautiful community  
24 moment where it's not just like get drunk and shoot off fireworks. It's actually dropping into  
25 sacred space together and planting our seeds of consciousness for the future year and so on.  
26 So we would like to be able to continue with the New Year's Eve celebration and on that night  
27 we are proposing that rather than the 100 person limit for the larger gatherings that the  
28 maximum number of guests will coincide with the building occupancy as determined by the  
29 Fire Marshall. That was something we talked about last time. It seems very reasonable. Of  
30 course we're not going to exceed the building occupancy and that occupancy has not been set  
31 yet 'cause we're still in the process of developing the sprinkler system and so on, but once the  
32 Fire Marshall does come in and inspect I understand that a certain number will be set over  
33 which is beyond capacity. So I'm asking that for the New Year's Eve's party celebration that we  
34 can go larger up to whatever the building occupancy will be. I don't know what that will be, but  
35 I'm quite sure it will be over 100 and probably less than 200.  
36

37 And then there was a suggestion about providing a free day with no church services for the  
38 neighbors. I believe it was you Mr. Robinson that suggested that just so that there's one day a  
39 week they can be sure that nothing's going on. I totally understand and support that and we're  
40 not interested in having day in and day out events and traffic. We appreciate our quiet and  
41 peace as well. I do have to say though I had originally...I chimed in and I say, oh yeah,  
42 Sundays will be good because that's when we go Temple of Peace, but with further consultation  
43 and talking with Reverend St. John and so on, we realize that Sunday afternoon really is a  
44 prime time for families with school age kids to come out and participate in church activities.

1 During the week, it's you know the kids have to be doing homework and so on, so we don't want  
2 to agree to it sticking with it being Sunday. We would much prefer if we could make that one  
3 day a week off a Monday and we would be appreciative if you would flex with us on that. The  
4 one exception might be if one of the special holidays that has an astrological alignment like  
5 Summer Solstice or there the Spring Equinox if it falls on a Monday it's really desirable to gather  
6 and meditate and pray right at that moment as human beings have done around the world for  
7 millennia and so we would ask that if there is a correspondence of a holiday that lands on a  
8 Monday that we be able to trade that day for a different day that same week, but still maintain  
9 that and with advance notice posting on our website so that neighbors could plan and  
10 understand that you know there would be a day off with no church activities.

11  
12 And then finally, thank you for your patience, I am reverting and encouraging you all to review  
13 the Planning Department recommendation that said we have met all of the criteria and have  
14 recommended approval of the Special Use Permit for five years. And I know there was a  
15 motion to limit to one year and I just want to you know speak to that this whole process has  
16 been very absorbing. It's taken more than two years of our time to prepare this application and  
17 to deal with all of the different hoops we had to jump through. This has been a distraction from  
18 our ministry and the longer term frame, time frame for the special use allows...is really needed  
19 for planning and development and fundraising and capital development. If we have any kind of  
20 program it takes them time to get it off the ground and raise the funds and implement it. It's  
21 hard to get people to get excited about something that could end just in a few months. So we'd  
22 like to you consider giving that full approval of five years or at least three years and you know  
23 we're just noting you it's no different than what any other business might need like a lavender  
24 farm or other that needs to make like a five-year plan and planned program development. And  
25 of course, however long the SUP is approved for, I'm assuming you will approve it we will still  
26 address any complaints that come up in a timely way if a neighbor calls it doesn't matter  
27 whether there's a one or five year SUP we will jump on it and try to address their concerns.

28  
29 So yeah, before you make your decision about this SUP I do ask you to consider a couple of  
30 things one is the outpouring of positive testimonials and letters of support from so many  
31 respected community leaders. I know I've mentioned that but for me when I heard people  
32 coming over here saying how touched they had been and how important the service that we've  
33 been offering the community has been it was really amazing and if you do, if you notice on the  
34 right side of your packet there's a list of all the people who wrote letters and we included all the  
35 letters for your review. And it includes you know community leaders, three doctors, several  
36 ministers, many elders and I just would like you to weigh that as data to consider, you know, as  
37 you face this decision.

38  
39 And then I also would like you to consider the multi-million dollar investment we have made in  
40 this property, the buildings, the infrastructure of Ahimsa Sanctuary Farm. We've poured  
41 everything that we have into this piece of land. We've planted hundreds of fruit trees, we've  
42 built many out buildings, we built this proposed church building to last. We poured footings with  
43 rebar, everything is sturdy because I would like this to be something that will live on into  
44 posterity for future generations. I'm 59 years old I don't know how much more time I'm gonna

1 be around on this planet but I do want to let you know that I have two healthy sons Gabriel and  
2 Eli, they're 31 years old and 25 years old raised in this interfaith tradition who are poised to  
3 carry on this ministry and probably are better suited than almost anyone 'cause you know my  
4 wife was from Honduras raised Catholic. I grew up in Rhode Island I was raised Jewish. Both  
5 of us expanded our interests in different kinds of mystical traditions, we've both spent time with  
6 Tibetan Buddhist teachers and done Native American sweat lodges and Sufi campout at Camp  
7 Keanae for last 20 years so we exposed our kids to that. We celebrated Hanukah and  
8 Christmas. When we would Passover Seders we would make it a universal discussion of the  
9 right of all people to be free from oppression and I have Muslim friends that read from the Koran  
10 at our Passover Seder and my wife turns the matzah and wine into the Eucharist and we pray  
11 for the Palestinians. I mean it's a very universal experience that we've exposed our kids to.  
12 And they are poised to continue both this organic permaculture farm project because especially  
13 Eli my younger son is totally in the ahupua`a idea. He wants to restore the flow of water in the  
14 gulch and plant taro down there and he's you know helped on the farm and he's gonna be the  
15 one that I'm gonna pass this baton to. My older son, Gabriel is more wed to the urban lifestyle  
16 of being a rock and roll star but still he's definitely got a good heart and will be available to help  
17 his brother pull this together. So I just wanted you to recognize that it's not just us that we're  
18 doing this for. We've done it for a whole community of people and we're hoping that it will serve  
19 future generations and inspire people who come to visit, you know we do these permaculture  
20 farm tours, inspire them to rethink how they're growing their food, how they're generating energy  
21 and perhaps apply some of these permaculture design principles at home even on their balcony  
22 of their condo. I make sure that when I lead these farm tours that I inspire people to minimize  
23 their carbon footprint.

24  
25 So I think that covers my remarks to you all. Thank you for your patience and again thank you  
26 for the opportunity to try again with you guys and I know that trying to balance everybody's  
27 needs is not an easy thing. I do really appreciate your willingness to feel the value of what  
28 we're offering. Thank you.

29  
30 Mr. Carnicelli: Thanks Lew. How long are your ceremonies? This one was an hour and ten  
31 minutes.

32  
33 Dr. Abrams: Oh I see. Usually it's about an hour and a half of actually sitting in a circle and  
34 sharing.

35  
36 Mr. Carnicelli: Okay, I'm just having fun. I'm just breaking the tension after an hour and ten  
37 minutes is all there.

38  
39 Dr. Abrams: Yeah.

40  
41 Mr. Carnicelli: So I would like Corporation Counsel wants to say something.

42  
43 Mr. Galazin: Thank you.

44

1 Dr. Abrams: Yeah I was gonna give you a sample of a Dharma talk that I gave at the Temple of  
2 Peace that I have on my phone that I could like email it to you or something about transforming  
3 difficult life situations into opportunities for personal growth.

4  
5 Mr. Carnicelli: Thank you.

6  
7 Dr. Abrams: So I'll share that with you if you're interested.

8  
9 Mr. Carnicelli: Okay, thank you. Corporation Counsel.

10  
11 Mr. Galazin: Thank you. Dr. Abrams—

12  
13 Dr. Abrams: Yes.

14  
15 Mr. Galazin: --I just wanted to give you an opportunity to clarify one thing. Your counsel had  
16 stated earlier today that there had been no zoning violations on the property is that accurate?

17  
18 Dr. Abrams: In the last five years there have been none. We did get a couple of RFS warnings.  
19 One, there wasn't...it wasn't found in violation because it was a one-time party when I let  
20 someone hold a birthday party at our place and we did have the guy from the County out and he  
21 had brought in a Coconut Glen's ice cream truck and bouncy trampoline things and apparently  
22 they're not allowed on Ag zoned land so we got a warning letter and it was already gone by the  
23 time letter got to us because it was just a one-day thing. So that's one violation related to that,  
24 but nothing in the last since I think 2016 was the last concern. We did have one issue with an  
25 area under the church building that we were working on getting that after-the-fact permit on that  
26 I told you about but that was all resolved.

27  
28 Mr. Galazin: So I'm not talking about just the last five years, just have there been any zoning  
29 violations?

30  
31 Dr. Abrams: I don't believe we've found as having zoning violations. We did get a couple of  
32 warning letters. One was we put some A-frame signs out.

33  
34 Mr. Galazin: Okay, well...I'm looking for a yes or no.

35  
36 Dr. Abrams: Okay. No commercial operations, no violations in the past five years and no  
37 significant violations that I'm aware of.

38  
39 Mr. Galazin: Thank you.

40  
41 Mr. Carnicelli: Director.

42  
43 Ms. McLean: In the staff report there is a copy of a Notice of Violation from 2016 and a receipt  
44 of a fine that was paid a \$1,000 that was paid for that violation.

1  
2 Dr. Abrams: Right. Yeah, that was...that area where we were trying to get the after-the-fact  
3 permit. A \$1,000 or \$1,500? I thought we paid \$1,500.

4  
5 Ms. McLean: Well, this violation says use of a commercial retail structure art gallery.

6  
7 Dr. Abrams: Oh that's right.

8  
9 Ms. McLean: Not permitted in the Agricultural District.

10  
11 Dr. Abrams: Yeah, we do art. My wife's a potter, I'm a sculptor, my son's a artist and we did  
12 have a overzealous webmaster who put on our website a invitation that when people come to  
13 our farm tour to come check out the farm made, family made art and it said on there that none  
14 of the art would be for sale on site. We did not have any hours of operation. We had no cash  
15 register, no price tags, we never sold anything, but we did display our art that we made, my  
16 son's and my wife and I in an area down underneath that proposed church building and so that  
17 was...somehow it came to someone's attention and we did get, I guess it was a violation for that  
18 which we appealed. We paid the \$500 we were gonna appeal it but then when we met our  
19 planner at the County as we were embarking on this SUP she looked at the record and she said  
20 you know just clear this up. It's better to just pay the fine and close it and so that's what we did.  
21 But it never was a commercial art gallery. I have my art at Maui Hands in Makawao for selling  
22 publicly.

23  
24 Mr. Carnicelli: Great. Thank you Lew. Leslie, do you have anything else? Are you going to  
25 conclude this?

26  
27 Dr. Abrams: Thank you.

28  
29 Mr. Ickovitz: I actually was gonna give you the opportunity to tell me you've heard everything  
30 but I'll be very, very fast, very quick. So I just want to summary very quickly and just state from  
31 my own heart that the Abrams have provided a unique community resource that has given so  
32 much to Maui for 20 years and it' all from their heart. It's never been about the money. It's all  
33 about how to raise the consciousness and the spirituality of this into this island that needs so  
34 much. The world is facing a lot of grave issues and it's people like Dr. Abrams and his wife who  
35 provide a community gathering space where we all can pray together for a better world. We can  
36 pray for a leader that tells the truth everyday instead of lies every day.

37  
38 So we're urging you to...one thing that Dr. Abrams did not mention, Ms. Drewyer complained,  
39 made all these statements about this horrible road and she couldn't even walk and it was unsafe  
40 and a fire truck couldn't get to go. So Dr. Abrams installed a brand new gravel road. Again, we  
41 didn't have rebuild it, we didn't have a chance get a picture of it but brand new gravel road.

42  
43 So right now there's nothing in the record regarding any justification or adverse effect on the  
44 neighbors. We're asking you not be more restrictive than the conditions provided. The five-year

1 just from any kind of capital required...if this...if we were asking for permit to be a botanical  
2 garden you would not consider anything less than five years because nobody can...no bank will  
3 give you a loan unless you have a five-year permit so you can pay back that loan in five years.  
4 So to restrict us more than you restrict a botanical garden would not be fair to a church. One  
5 condition that he didn't mention that you did that's appropriate is that no public church services  
6 start happening until we have a Certificate of Occupancy and we will definitely would honor that.  
7 We think that's a very fair condition. And this is really the only place in the world that they can  
8 do their own church. It's a sacred unique space, again, I think Lew touched on that  
9 Mr. Robinson never called once to complain, Mr. Labat called may be twice in seven years and  
10 each time they resolved it, and Mr. Labat also confirmed that. So the community has provided  
11 overwhelming support and we just urge you to give this community what they really need and  
12 want and provide the Abrams what they have so diligently and worked so hard to ask this  
13 Commission to allow it to carry its ministry on its own property and to really serve all of you.  
14 Thank you.

15  
16 Mr. Carnicelli: Thank you Leslie. So, I think at this point the first thing that we need to do is  
17 address Tara's letter and Exhibit C in Tara's letter and then D.1 which...two D.1s which were  
18 those items that Leslie asked for us to strike from the record. I look at those is Mr. Abrams and  
19 Leslie both, I'm sorry Dr. Abrams.

20  
21 Dr. Abrams: Thank you.

22  
23 Mr. Carnicelli: Excuse me.

24  
25 Dr. Abrams: ...(inaudible-not speaking into a mic)

26  
27 Mr. Carnicelli: Probably still paying off the debt too, right. You know last, as we had talked  
28 about earlier we gave them the opportunity to address those concerns even if those people  
29 didn't show up for the last, you know, I mean prior to the break and then you know since then I  
30 think that we've covered each and every point in those letters. If you guys are okay with leaving  
31 them on the record we can do so. Okay, go ahead Corporation Counsel.

32  
33 Mr. Galazin: Thank you Chair. And so for the members I would say if you want to include them  
34 because you've heard extensive rebuttal testimony that pertains to them just understand that  
35 anything in those letters has to be weighed against what was provided in response to it. So you  
36 know you cannot decide that one is true and one is false just based on the fact that one came  
37 from one person and one came from another. Just look at the evidence. So when you keep  
38 that in mind in making any determination that if it's based on one of those two exhibits or three  
39 exhibits rather that you also rely on what was submitted both the responses to those letters that  
40 were drafted by Dr. Abrams as well as the testimony today that was provided in rebuttal.

41  
42 Mr. Carnicelli: So if there are no objections we'll go ahead and leave those as part of the  
43 record? Seeing no objection...okay.

44



1 Mr. Ickovitz: Of course, the record that I objected to the record.

2

3 Mr. Carnicelli: Yes, that's...yeah, that's part of it. Thank you.

4

5 Mr. Robinson: A few times.

6

7 Mr. Carnicelli: A few times. Okay, so you know, Lew would you come back up again please I  
8 just want before we move forward I want to get clear here on these conditions, right, kinda like  
9 starting where we left off. So we have the standard conditions. This is our green form right  
10 here which we get from the Department and then we made a bunch of changes and added  
11 conditions you agreed to them and now you're not agreeing to them. And you, I'm just gonna  
12 go through what you proposed.

13

14 Dr. Abrams: Yes.

15

16 Mr. Carnicelli: I'm not saying this is what we're gonna go with but I want to start from where  
17 you, what you're proposing which was you won't start anything until you get a Certificate of  
18 Occupancy.

19

20 Dr. Abrams: Correct.

21

22 Mr. Carnicelli: But you want three services per week of up to 40 people plus—

23

24 Dr. Abrams: Up to three per...up to three services.

25

26 Mr. Carnicelli: Up to three services per week.

27

28 Dr. Abrams: Right.

29

30 Mr. Carnicelli: With a maximum of 40 people per service, correct?

31

32 Dr. Abrams: I believe the language from the Planning Commission was—

33

34 Mr. Carnicelli: I'm asking you. This is what I thought I heard you say so that's why I want to get  
35 clear right now before we go forward with this.

36

37 Dr. Abrams: I would be fine with that. I'm not sure how an average would actually be figured on  
38 this.

39

40 Mr. Carnicelli: No it's not an average. I'm talking about maximum like maximum 40 people. So  
41 you get up to three per week and those services will be up to 40 people.

42

43 Dr. Abrams: Yes.

44

1 Mr. Carnicelli: Those services.

2

3 Dr. Abrams: Yes.

4

5 Mr. Carnicelli: Okay. You said plus holidays of up to 100 people.

6

7 Dr. Abrams: Yes.

8

9 Mr. Carnicelli: Okay, I'm gonna hit the pause button right now because you've already said  
10 multiple times on the record that you celebrate every single denomination that there is. So I'm  
11 just saying is it if we say okay holidays, every day could be a holiday. It could be potentially.  
12 I'm not saying that you're going to be. But I'm just saying is if we're trying to look at this is we're  
13 gonna have to somehow define what this is, right. And I get that you're saying you know...so  
14 I'm just trying to wrap my head around you know is it...

15

16 Dr. Abrams: We did, we did go through and look at what holidays we would ideally like to  
17 celebrate many of which we often do and so we have a calendar of 2019 and to 20 of what  
18 holidays we would like to have that option.

19

20 Mr. Carnicelli: Perfect. Let's put it as part of the record then.

21

22 Dr. Abrams: Okay.

23

24 Mr. Carnicelli: Let's put that part of the record.

25

26 Dr. Abrams: Right. Okay.

27

28 Mr. Ickovitz: ...(inaudible-not speaking into a mic)...

29

30 Mr. Carnicelli: Yeah, is if everybody could get a copy that would be great.

31

32 Mr. Ickovitz: This is a schedule for –

33

34 Mr. Carnicelli: Just go ahead and hand them out and we'll look through that. So while you're  
35 that Leslie I'm gonna go ahead and say so Lew the other thing was that these weekly services  
36 would be done at 10 o'clock but the amplified sound would be done at 9:30?

37

38 Dr. Abrams: Yes.

39

40 Mr. Carnicelli: My question is, is are these done inside?

41

42 Dr. Abrams: Inside that church building yes.

43

1 Mr. Carnicelli: Inside the church building. So these aren't out like on the deck or lanai or not out  
2 in the fields, they're inside the building?

3  
4 Dr. Abrams: Right.

5  
6 Mr. Carnicelli: Okay, just, just trying to get clarification. You're okay with the sound being at  
7 County levels.

8  
9 Dr. Abrams: Yes.

10  
11 Mr. Carnicelli: And that you will turn down the music at the request of your neighbors?

12  
13 Dr. Abrams: Yes, absolutely. I will respond. Reasonable requests, yes.

14  
15 Mr. Carnicelli: Okay, define reasonable.

16  
17 Dr. Abrams: No, if someone is bothered I will respond in whatever way I can, you know  
18 and...right we have actually had the occasion of Ms. Drewyer texting us saying wow, there's a  
19 lot of activity and noise at your place tonight Lew when we're sitting quietly in our living room  
20 when nothing is happening whatsoever.

21  
22 Mr. Carnicelli: Okay, is—

23  
24 Dr. Abrams: So I have to have it be based on something that I can quiet down.

25  
26 Mr. Carnicelli: Well, then you can turn down your T.V.

27  
28 Dr. Abrams: Last night we heard her dogs...oh no, she's texted us last night.

29  
30 Mr. Carnicelli: Is we're...we've been doing this two hours, so I'm just—

31  
32 Dr. Abrams: Yeah okay, no problem.

33  
34 Mr. Carnicelli: Let's keep rolling here.

35  
36 Mr. Robinson: We're volunteers.

37  
38 Mr. Carnicelli: Yeah, we're volunteers. Is you're not gonna do anything on a Monday.

39  
40 Dr. Abrams: Mondays, yes.

41  
42 Mr. Carnicelli: Do any of these fall on a Monday?

43  
44 Dr. Abrams: One.

1  
2 Mr. Carnicelli: Okay, which one?  
3  
4 Dr. Abrams: Do you remember, ...(inaudible)...  
5  
6 Mr. Ickovitz: ...(inaudible-not speaking into a mic)...  
7  
8 Dr. Abrams: I think it was like Passover.  
9  
10 Mr. Ickovitz: In 2020 ...(inaudible-not speaking into a mic)...  
11  
12 Dr. Abrams: One in 2020 we understand.  
13  
14 Mr. Carnicelli: Okay. That you said that you wanted a five-year permit, you'd be okay with a  
15 three-year permit.  
16  
17 Dr. Abrams: I'm requesting a five-year permit so we can go forward but I would be most  
18 blessed whatever you guys decide if we can get this special use permit. One-year is a burden  
19 and would make it difficult for us to move forward with the longer term plan, but three years we  
20 could live with for sure.  
21  
22 Mr. Carnicelli: So now I want to go to New Year's Eve.  
23  
24 Dr. Abrams: Okay.  
25  
26 Mr. Carnicelli: Which we're gonna have two of them potentially in this...if I go to 2020, right.  
27  
28 Dr. Abrams: Yes.  
29  
30 Mr. Carnicelli: We got two of them potentially in this...if I go to 2020, right? If I...means we got  
31 two them.  
32  
33 Dr. Abrams: Yes.  
34  
35 Mr. Carnicelli: So you want the number of people to the building occupancy.  
36  
37 Dr. Abrams: Please.  
38  
39 Mr. Carnicelli: Which we'll get to parking after that. But what was the 11:30? 'Cause I'm going  
40 like okay, you got New Year's celebration, you said something about the celebration ends at  
41 11:30 or something to that effect? I'm going like well, how can you have a New Year's Eve  
42 party that ends at 11:30?  
43

1 Dr. Abrams: Yeah, we have music playing and people dancing and my son's band playing and  
2 then we stop it all at 11:30 so that we can call people into a prayer circle for the midnight hour,  
3 and then we start again at 12:15.

4  
5 Mr. Carnicelli: Okay. And then I recall that you guys go till sun up?

6  
7 Dr. Abrams: No, the music starts at 2:00 and then we do invite people who wish to return or  
8 stay come for a sunrise prayer, yes.

9  
10 Mr. Carnicelli: So wait you end at 11:30 but you want to go till 2:00?

11  
12 Dr. Abrams: No, we break, we break at 11:30 to 12:15, yeah.

13  
14 Mr. Carnicelli: Okay, and then you want to start the music up again and go till 2:00?

15  
16 Dr. Abrams: Yes, I would like that. I could, we could...

17  
18 Mr. Carnicelli: I'm just trying to get clarity here so we can...I'm just trying to understand what it  
19 is and then other people may or may not show up until sunrise. That's kinda how...that's how  
20 that function happens, that's how that celebration happens.

21  
22 Dr. Abrams: Right.

23  
24 Mr. Carnicelli: Okay.

25  
26 Dr. Abrams: Actually so that reminds me of one thing we do outside.

27  
28 Mr. Carnicelli: Hang on.

29  
30 Dr. Abrams: Outside the temple.

31  
32 Mr. Carnicelli: Oh okay.

33  
34 Dr. Abrams: We have a medicine wheel which is a stone ring. It's 90 feet across, it's aligned  
35 with the directions and so at sunrise we go out to the medicine wheel and make a prayer not in  
36 the temple under the dome of the sky on our sacred Mother Earth honoring the directions no big  
37 drumming you know but—

38  
39 Mr. Carnicelli: Are there, are there...do you play musical instruments at that time?

40  
41 Dr. Abrams: We have traditionally blown a conch at sunrise, at the...(inaudible)...

42  
43 Mr. Carnicelli: A conch shell, okay.

44

1 Dr. Abrams: Yeah.

2

3 Mr. Carnicelli: Humming, singing?

4

5 Dr. Abrams: It's pretty much silent meditation while we're waiting for the sun to come up after a  
6 long night, yeah.

7

8 Mr. Carnicelli: Okay, I'm familiar. As far as conditions go, conditions Commissioners do you  
9 have other questions as far as what he's kinda proposed, what he's okay with at this point in  
10 time? Commissioner Thompson, Commissioner Pali, you have questions? Just for...no?  
11 Commissioner Robinson.

12

13 Mr. Robinson: Dr. Lew.

14

15 Dr. Abrams: Yes.

16

17 Mr. Robinson: We, we tried real hard last time here to get some conditions which didn't get  
18 approved and we're back today changing all the conditions the opposite way.

19

20 Dr. Abrams: Yes.

21

22 Mr. Robinson: And I'm not sure of your guy's strategy with, with us not accepting it the first time  
23 but let's, let's throw it in that bowl again and let's pull it out and let's see if we get something  
24 better this time. My, myself, I don't really...you know, we talked a lot about your church.  
25 Everybody does stuff, it's not about what you do, what you don't do or who does this, do that, I  
26 think it's all, it's all about zoning, area, traffic and noise and parking and safety and all that type  
27 of stuff. The one thing that I've that I remember that I wanted was as a neighbor is I wanted one  
28 day that I could count on.

29

30 Dr. Abrams: Yes.

31

32 Mr. Robinson: And it was a weekend day, it wasn't a weekday, it was weekend day and it was  
33 that maybe you know I could, I could at least you know switch my schedule around, at least I  
34 could have one day that I could sleep in and I could know that it would be okay. Monday thru  
35 Friday, I'm probably gonna be at work so there is no sleep in day. Change the amount of the  
36 people which is going to change the amount of volume, change the amount of events that's  
37 gonna be more than people which is going to change the volume, it's going to change the  
38 serenity of being a, you know a decent neighbor. I believe that that some of the things that were  
39 on top of these letters might have been exaggerated but I also believe that some of them might  
40 be partially true as well and I just wanted to let you know for weight. I believe some of your  
41 testimony was partly true and partly not true as well. It's all...everybody it's the eye of the  
42 beholder, if you get two attorneys and they both believe that one guys is guilty and one guy is  
43 innocent, but you know it's just the way it is and—

44

1 Dr. Abrams: I live my life speaking the truth.

2  
3 Mr. Robinson: Right, exactly. And I think you know I think everybody...(inaudible)...We asked  
4 you a question today was there any violations, you said no only warnings. When you pay a fine  
5 that's not a warning. A fine is a paid violation.

6  
7 Dr. Abrams: Okay, then I stand corrected.

8  
9 Mr. Robinson: Well, no and again, but it's okay, you know we're not here to crucify you, we're  
10 here to try to come to some stuff and to some, you know understanding because you know it's  
11 for—

12  
13 Dr. Abrams: It wasn't a legitimate violation from my point of view since we did not have a  
14 commercial gallery for which we were being cited.

15  
16 Mr. Robinson: Okay, I got you. Okay, I got you. So, and I guess what I'm...by working with  
17 you last time I'm asking now are you sure these conditions are the ones you want us to consider  
18 and these are hard conditions. They're not something that you would like but you would, you  
19 would accept something different because, because once it goes to a vote, and we know how  
20 the vote went last time.

21  
22 Dr. Abrams: That was scary.

23  
24 Mr. Robinson: And this, this pulled me away from one way because I was for the quiet day.  
25 You know everybody has their thing. And so I've kinda lost that. So—

26  
27 Dr. Abrams: Well, we are talking about one day a week quiet. In terms of sleeping in on  
28 Sundays.

29  
30 Mr. Robinson: Saturdays fine too.

31  
32 Dr. Abrams: We, we go—

33  
34 Mr. Robinson: You choose.

35  
36 Dr. Abrams: We go to the Temple of Peace on Sundays from 9:30 to 1:00 and so there will be  
37 nothing on Sunday morning at would cause anyone to wake up 'cause we're doing the ministry  
38 at our friend's church.

39  
40 Mr. Robinson: Some people work at night and come home at 8:00 a.m. and they sleep to then.  
41 Again, this is up to you. I'm not trying to tell you know, I'm just trying to say—

42

1 Dr. Abrams: Yeah, and it was in consultation with the people who want to participate when I  
2 told them that we would, you know, not do anything on Sunday. There was people that felt like  
3 that's really the main day.

4  
5 Mr. Robinson: What about Saturday?

6  
7 Dr. Abrams: Well, the weekends are the days that families with kids can come out.

8  
9 Mr. Robinson: Okay.

10  
11 Dr. Abrams: And so, we, we, and traditionally churches...(inaudible)...

12  
13 Mr. Robinson: Okay, no it's your call.

14  
15 Dr. Abrams: Yeah.

16  
17 Mr. Robinson: It's your property, it's not mine.

18  
19 Dr. Abrams: Right. We are...the beginning service that we're hoping to offer is the Sabbath or  
20 Shabbat, Friday evening Shabbat and it goes from Friday evening through Saturday and so you  
21 know, it's just...

22  
23 Mr. Robinson: How can it go through when it has to stop at 9:30?

24  
25 Dr. Abrams: I mean the holiday runs sunset to sunset.

26  
27 Mr. Robinson: No, I'm familiar with it too, you know.

28  
29 Dr. Abrams: Yeah, I mean, we're not gonna be making noise on Saturday from the Shabbat the  
30 night before.

31  
32 Mr. Robinson: Yeah, and thank you. And Chair, the 120 times a year or 24 times a year,  
33 hundred people that wasn't even close to what we discussed last time. In fact it was like I think  
34 it was...we gave them 12 so this is double.

35  
36 Dr. Abrams: I don't actually anticipate that we're gonna have that many people, but it would be  
37 nice if people were called to come and we could grow our ministry that we could accommodate  
38 them. Right there was a discussion Commissioner Robinson last time about 24 times in a year  
39 to be able to go over to larger size group and basically that's what these holidays correspond to.

40  
41 Mr. Robinson: It was 12.

42  
43 Mr. Carnicelli: Okay, is you know, is at this point—  
44



1 Dr. Abrams: Okay, I recall 24.

2

3 Mr. Carnicelli: Let's, let's keep rolling.

4

5 Mr. Robinson: Thank you.

6

7 Mr. Carnicelli: Commissioner Tackett do you have any questions about the conditions as to  
8 where we are right now with what it is that the applicant would like?

9

10 Mr. Tackett: I see pretty clearly what he's asking for.

11

12 Mr. Carnicelli: Okay, thank you. Commissioner Castro.

13

14 Mr. Castro: I think the only question I have is about the occupancy certificate. Is it ongoing or  
15 what's the hold up?

16

17 Dr. Abrams: Right. We're in...working with an engineer to develop the fire protection plan that  
18 provides the increased fire protection that goes when you go from an agricultural workshop to a  
19 public building like a church. So that, that is being designed. We haven't implemented it yet,  
20 but we did determine that the aquaculture ponds that we have on the land if we go to the route  
21 of sprinklers which is now what is required can provide sufficient enough water to run the  
22 sprinkler system assuming we put in this powerful pump. So we're in the process of developing  
23 that but it isn't ready for the Fire Marshall to come out and decide the occupancy. I think most  
24 of it is associated usually with square footage so I know from the Temple of Peace it's a much  
25 smaller room and they have like 87. So I'm assuming ours will be twice that.

26

27 Mr. Castro: Is there a time frame on the design?

28

29 Dr. Abrams: Part of it is economics of being able to implement all this, but as soon as we can  
30 pull it together yeah we want to get this established.

31

32 Mr. Carnicelli: Tara does the current building have a building permit?

33

34 Ms. Furukawa: I think so, yeah.

35

36 Mr. Carnicelli: Okay.

37

38 Dr. Abrams: Yeah, it's all done to Code.

39

40 Mr. Carnicelli: And so, so what we're doing is we're going from an ag structure to a commercial  
41 structure and you're working with an architect or an engineer right now but you haven't even  
42 submitted for permits on that yet, is that correct?

43

1 Dr. Abrams: Well, we've been...we've definitely submitted to Susan Watanabe and she went  
2 through and gave us you know things like exit signs that we would need, we're in process  
3 making sure that we comply with whatever church requirements there are.

4  
5 Ms. Furukawa: On the site plan all of the building permits are listed, Exhibit 5 in the staff report.

6  
7 Mr. Carnicelli: Got it.

8  
9 Dr. Abrams: Right, so everything was done to Code and inspected and permitted on there and  
10 we had to every structure, every little shed for our SMA and implemented farm plan have all  
11 been gone over with a fine tooth comb.

12  
13 Mr. Carnicelli: Got it. Thank you. Commissioner Tackett.

14  
15 Mr. Tackett: My question is for the Director. They're waiting for a Certificate of Occupancy but  
16 as I understand there's been a lot of functions not necessarily church functions that have been  
17 going on in there before a Certificate of Occupancy is that acceptable, is that the way it is  
18 typically done or I just...I'm confused how we could have no Certificate of Occupancy but these  
19 things going on in this space for this amount of time so I would just like clarification as to what—

20  
21 Dr. Abrams: Yeah, these were private gatherings of our friends.

22  
23 Mr. Carnicelli: Hang on, hang on, hang on.

24  
25 Mr. Tackett: Can you have large—

26  
27 Mr. Carnicelli: He's asking—

28  
29 Mr. Tackett: --private gatherings of friends in a structure like that with no Certificate of  
30 Occupancy. I'm trying to find out what the parameters for something like that would be.

31  
32 Mr. Carnicelli: Director.

33  
34 Ms. McLean: I don't know the details of the permit for what we're calling the church structure of  
35 what exactly that was permitted for. If it was permitted for ag processing I think that's what was  
36 said earlier that it was an ag processing facility it would have been understood that at that time  
37 that people would have been occupying that structure to do their agricultural work. I don't know  
38 at what point a line would be crossed depending on how many people there were and what their  
39 activities would be, but that structure is supposed to be used for its intended permitted purpose  
40 and if it was used for purposes other than that then that's something that we would, we would  
41 question but it's not clear to me how many people and what the structure has been used for  
42 other than what it's permitted as.

43

1 Mr. Tackett: So that leads me to my question for you, like it's so many different things that  
2 you've talked about that you've had, that you've held in this place it doesn't seem like  
3 agricultural processing you know, without a Certificate of Occupancy and it doesn't seem like  
4 you've been following the rules that all. It just...it seems like, it just seems like it's been a free  
5 for all, you know, and I don't know if I'm misreading that but to, from what I just got by definition  
6 was processing. To me processing people are going in there as workers and they're processing  
7 whatever you're producing but parties and the different types of events that you've described  
8 that have been going on in that place without a Certificate of Occupancy it doesn't seem right to  
9 me.

10

11 Mr. Carnicelli: Commissioner La Costa.

12

13 Ms. La Costa: My question is or my clarification point when I looked at the schedule that we  
14 were given and I multiplied the weeks by three and then I added all of these other functions that  
15 278 services and there may be some additional ones that are not here. I'm in concurrence with  
16 Commissioner Robinson in that everyone needs a day of peace whether it's the Sabbath on  
17 Friday or on Saturday or on Sunday. So I think that you are asking for a lot and when we try to  
18 compromise with you it doesn't seem to be enough. Everyone needs some down time and your  
19 neighbors need some down time and your doggies need some down time and so it has to  
20 be...you have to understand that while you might want to eat cotton candy, I want to eat ice  
21 cream, so other people don't like cotton candy and they don't want to do what you think they  
22 should by forcing them to listen to your services and the car, the traffic and everything that is  
23 going on. So you need to be mindful of your neighbors and Matthew 7:12, do onto others as  
24 you would have them do onto you.

25

26 Dr. Abrams: Absolutely. Yeah, when we're gathered in that building I don't believe the  
27 neighbors are impacted.

28

29 Ms. La Costa: Well, they said that they were when they came and testified. The other thing I  
30 have is the permit and I am not the director, but when you're given a permit if it were to be one  
31 year it doesn't mean that everything stops, it means that 90 days before that time you reapply to  
32 have it renewed and generally then it's for a longer period.

33

34 Dr. Abrams: I see.

35

36 Ms. La Costa: So if everything has been done within the law, that there haven't been  
37 complaints, you have been a good neighbor and your neighbors have appreciated that then  
38 that's, you know, it's like an engagement before marriage I guess.

39

40 Dr. Abrams: I understand that.

41

42 Ms. La Costa: Make sure that you really want to do that and maybe you really don't.

43

44 Dr. Abrams: Really. I appreciate that.

1  
2 Ms. La Costa: So that's...I needed to give you the clarification for that. Did your attorney want  
3 to say something he keeps jumping up to say something?  
4  
5 Mr. Carnicelli: No, no, no, it's okay. It's did you have a question for Lew or was that just more  
6 of a statement?  
7  
8 Ms. La Costa: No, I just wanted to...I'm just waiting, I'm waiting for him to comment.  
9  
10 Dr. Abrams: Les is...when we checked his calendar there's only two Saturdays in 2020 that  
11 would involve corresponding to any of these holidays so pretty much every Saturday is free from  
12 this schedule.  
13  
14 Mr. Ickovitz: So what we would saying there's not only...there would be 50 Saturdays that  
15 would free, it would also be 52 Mondays. So I think that's almost two days a week of every  
16 week of the year except for two weeks.  
17  
18 Ms. La Costa: Thank you.  
19  
20 Mr. Ickovitz: And I think that's pretty good. And there's only one Monday in 2020...and maybe  
21 two Mondays in 2020, but you know we can work with those.  
22  
23 Mr. Carnicelli: So are you saying that the regular services three times a week will never fall on a  
24 Saturday?  
25  
26 Dr. Abrams: We don't really have that scheduled—  
27  
28 Mr. Carnicelli: Speak in, speak into the mic.  
29  
30 Dr. Abrams: Yeah, it's Lew Abrams. We'd like to maintain flexibility of when things can happen.  
31 We don't have specific Saturdays in mind—  
32  
33 Mr. Carnicelli: Okay.  
34  
35 Dr. Abrams: --but we would like to have some flexibility.  
36  
37 Mr. Carnicelli: No, I'm just trying to understand—  
38  
39 Dr. Abrams: Glad to announce it in advance and trade for different days so that you know  
40 there's still down time.  
41  
42 Mr. Carnicelli: Gotcha. I just...is your attorney had suggested that there's only two Saturdays  
43 but that's on the holiday schedule not necessarily on the regular, you know, the regular church  
44 service.

1  
2 Dr. Abrams: Right.  
3  
4 Mr. Carnicelli: So it's not like, just saying like oh it will be two days, only two Saturdays and only  
5 one Monday when you know as the conditions, as the conditions you suggested are—  
6  
7 Dr. Abrams: Yes.  
8  
9 Mr. Carnicelli: With that flexibility you could do a church service every single Saturday so then  
10 suddenly it's not that. So that's just...I'm just trying to get clarity. That's where I'm just trying to  
11 understand—  
12  
13 Dr. Abrams: So far what we're proposing is to start with a Wednesday morning prior to a  
14 community farm work day to do meditation prayer, yoga thing and then people can come and  
15 help on the farm and then Friday evening that's what we're proposing at this point, but we would  
16 like to, you know—  
17  
18 Mr. Robinson: You would have my support if there was 50 Saturdays and 50 Mondays that had  
19 no activity. I tell you that.  
20  
21 Ms. La Costa: So when you talk about...go ahead I'll let your attorney finish doing what he's  
22 doing.  
23  
24 Mr. Ickovitz: I'm just trying to help clarify so we're asking for 24 events but if you look at 2020,  
25 six of those events take place on Friday night so really there's only going to be eight...for six  
26 Fridays they're double holiday so really there's gonna be 18 in 2020 and not 24.  
27  
28 Mr. Carnicelli: And how many of those days fall on a...how many of the 2020s fall on a  
29 Saturday?  
30  
31 Mr. Ickovitz: Two.  
32  
33 Mr. Carnicelli: How many fall on a Monday? Two on a Saturday, one on a Monday.  
34  
35 Ms. La Costa: So while you're looking at that, I'm confused. I don't think it has anything to do  
36 with being in a blonde in this case but you said you wanted to have service three times a week.  
37  
38 Dr. Abrams: Up to three times a week.  
39  
40 Ms. La Costa: And then you have this which is 200 and...I show 278 so could be many more  
41 than 278 services?  
42  
43 Mr. Carnicelli: No, no 178.  
44

1 Ms. La Costa: No, I'm adding...I'm sorry I'm adding 19 and 20 so everything on this sheet.

2

3 Mr. Carnicelli: So it's still not, the math's wrong. Because  $52 \times 3$  is what, 156.

4

5 Ms. La Costa: Yes.

6

7 Mr. Carnicelli: Plus another twenty something is 178.

8

9 Ms. La Costa: You're right. See I was a blonde, never mind. Can't add either. So I just want to  
10 be very, very clear that it's not going to be three times a week and then it's gonna be four times  
11 a week, and then it's gonna be five times a week and pretty soon there is no peace and quiet for  
12 anyone ever.

13

14 Dr. Abrams: Yeah, we are not looking for that. You know, we too value the peace and quiet  
15 and serenity of that place. We don't want to be flooded with people all the time especially my  
16 wife is very sensitive to that. So I share that sensitivity and would not want to stack things back  
17 to back like you're describing.

18

19 Ms. La Costa: And what kind of guarantee are you willing to give us that it will not increase past  
20 three times a week?

21

22 Mr. Carnicelli: So...go ahead.

23

24 Mr. Ickovitz: Ladies and gentlemen of the Commission I want to say something from my heart  
25 which is this, I've known Dr. Lew Abrams for 12 years but I've gotten to know him in the last two  
26 and I've been so inspired by their vision by what they've accomplished and what their goals are  
27 for this island and for their farm, after 40 years of living on Oahu I am moving to Maui effective  
28 next month to dedicate my life, the rest of my life to helping them achieve their vision. So I'm  
29 telling this Commission right now that I will personally make sure that the Abrams stay within the  
30 conditions that are imposed by this Commission and if there's...I've given the neighbors my  
31 phone number saying you call Lew first, you call me next and I will take care it. And if there's  
32 problems with extending the conditions I expect this Commission to call me on the carpet and  
33 say you put all your creditability on the line on behalf of the Abrams and look what happened.  
34 So I'm telling you, I'm asking you, I'm pleading with you, and I'm telling you from my heart  
35 'cause I tell the truth that I will personally make sure the Abrams live within the conditions and I  
36 will...because this is, this is who they are. These are two people who have the most integrity,  
37 the most kindest heart who have given to so many people, it's unbelievable what they have  
38 done and I just never met two people who as giving and kind and generous, selflessly that these  
39 people. So I'm just...so the guarantee is I will make sure that it takes...that the conditions are  
40 fulfilled and God forbid, you know something happens to me, he's still a good man, he's gonna  
41 take care of it. That's my personal representation.

42

43 Ms. La Costa: And my last question is, are each and every building on the property that are to  
44 be permitted do they have current permits?

1  
2 Ms. Furukawa: Yes.  
3  
4 Ms. La Costa: Okay.  
5  
6 Ms. Furukawa: Yeah. But I just wanted to add to what he was saying also if he is approved,  
7 he'll have to submit a compliance report that's typically one of the conditions. So he can do so  
8 you know upon request for renewal or something like that if it's a year from now where they'll  
9 have to show us compliance with each condition.  
10  
11 Mr. Carnicelli: Right, okay. That's actually great. Another piece of this that's...the Director just  
12 brought up that you know, is kinda there's these moving parts is, if we say yes and the permit  
13 doesn't start until the Certificate of Occupancy is granted that might be August next year. So  
14 we're sitting there going like, okay well you know in 2020 there's only 2020 there's only two  
15 Saturdays...maybe in 2020 'cause then all of a sudden you know permit say for two years it's  
16 gonna be in 21 and 22 so suddenly the Saturdays and things like that it's just...and I hate to  
17 make this even more complicated but it's just if we're trying to really get our hands around it I  
18 almost like what Commissioner Robinson brought up where we're saying okay, the holiday thing  
19 we've got them named, but we say okay, what if it's 50 Saturdays not 52. You know it's not like  
20 every single Saturday we want all want a break, you know but it's like okay, you get two. In  
21 2020 you know it's gonna coincide perfectly with you celebrations, in 2021 you might have to  
22 give us a full moon, you might have to give up, you know the equinox I don't know, but just...  
23  
24 Mr. Robinson: ...(inaudible)...sacrifice a Sunday.  
25  
26 Mr. Carnicelli: Oh, I see what you're saying, or sacrifice a Sunday. So one...  
27  
28 Mr. Robinson: ...(inaudible-not speaking into a mic)...  
29  
30 Mr. Carnicelli: ...Fifty...  
31  
32 Mr. Robinson: ...(inaudible-not speaking into a mic)...more important.  
33  
34 Mr. Carnicelli: One...like you get a –  
35  
36 Mr. Robinson: There's fifty weekends with one day where there's nothing going on.  
37  
38 Dr. Abrams: Yeah, just do—  
39  
40 Mr. Robinson: ...(inaudible-not speaking into a mic)...  
41  
42 Mr. Carnicelli: Yeah, we're getting deep into the weeds here. Okay, so here's what I want to do  
43 is I'm actually kinda just...we've sort of laid this stuff out on the table but as your Chair I'm kinda

1 I don't know where to go next. It's like okay, do we just make a motion...oh we go to  
2 Corporation Counsel there we go, perfect.

3  
4 Mr. Galazin: Thank you Chair. Tara, I have a question for you regarding the original staff report  
5 if you could look at Page 13. So for clarification of the Members in terms of what the applicant  
6 has requested as a schedule and what the Commissioners have been discussing in roundtable  
7 of fashion. When you look at Number 4 in the Infrastructure and Public Facilities and Services  
8 analysis which talks about the roadways, curbs, gutters and sidewalks saying there'll be no  
9 adverse impacts associated with the proposed request referring to the vehicles going in and out,  
10 how was that calculated was it on an average number of trips per day because if so what you're  
11 talking about is 20 times a year where you've got potentially a hundred vehicles and then three  
12 times per week when you've got potentially 40 vehicles or...I'm just...I'm not sure for the  
13 Commissioners how the original calculus was done and if you can explain that and then further  
14 if that would change based on the representations made by the applicant. Thank you Chair.

15  
16 Ms. Furukawa: I think was just stating the existing conditions and saying that there should be  
17 no adverse impacts because the Department of Transportation was asked to comment and they  
18 didn't have any comment other than that they should apply for a sign permit if it's within the  
19 State right of way. So...

20  
21 Mr. Carnicelli: Thank you. Yeah, you know what I actually have to use the facilities. That's the  
22 perfect reason to pause. Recess for five minutes, we'll be back at 3:00.

23  
24 A recess was called at 2:55 p.m., and the meeting was reconvened at 3:00 p.m.

25  
26 Mr. Carnicelli: ...Commission of August 13, 2019 is back in session. So Commissioners this is  
27 going to be the intent of the Chair is to go ahead and is to give fair shake to the applicant, let's  
28 go ahead and walk through the conditions, let's talk about them one by one, let's see what we  
29 can do is be okay with the conditions to be able to mitigate all of our concerns and the concerns  
30 of the community. If that is the case, and you know we can get to a place where we're all okay  
31 with it and we can grant a permit then that's great if not then we will go from there and then we  
32 will have to go to the actual conditions with which the State Special Use Permit is and be able to  
33 come up with the reasons why to deny this permit and give Corporation Counsel enough to write  
34 up findings of fact and conclusions of law. So at this point, let's go ahead and just go through  
35 these conditions, chew on them a little bit and see if we can come to a place to—

36  
37 Mr. Tackett: Excuse me—

38  
39 Mr. Carnicelli: --grant these guys a permit.

40  
41 Mr. Tackett: Excuse me Chair I still have two more questions if that's okay.

42  
43 Mr. Carnicelli: Commissioner Tackett please ask your questions.

44



1 Mr. Tackett: So Mr. Abrams it's been bothering me so I know that you've stood there and you  
2 represent that you're a man of your word and I'm going to trust you to be a man of your word.  
3 What I've seen today is that that building that you've said that you've done multiple things on  
4 that property what I'm gonna ask you right now is have you used that building solely for  
5 processing as it was permitted for or have you been doing other things in that building that it  
6 was not permitted for?

7  
8 Dr. Abrams: We have used it for our agricultural processing and we have also hosted some  
9 community celebrations there that I didn't understand would be you know specifically precluded  
10 nor, you know—

11  
12 Mr. Tackett: What types of celebrations are we talking about?

13  
14 Dr. Abrams: Like full moon gatherings where we have...and we use the downstairs for a  
15 potluck area and we are using produce from our farm and local farms so partly in a sense that is  
16 agricultural and that we're sharing the produce that we're growing and that's bringing the  
17 community together, then we go upstairs and gather in a circle and meditate and do some  
18 singing and like that that isn't strictly agricultural in nature.

19  
20 Mr. Tackett: Okay. So that was something that I would like to just know so I appreciate the  
21 answer to that.

22  
23 Dr. Abrams: Okay.

24  
25 Mr. Tackett: And then my second question is to Corp. Counsel. Some of these things that are  
26 represented are at times that aren't normal for everybody for music to be happening, to start up  
27 at 1:30 a.m. and sunrise and different religious things that not everybody shares that religion is  
28 that something that...I mean are we bound by the 10 o'clock or the 9 o'clock or are we able to  
29 give people with these types of requests things that are outside that boundary like yes you can  
30 start music up at 1:30 and keep going to...is that something that we can decide in here as a  
31 group to give to somebody?

32  
33 Mr. Galazin: Chair?

34  
35 Mr. Carnicelli: Corporation Counsel.

36  
37 Mr. Galazin: Thank you Chair. In answer to your question Commissioner Tackett, time frames  
38 on something like music on a special use are really within your purview. You can condition  
39 anything to allow particular sounds that would not normally be within a certain zone. You still  
40 have to understand there's going to be other like State Law restrictions that you can't grant  
41 permission to somebody to break another law.

42  
43 Mr. Tackett: That's what I'm asking, yeah.

44

1 Mr. Galazin: Yeah, so you wouldn't have the power to grant somebody to play, to make sounds  
2 of a hundred decibels at three in the morning even if your permit said you can go ahead and do  
3 that it would still be a violation of the State Department of Health regulations. But you certainly  
4 can restrict it as you know condition noise as you feel appropriate to mitigate you know a  
5 particular concern. Does that answer your question?

6  
7 Mr. Tackett: Yeah, that's all I have. I'm okay with the process now.

8  
9 Mr. Carnicelli: Commissioner La Costa.

10  
11 Ms. La Costa: Thank you Chair. Dr. Abrams I do have a question for you is 51 percent of the  
12 land being used for agriculture?

13  
14 Dr. Abrams: Yes we passed that implemented farm plan in order to get our SMA approved.

15  
16 Ms. La Costa: Okay, I'm looking at when was this picture taken please?

17  
18 Dr. Abrams: Quite recently.

19  
20 Ms. La Costa: Okay, because I see an awful lot of brown, looks like my yard at Launiupoko but  
21 I don't see a whole lot of, I don't see whole of farm type shrubbery.

22  
23 Dr. Abrams: I could point out to you where the orchards are and some of it is pasture land. We  
24 have tortoises and we have had sheep as well. So not all of it is planted in row crops but we do  
25 have about 75 coconut trees in that one grove. Let's see if I can...

26  
27 Ms. La Costa: The reason I'm asking is that we had an interesting discussion with a prior case  
28 about the use and the 51 percent, the allocation and is it actually being used for ag or is it just  
29 designated ag and not being actively used.

30  
31 Dr. Abrams: Right. Well it varies. Sometimes we let some fields go fallow and cover crops and  
32 there's not a lot going on. I can show you in this particular picture this is sort of a—

33  
34 Mr. Carnicelli: Lew you gotta stay at the mic.

35  
36 Dr. Abrams: Okay. This is our...we do have...

37  
38 Ms. La Costa: We don't need that...(inaudible-not speaking into the mic)...

39  
40 Dr. Abrams: Okay, yeah there are definitely some areas where there's some dry grass. It's not  
41 completely groomed and planted in every way but we do have an active agricultural operation  
42 between the greenhouse, the aquaculture pond, our herb gardens, our bamboo, flowers, fruit  
43 trees, we do have this farm plan that you can see how it's broken down. I'd be glad to pass you  
44 that.

1  
2 Ms. La Costa: I have that. Thank you. That's what brought my question to you.

3  
4 Dr. Abrams: Right.

5  
6 Ms. La Costa: And it shows pasture at 30 percent. What is grazing in the pasture?

7  
8 Dr. Abrams: We have tortoises that sometimes come out and we've had sheep. Right now we  
9 have no sheep on the land but we still have our pen and we actually gave our sheep to Fedde  
10 next door when it got sick 'cause he was better at caring for them.

11  
12 Ms. La Costa: Okay, so you're not grazing anything. So that 30 percent isn't being used  
13 currently for ag grazing purposes?

14  
15 Dr. Abrams: Say again? It's reserved for grazing. We hope to get...we're aspiring to get an  
16 alpaca in there at some point and we have had a horse too in the past. So we've had grazing  
17 animals. Right now, we have ducks that are wandering around as well that are basically eating  
18 grass so I guess you could call that they're grazing. We have ducks, chickens, tortoises, fish,  
19 love birds, those are the animals that we have currently. We've had a horse before, sheep  
20 before. We're avoiding goats 'cause if they get out they can eat your fruit trees in a day and  
21 destroy years of work.

22  
23 Mr. Carnicelli: Thanks Lew. Corporation Counsel.

24  
25 Mr. Galazin: Thank you Chair and hopefully the Department will correct me if I'm wrong but  
26 Commissioner La Costa in answer to your, you know line of questioning it appears that you  
27 know they do have an implemented farm plan that the vast majority of this parcel's being used  
28 for farming activities and as far as I understand you know if they have the pasture and it's not  
29 currently occupied it doesn't mean it's not being used for pasture. Thank you.

30  
31 Ms. La Costa: I just...(inaudible-not speaking into the mic)...ag questions that I've been asking.

32  
33 Mr. Carnicelli: Commissioner Robinson.

34  
35 Mr. Robinson: Is that pasture fenced?

36  
37 Dr. Abrams: Yeah, the whole area has a fence around the perimeter and we have a smaller  
38 fenced pasture where we would keep our sheep when we weren't putting them out to eat grass  
39 in other places.

40  
41 Mr. Carnicelli: Thank you, so does anybody else...

42  
43 Ms. La Costa: I'm sorry, I just have one last question.

44

1 Mr. Carnicelli: Commissioner La Costa.

2  
3 Ms. La Costa: Sorry Chair. But in order to vote I need to have this information. You mentioned  
4 that your bookstore is only open for church members.

5  
6 Dr. Abrams: We don't have a bookstore yet. We are aspiring to have a bookstore or gift shop  
7 once we get regular people coming to church.

8  
9 Ms. La Costa: Okay, so you were talking about the gallery then something that was only open  
10 to church members?

11  
12 Dr. Abrams: Yeah, we plan to locate that gift store downstairs in the church building.

13  
14 Ms. La Costa: Okay, and it will only be open to church members not to the people who come  
15 for their eco tours?

16  
17 Dr. Abrams: I don't know. If people were interested in some of the spiritual literature we have  
18 there or alter objects like incense burners that my wife might make on the potter's wheel, books,  
19 you know we'd like to be able to anyone who came there to our place to be able to check out  
20 what we have to offer.

21  
22 Ms. La Costa: Thank you.

23  
24 Mr. Carnicelli: Thanks. So Lew I just, I need to, is to me this isn't an ag question, this is a  
25 parking question 'cause I'm having a hard time congruing this map with the current pictures,  
26 right you said that you drone footage and then you know, our map—

27  
28 Dr. Abrams: Yes.

29  
30 Mr. Carnicelli: --where the parking is, right, and so I mean especially if we're going to allow a  
31 holiday celebration of a hundred people let's just call that I don't know 65 cars this doesn't have  
32 any parking, right and so I'm just...and I'm trying to match this up—

33  
34 Dr. Abrams: Well, it—

35  
36 Mr. Carnicelli: --with let's say...like here's this is a—

37  
38 Dr. Abrams: There's a perimeter road around that portion of the property where there's ample  
39 parking along side of the road and –

40  
41 Mr. Carnicelli: No, no, no, I'm talking about here's...this is the representation of parking right  
42 here, right. This is where you say your parking is and I'm trying to find it in the current pictures  
43 and the farm plan.

44

1 Dr. Abrams: I need to look at the picture. There's near the church building there's ample room  
2 for 50 or 60 cars on either side of the road that approaches that temple building and goes  
3 around the turn to the far north, northern most...most northwestern section and we have a  
4 dedicated parking lot there that can take about 30 cars and then along the edge of the road  
5 approaching the temple building from the ponds to the church building there's room for probably  
6 another 75 cars right there.

7  
8 Mr. Carnicelli: Okay, okay, thank you. Does anybody else have any questions before we go to  
9 the conditions? Okay, let's go ahead and do that then so...

10  
11 Dr. Abrams: We have one statement to add perhaps. Do you want to say something?  
12

13 Mr. Carnicelli: You got two hours man, it's just like okay, one quick one please.  
14

15 Mr. Ickovitz: So I just want, I just want to...Les Ickovitz, attorney. At the last session, June 25  
16 when we went through this I just wanted to again make sure that the three commissioners who  
17 voted against stating it wouldn't be fair to impose a church upon their neighbors because they  
18 were there first I believe Commissioner Tackett said that, I believe Commissioner Pali said that.  
19

20 Ms. La Costa: I didn't say that.  
21

22 Mr. Ickovitz: And you said, you said something it's not about what's—wait, I listened to it five  
23 times and I wrote a transcript of it.  
24

25 Ms. La Costa: ...(inaudible)...  
26

27 Mr. Carnicelli: Okay—  
28

29 Mr. Ickovitz: Wait, wait, wait.  
30

31 Mr. Carnicelli: No, hang on, hang on, no.  
32

33 Mr. Ickovitz: ...(inaudible)...  
34

35 Mr. Carnicelli: No.  
36

37 Mr. Ickovitz: Wait, I'm not finished.  
38

39 Mr. Carnicelli: No, no, no, no, you said...it's okay. We're in recess.  
40

41 A recess was called at 3:16 p.m., and the meeting was reconvened at 3:18 p.m.  
42

43 Mr. Carnicelli: ...Commission of August 13, 2019 is back in session. So Commissioners let's  
44 go ahead and go to conditions and I'm just gonna go from the original recommendation okay.

1 The first one is the valid until. I believe that the last time we said one year from the Certificate of  
2 Occupancy is that what we said last time Director?

3  
4 Ms. McLean: Yes, Chair that's my understanding. So the Land Use Commission Special  
5 Permit would be valid for one year beginning on the date of issuance for the first Certificate of  
6 Occupancy for any structure use for church and religious activities.

7  
8 Mr. Carnicelli: How do we feel about that? You want to leave it as it was? You want to go to  
9 two years?

10  
11 Ms. La Costa: One year.

12  
13 Mr. Carnicelli: We okay with one year? Is anybody okay with two years? Going once, going  
14 twice.

15  
16 Mr. Robinson: Chair.

17  
18 Mr. Carnicelli: Commissioner Robinson.

19  
20 Mr. Robinson: I think anything's adequate. I think, I think if the applicant understands that with  
21 the one-year and then reapplying they can also reapply to maybe amend some conditions as  
22 well and instead of them having to do it at a three-year period that holds them back that one-  
23 year is kind of a...actually might actually help them. I think if they understood that and they  
24 realize that as long as they follow the rules they get their permit you know renewed and then  
25 also get an opportunity you know come back to us to ask, say I've done this, I've done that, can  
26 I get...ease up on some conditions that we might pass in the future so I think one-year is good.

27  
28 Mr. Carnicelli: And Tara you talked about a compliance report, correct?

29  
30 Ms. Furukawa: Yes.

31  
32 Mr. Carnicelli: Is that automatically submitted? Is a compliance report submitted before  
33 renewals?

34  
35 Ms. Furukawa: Yeah, typically. So it's Number 8 right now in the recommendations.

36  
37 Mr. Carnicelli: Yeah but it doesn't...that's only for this current...it's not for the renewal though  
38 isn't it? Is that also for the renewal or can we put that as also for the renewal?

39  
40 Ms. Furukawa: Yeah it says, the compliance report shall be submitted to the Department with  
41 the request for time extension.

42  
43 Mr. Carnicelli: Oh okay. Right, right, right. Okay. Do you have that Director? Is that...yeah,  
44 I'm gonna have you be the scribe.

1  
2 Ms. McLean: Yes. Yes.

3  
4 Mr. Carnicelli: Okay. Recommendation Number 2, cannot be transferred. We're okay with  
5 Condition 2 as is, yeah? Condition 3 we did not change either. So we'll leave Condition 3. We  
6 go to Condition 4. Director, I'm gonna let you read what we had before. Is that, is that what she  
7 written. Is that Condition 4 from before? Yeah?

8  
9 Ms. McLean: From before I believe the condition was that no church and religious activities  
10 shall occur before 8:00 a.m. or after 9:00 p.m., allowing reasonable time for members to arrive,  
11 setup, and disburse before and after events. Any amplification of sound or music at any event  
12 shall not exceed any standards established by the State Department of Health for the  
13 Agricultural District. And I believe there were also comments wanting to clarify that amplification  
14 shall occur inside. That there would be no amplification of sound or music outside.

15  
16 Mr. Carnicelli: Right. So I guess in that condition we did the time from 8:00 a.m. to 9:00 p.m.  
17 They're asking till 10:00 with shutting down amplified at 9:30.

18  
19 Ms. Furukawa: Yes.

20  
21 Mr. Carnicelli: Are we...Commissioners, you want to leave it at what had before? You want to  
22 move it to 10:00 with a 9:30? Please speak into the mic. Thank you. Commissioner La Costa.

23  
24 Ms. La Costa: I prefer to leave it as it is and again, by the time everything settles down it takes  
25 half-hour, forty-five minutes for people to leave so I think that will meet the 10 o'clock if we leave  
26 it at 9:00.

27  
28 Mr. Carnicelli: Okay, anybody else would like to speak to that? Okay, sounds good. I guess,  
29 do we have to...we were also gonna write in there...oh, and then also add, and no amplified  
30 sound outside or outdoors. Is without objections we'll go ahead and add that as part of  
31 Condition 4. Seeing no objections we're gonna go ahead and add that to Condition 4.

32  
33 Okay, so then Condition 5 is basically related to events. What we had before was kinda like  
34 less than 25 people and more than 25 people. I don't know how you want to write this Director  
35 but basically to say are we okay with three normal services of no more than 40 people per week  
36 and holiday celebrations as provided by the applicant of no more than a hundred people is what  
37 the applicant's proposing. He did indicate that Wednesday morning and Friday afternoon were  
38 two say solid you know times that he wanted. Do you wanna say, okay you get Wednesday  
39 mornings, Friday afternoons and then one floater per week plus the holidays? Do you wanna  
40 do...say what?

41  
42 Ms. Pali: ...(inaudible-not speaking into the mic)...

43  
44 Mr. Carnicelli: Speak in the mic please.

1  
2 Ms. Pali: Yeah, I think my goal is just that the neighbors just get an off day and—

3  
4 Mr. Carnicelli: Some predictability?

5  
6 Ms. Pali: Yeah. Just because we're asking them...we all have to give, everyone has to give a  
7 little and Dr. Abrams seems really reasonable and flexible and he's expressed his desire to be  
8 flexible and he's given us past evidence of your flexibility and so with that same nature if the  
9 neighbors have something that they can just sort of schedule their lives around so I like that, I  
10 like that recommendation.

11  
12 Mr. Carnicelli: Okay. Okay, so we'll...so what we'll do is then is if you could Director write it in a  
13 way with which it says that the applicant's allowed a regular service of no more than 40 people  
14 Wednesday mornings, Friday evenings and one other time, day...one other time per week,  
15 additionally holiday celebrations of no more than a hundred people as per the schedule handed  
16 to the Commission. Commissioner Robinson.

17  
18 Mr. Robinson: Chair there was testimony that on Sundays they would be an optimum day for  
19 them to do services and that's what I heard today so I don't think it's too hard for us to ask them  
20 to pick the days. And then as far as the years go because the years will change for next year  
21 we should put the number events instead of the events that was presented to us because it  
22 depends on when they get the occupancy that might change.

23  
24 Mr. Carnicelli: Agreed and not to speak for the applicant but the other part too that I know was  
25 is in a lot of the testimony and in the presentation was you know a lot of their celebrations are  
26 birthday parties you know like a kupuna is turning 90 or it's, you know it's a random thing, but  
27 actually Lew if you would go ahead and come up and address what we're talking about. So as  
28 far as saying okay, Wednesday, Friday night and Sunday evening or Wednesday morning,  
29 Friday night and a floater day are you okay...I guess I'm gonna ask you this, are you okay with  
30 Wednesday morning, Friday night and Sunday evening because you said you go to the  
31 Temple...you know you go to the Temple of Peace in the mornings--

32  
33 Dr. Abrams: Right.

34  
35 Mr. Carnicelli: --but yet you want to be able to bring the families and the keikis to, you know,  
36 celebrate on Sunday afternoons.

37  
38 Dr. Abrams: Yeah, I'd rather have it be a flexible floater day you know, and the weekend is the  
39 time that we'd like the flexibility on. I work late on Mondays, Tuesdays and Thursdays and I  
40 don't back from Lahaina till about 8 o'clock and so it would be...you know that's why we're  
41 choosing the Wednesday, Friday and then having the weekend is important for our friends who  
42 have kids and you know want to be able to come on either day. But Saturdays we could say we  
43 would not schedule as a regular day but we would like the flexibility if there's some you know  
44 guest teacher coming or whatever and that's the day they can offer meditation retreat or



1 something or meditation instruction. We'd like to keep the weekends flexible and that way...so  
2 the way you originally proposed it Wednesday mornings and Friday evenings plus one other  
3 flexible day that would be acceptable.

4  
5 Mr. Carnicelli: Okay. Any objections to that...oh, hang on a second. Okay so how about if  
6 we...because I think the tenor of the Commission is we want to be able to give people a day off  
7 is what if we just said okay, there's no more than "x" Saturdays, say no more than six  
8 Saturdays. So you have the flexibility, alright, I don't know say eight Saturdays or something to  
9 that effect. Where we say like okay, you know regularly scheduled, but you know not to exceed  
10 more than eight in a calendar year.

11  
12 Dr. Abrams: Yeah, I think that would be great. We can do that definitely.

13  
14 Mr. Carnicelli: Okay.

15  
16 Dr. Abrams: And we would still defend that Monday day off, right where we wouldn't schedule.

17  
18 Mr. Carnicelli: Oh, thank you for re-reminding me of that. I appreciate that. So I'm gonna kinda  
19 let Michele's hand stop cramping as she's scribbling here. Are you getting...kind of?

20  
21 Ms. McLean: You guys are all over the place.

22  
23 Mr. Carnicelli: Okay, so let's go back to this then. So is basically it's regular services  
24 Wednesday morning, Friday night, and one other day per week period.

25  
26 Mr. Robinson: But no more than 40.

27  
28 Ms. McLean: With no more than 40 participants.

29  
30 Mr. Carnicelli: With no more than 40 people, correct. That's regular events with yeah, no more  
31 than 40 people. The flexible day cannot be...cannot coincide on more than eight Saturdays per  
32 year.

33  
34 Mr. Robinson: I thought I heard six.

35  
36 Ms. Pali: Yeah.

37  
38 Mr. Carnicelli: Six. Six Saturdays be year.

39  
40 Dr. Abrams: Can we hear a dozen? It would be a little better.

41  
42 Mr. Robinson: You got Sundays.

43  
44 Dr. Abrams: Yeah, Sundays are possible. It's just for...you know we're busy from 9:00 a.m. –

1  
2 Mr. Carnicelli: Here's the other part of this though is at the end of this this is what I'm gonna do  
3 is I'm also going to recommend that if you want to renew this permit we may be able to...you  
4 can come back to us rather than say getting it just a renewal with all the same conditions on it,  
5 you know that you could come back and say, hey listen can we...can we do this, can we do this  
6 all over again because it's so much fun. No, but I'm saying, but let's just say okay you know the  
7 neighbors didn't...they found out that the sky isn't falling and that you know, the world doesn't  
8 end and it's like, okay, you know this is what you guys are saying that it is not what they think  
9 it's going to be and you come back and then suddenly it's just like okay, maybe it is, I don't  
10 know, whatever that it could be expanded upon. So I'm just saying is right now we're trying to  
11 get you...let's get you going.  
12  
13 Dr. Abrams: Yes. I'm totally open to it.  
14  
15 Mr. Carnicelli: And then maybe we can go forward from there. So additionally Director we've  
16 got holiday events as per submitted, the holidays not necessarily the actual dates but right, the  
17 holidays, should we just name them, full moons—  
18  
19 Mr. Tackett: Are the holiday events is the finish time the same as the rest of the events?  
20  
21 Mr. Carnicelli: Yes, with...except for New Year's Eve.  
22  
23 Mr. Tackett: It's 9 o'clock no matter what except for New Year's Eve.  
24  
25 Mr. Carnicelli: Except for New Year's Eve, right. So let's go, it's full moons.  
26  
27 Dr. Abrams: Yeah.  
28  
29 Ms. McLean: Yeah, you don't have—  
30  
31 Mr. Carnicelli: I don't have to listen to this.  
32  
33 Dr. Abrams: Christmas Eve, Christmas Eve would be hard to end that early. There's a tradition  
34 of kind of—  
35  
36 Mr. Carnicelli: Hang on Lew, all of...let's get through these things here first.  
37  
38 Dr. Abrams: Okay.  
39  
40 Mr. Carnicelli: Okay.  
41  
42 Ms. McLean: Chair, here's what I have so far. Church and religious activities shall not occur on  
43 days other than Wednesday morning, Friday evenings, and one additional day each week  
44 provided that no more than six per year occur on a Saturday with no more than 40 participants.

1 Church and religious activities may occur on the holidays listed on the schedule provided by the  
2 applicant with no more than 100 participants or the maximum occupancy established by the Fire  
3 Department for the church building whichever is lower.

4  
5 Mr. Robinson: Yes.

6  
7 Mr. Carnicelli: Good, excellent.

8  
9 Ms. McLean: We would need to tweak Condition 4 if you wanted to allow different times for  
10 different events because it's 8:00 a.m. to 9:00 p.m. So maybe you go back to that.

11  
12 Mr. Carnicelli: I guess yeah, 'cause is we're gonna have to stick New Year's Eve in here  
13 somewhere. Did we do as part of...we're on Condition 5. Okay, so here's what we have on the  
14 condition from last time, in addition to New Year's Eve's attendance...So maybe what we do is  
15 then go back to Condition 4, you're right Director and say, you know, church and religious  
16 activities shall occur between the hours of you know, dah, dah, dah, dah, dah, except for  
17 New Year's Eve.

18  
19 Ms. La Costa: I have a question Chair for clarification.

20  
21 Mr. Carnicelli: Hang on, let's just...is except for New Year's Eve, you wanna put...does that  
22 make—

23  
24 Ms. McLean: You would want to establish the time if you want...if there is going to be a  
25 different time then the Commission should say what the time would be allowed for New Year's  
26 Eve.

27  
28 Mr. Carnicelli: Okay.

29  
30 Mr. Robinson: Do we have the power to add more time? It's like we talked about earlier like—

31  
32 Mr. Carnicelli: Talk into, talk into the mic, talk into the mic.

33  
34 Mr. Robinson: Commissioner Tackett brought up the point is do we even have the power to  
35 extend it?

36  
37 Mr. Carnicelli: Corporation Counsel.

38  
39 Mr. Galazin: Yeah, thank you. Commissioner Robinson what we're talking about now is just  
40 when they have the service until. So if you want to talk about amplified music you know I think  
41 there's a difference there between saying all amplified music gotta be shut off by 9:00, you know  
42 a church service on a particular event day could go until midnight because that's just...you  
43 know, any church could potentially have a midnight mass for example, so...the noise you  
44 couldn't do but the hours of operation you could be flexible.

1  
2 Mr. Robinson: So how would you recommend terminology for New Year's Eve?  
3  
4 Mr. Galazin: I don't—  
5  
6 Mr. Robinson: ...(inaudible)...what we want to do, but we don't know how to do it.  
7  
8 Mr. Galazin: I believe what you could do is just not put specific restrictions on New Year's Eve  
9 other than number of participants. Say that New Year's Eve celebration is exempt from the  
10 meeting time requirements or...  
11  
12 Mr. Robinson: 9 o'clock rule.  
13  
14 Mr. Carnicelli: Okay.  
15  
16 Mr. Galazin: And if the applicant really felt that you know, a specific holiday merited I think you  
17 heard him say Christmas Eve but if there's something else that warranted that.  
18  
19 Mr. Carnicelli: Is it really hot in here or is it just this seat.  
20  
21 Mr. Tackett: It's been hot for a while.  
22  
23 Mr. Carnicelli: Question. Commissioner La Costa.  
24  
25 Ms. La Costa: Thank you Chair. So I just need clarification. It's been proven on the record that  
26 I'm not good at math. So what it appears now is we have Wednesday morning, Friday evening  
27 and a floater day of some kind, right?  
28  
29 Mr. Carnicelli: Per week.  
30  
31 Ms. La Costa: Per week. So that's three days. Then if we take Monday out there's four of the  
32 seven days, what happens on the other three days are they open for parties and everything?  
33 So is there activity going on all the time albeit perhaps not religious activity. Again, I'm just  
34 going back thinking about the neighbors and what's happening.  
35  
36 Mr. Carnicelli: Corporation Counsel.  
37  
38 Mr. Galazin: Thank you. Commissioner La Costa. That would be...the Special Permit is just  
39 for this particular church use. Any time that they're not undertaking that use they're going to be  
40 using their parcel for whatever they're already permitted to do, you know mainly the agriculture.  
41 I believe they have farm tours, you know, that's all in the staff report. So they would normally  
42 would use their property for whatever they want to. They're here because for those particular  
43 times that's what they need a special permission for.  
44

1 Mr. Robinson: It's hard to do farm tours at night.

2

3 Ms. La Costa: I'm not talking about farm tours.

4

5 Mr. Robinson: No, no, but that's what I'm saying so with us limiting the 40...I know what you're  
6 trying to say that they can have tours and stuff in the day time, but at night time it's going to be  
7 harder to justify if it's outside if it's outside of these three days. You know, it's ag right.

8

9 Ms. La Costa: Yeah.

10

11 Dr. Abrams: Typically our tours have been 4:00 to 6:00 p.m. and then we do...when we had our  
12 food truck and commercial kitchen together doing a potluck, not a potluck, a dinner for the tour  
13 that went from 6:00 to 7:30 or something like that.

14

15 Mr. Robinson: Not a permit commercial kitchen though right?

16

17 Dr. Abrams: No we had a food truck and a—

18

19 Mr. Robinson: Okay, let's not go back down there.

20

21 Dr. Abrams: We're not asking for a commercial kitchen.

22

23 Mr. Robinson: Let's not go back down there.

24

25 Mr. Carnicelli: Inaudible, inaudible, inaudible. Is we're at the portion now that you only get to  
26 talk if you're asked a question.

27

28 Dr. Abrams: Okay, I will...

29

30 Mr. Carnicelli: I'm gonna...is while Michele's still scribbling on Condition 5, Condition 6, 7, 8 and  
31 9 we had no changes to. Are we still—

32

33 Ms. McLean: Chair would just add that on Condition 7 to verification of compliance with State  
34 Department of Health requirements shall be provided to the Planning Department with the  
35 compliance report.

36

37 Mr. Carnicelli: If no objections we'll go ahead and add that to Condition 7. Seeing no objections  
38 we'll go ahead and add that to Condition 7 then. So 8 and 9 was done. So then we added a  
39 Condition 10, a Certificate of Occupancy shall be required for all church related structures prior  
40 to the initiation of operation. Everybody okay with that? Seeing no objections...

41

42 Ms. McLean: Chair if I could?

43

44 Mr. Carnicelli: Okay.

1  
2 Ms. McLean: That verification shall be provided to the Planning Department prior to use and  
3 shall be maintained during the duration of the permit.  
4  
5 Mr. Carnicelli: Okay. No objections? Seeing no objections...did we also include...is in there  
6 that the permit...or no, we put the permit starts...that was in Condition 1, right. Yeah, that was  
7 in Condition 1.  
8  
9 Ms. Pali: Prior to use or prior to issuance?  
10  
11 Ms. McLean: That the Certificate of...on Condition 10 requires the Certificate of Occupancy and  
12 that that shall be obtained prior to the initiation of operation and provide verification to the  
13 Planning Department before operating.  
14  
15 Ms. Pali: So the issuance of the permit you would need that resolved prior to issuance of the  
16 permit?  
17  
18 Ms. McLean: We need the Certificate of Occupancy...the first Certificate of Occupancy starts  
19 the one year.  
20  
21 Ms. Pali: Okay.  
22  
23 Ms. McLean: And needs to be given to the Planning Department before they begin and then  
24 they can begin once they get it.  
25  
26 Mr. Carnicelli: Thank you. So Condition 11 reads, a minimum of 72 hours' notice shall be given  
27 to neighbors for events greater than 25 attendees via website maintained by the applicant which  
28 is available to the public and readily accessible. Do we want to...Director.  
29  
30 Ms. McLean: Chair, I believe that number, 25 should be changed to 40 since that's the number  
31 that you're using in Condition 5.  
32  
33 Mr. Robinson: Is more than?  
34  
35 Mr. Carnicelli: Yeah.  
36  
37 Mr. Robinson: No, so 40 don't have to be.  
38  
39 Ms. McLean: Greater than 40.  
40  
41 Mr. Carnicelli: So the regular meeting are 40 and below and so they don't have to publicly  
42 notice just the regular services, but these, these here have to be on the website.  
43  
44 Mr. Robinson: Okay.

1  
2 Mr. Carnicelli: These meaning the special events schedule will be posted on the website.  
3  
4 Ms. McLean: And I would suggest that the website be operational and verified by the Planning  
5 Department before the use commences and is maintained during the duration of the permit.  
6  
7 Mr. Carnicelli: Without objections we'll include that. Sounds good. Thank you. And then  
8 Condition 12 was no events shall occur on Monday except for special astrological significance is  
9 that...that was...how about, no events shall occur...or what did we call the regular services?  
10  
11 Mr. Robinson: If it fell on one of the 24 days.  
12  
13 Ms. Pali: Saturday and Monday.  
14  
15 Mr. Carnicelli: I mean, no, 'cause I think we actually put that in five though didn't we? Didn't we  
16 add that in five?  
17  
18 Ms. McLean: On five you were going to add...  
19  
20 Mr. Carnicelli: Here, let's listen to five. Let's listen to five.  
21  
22 Ms. McLean: I'll read five again from what you said last time. Church and religious activities  
23 shall not occur on days other than Wednesday mornings, Friday evenings and one additional  
24 day each week provided that none occur on a Monday and no more than six per year occur on a  
25 Saturday with no more than 40 participates. Church and religious activities may occur on the  
26 holidays listed on the schedule provided by the applicant at the August 13, 2019 meeting with  
27 no more than 100 participants or the maximum occupancy established by the Fire Department  
28 for the church building whichever is lower. So Condition 12 may not be needed because  
29 Condition 5 already spelled out the days.  
30  
31 Mr. Carnicelli: I would agree.  
32  
33 Unidentified Speaker: I would agree.  
34  
35 Ms. McLean: And then the only other issue I would raise is on Condition 4, the time for  
36 New Years, I didn't catch what the Commission decided on that.  
37  
38 Mr. Carnicelli: Right, New Years and I mean, I personally would be okay with Christmas Eve as  
39 well, I don't know if the Commission would also be okay with Christmas Eve.  
40  
41 Mr. Robinson: No limit by this Commission.  
42  
43 Mr. Carnicelli: Say again?  
44

1 Mr. Robinson: We're doing no limit by this Commission. It would fall onto County and their  
2 regulations.

3  
4 Mr. Carnicelli: Right. Say New Year's Eve and Christmas Eve are—

5  
6 Mr. Robinson: No restrictions.

7  
8 Mr. Carnicelli: No restrictions other than whatever is the law, County and/or State Law. Let the  
9 record show that Corporation Counsel nodded in approval.

10  
11 Ms. McLean: And so the intent is for there to not be a time restriction for Christmas Eve and  
12 New Year's Eve is that correct? Is that the Commission's—

13  
14 Mr. Robinson: From this Commission because we don't feel we have the power to go past  
15 10 o'clock for County rules, you know, County Laws and stuff.

16  
17 Ms. McLean: Okay.

18  
19 Mr. Robinson: So, ...(inaudible)...actually that's not our jurisdiction.

20  
21 Ms. McLean: Okay.

22  
23 Mr. Robinson: We're pulling...(inaudible)...

24  
25 Dr. Abrams: Thank you. That would work good.

26  
27 Mr. Carnicelli: Okay, now we get the question for Lew.

28  
29 Dr. Abrams: Yes.

30  
31 Mr. Carnicelli: You heard all of that. And if you want the Director to read it all back, would this  
32 be acceptable for you?

33  
34 Dr. Abrams: Yeah, it's seems quite reasonable. The one question I have is about on  
35 New Year's Eve the number as long as we're conforming with the law which would be defined  
36 by the occupancy of the building then that applies so that would be fine. I was hoping not to be  
37 limited to a hundred on New Year's Eve.

38  
39 Mr. Carnicelli: Yeah, is you're limited to the occupancy of the building—

40  
41 Dr. Abrams: Yes.

42  
43 Mr. Carnicelli: Or 100...or...yeah, even if it's less. 'Cause let's say if the occupancy of the  
44 building is 72 then you don't get 100 you only get 72.



1  
2 Dr. Abrams: Of course, we'd abide by the occupancy. On that one day a year I'd like to be able  
3 to go over a hundred assuming the occupancy allows it.  
4  
5 Mr. Carnicelli: Assuming the occupancy is over a hundred.  
6  
7 Dr. Abrams: Yes.  
8  
9 Mr. Carnicelli: That is our intention, yes.  
10  
11 Mr. Robinson: That's not how our permit reads.  
12  
13 Ms. McLean: It's not how it's—  
14  
15 Unidentified Speaker: No, it is.  
16  
17 Mr. Robinson: No it doesn't. Whichever is lower, whichever is lower.  
18  
19 Dr. Abrams: But if we—  
20  
21 Mr. Carnicelli: Go ahead.  
22  
23 Mr. Galazin: Thank you Chair. As I understood the discussion I think we were gonna say that  
24 or you folks were gonna say on New Year's Eve and Christmas Eve that all the restrictions that  
25 you're talking about wouldn't apply, only general rules of applicability which would mean that  
26 your restriction on a hundred or Certificate of Occupancy whichever is less would not apply to  
27 those two days, only the occupancy because that is something of general applicability. Likewise  
28 noise restrictions wouldn't be applied, just whatever the law is applicable for that. So those two  
29 days would basically be exempt, exempt days under the terms of this.  
30  
31 Mr. Carnicelli: Exempt under the terms of the Special Use Permit.  
32  
33 Mr. Galazin: Exempt from the requirements that the other days are subject to, yes.  
34  
35 Ms. McLean: I, I—  
36  
37 Mr. Carnicelli: You want to take a quick recess and write this with David?  
38  
39 Ms. McLean: No. I think that rather than trying to cram that into Condition 4 and Condition 5,  
40 we just add a Condition 12 that says—  
41  
42 Mr. Robinson: Those two days.  
43

1 Ms. McLean: For those two days this is what applies regardless of what the other conditions  
2 stated.

3  
4 Mr. Carnicelli: Does that work?

5  
6 Ms. McLean: That's just cleaner.

7  
8 Mr. Carnicelli: And you're good with that too?

9  
10 Dr. Abrams: Yeah.

11  
12 Mr. Carnicelli: So going back to the one year.

13  
14 Dr. Abrams: Yes.

15  
16 Mr. Carnicelli: I actually think that that works in your favor because this is pretty restrictive, you  
17 know, admittedly you know, there's like it's saying okay, only this so in a year you get to revisit it  
18 if you so choose. If you say like listen you know what we're just gonna kick the can and we  
19 want to renew it then cool. So just saying that.

20  
21 Dr. Abrams: I hear that.

22  
23 Mr. Carnicelli: Okay. So I guess what we'll do is when the Director's done writing, we'll  
24 have...do you want to read it all into the record as it is and then we can make a motion and  
25 vote.

26  
27 Ms. McLean: Just a minute or two recess Chair.

28  
29 Mr. Carnicelli: Okay, recess at the call of the Chair.

30  
31 A recess was called at 3:46 p.m., and the meeting was reconvened at 3:48 p.m.

32  
33 Mr. Carnicelli: ...2019 is back in session. So at this point in time what we're gonna do is have  
34 the Director read into the record what we think the conditions are and hopefully move forward.  
35 Director.

36  
37 Ms. McLean: Thank you Chair. Condition 1 will read that the Land Use Commission Special  
38 Permit shall be valid for one year beginning on the date of issuance for the first Certificate of  
39 Occupancy for any structure use for church and religious activities. And the condition will  
40 continue reading as it's stated in the staff report subject to extension, et cetera, et cetera.

41  
42 Mr. Carnicelli: Got it.

43

1 Ms. McLean: Number 2, no changes. That's the...that the permit shall not be transferred  
2 without prior written approval. Number 3, no changes. That's the insurance and indemnification  
3 condition.

4  
5 Condition Number 4 will read, that no church and religious activities shall occur before 8:00 a.m.  
6 or after 9:00 p.m., allowing reasonable time for members to arrive, setup and disburse before  
7 and after events. Any amplification of sound or music at an event shall occur inside and shall  
8 not exceed any standards established by the State Department of Health for the Agricultural  
9 District.

10  
11 Condition Number 5 will read, church and religious activities shall not occur on days other than  
12 Wednesday mornings, Friday evenings and one additional day each week provided that none  
13 occur on a Monday and no more than six per year occur on a Saturday with no more than  
14 40 participants. Church and religious activities may occur on the holidays listed on the schedule  
15 provided by the applicant at the August 13, 2019 meeting with no more than 100 participants or  
16 the maximum occupancy established by the Fire Department for the church building whichever  
17 is lower.

18  
19 Condition Number 6, no changes. That's subject to periodic inspections. Condition Number 7,  
20 is full compliance with applicable regulations. We added that verification of compliance with  
21 Department of Health requirements shall be provided to the Department with the compliance  
22 report. Condition 8, no changes. That's the requirement to submit a compliance report.  
23 Condition 9, no changes. That's that the applicant shall application develop the property in  
24 substantial compliance with the representations made.

25  
26 Condition Number 10 is new. A Certificate of Occupancy shall be required for all church related  
27 structures prior to the initiation of operation. Verification shall be provided to the Planning  
28 Department prior to use and shall be maintained during the duration of the permit and included  
29 with the compliance report.

30  
31 A new Condition 11. A minimum of 72-hour notice shall be given to neighbors for events  
32 greater than 40 attendees via a website maintained by the applicant which is available to the  
33 public and readily accessible. The website shall be operational and verified by the Planning  
34 Department before operations are initiated and shall be maintained during the duration of the  
35 permit.

36  
37 And then a new Condition 12. Notwithstanding the prior conditions, church and religious  
38 activities on Christmas Eve and New Year's Eve shall be limited in time by County and State  
39 regulations of general applicability and the number of participants shall be limited by the  
40 maximum occupancy established by the Fire Department for the church building.

41  
42 Dr. Abrams: Yeah, that sounds great.

43

1 Mr. Carnicelli: Okay. The Chair will entertain a motion to approve as read into the record by the  
2 Director.

3  
4 Mr. Thompson: Move to make a motion to approve it with those conditions.

5  
6 Mr. Carnicelli: So moved by Commissioner Thompson. Do I have a second?

7  
8 Mr. Castro: Second.

9  
10 Mr. Carnicelli: Seconded by Commissioner Castro. Discussion on the motion? Seeing none,  
11 Director you don't have to read the whole thing again. I guess what we'll just say is those in  
12 favor of the motion to approve as read into the record by the Director please raise your hand.  
13 That is one, two, three, four. Those opposed? One. And we have one abstaining which  
14 actually is an affirmative. So that is five to one. You have your permit. Congratulations.

15  
16 **It was moved by Mr. Thompson, seconded by Mr. Castro, then**

17  
18 **VOTED: To Approve the State Land Use Commission Special Permit as**  
19 **Recommended by the Department with Amended Conditions as**  
20 **Discussed by the Commission.**

21  
22 **(Assenting – D. Thompson, S. Castro, K. Robinson, C. Tackett,**  
23 **K. Pali - Abstained)**

24 **(Dissenting – P. D. La Costa)**

25 **(Excused – T. Gomes)**  
26

27 Mr. Carnicelli: Corporation Counsel.

28  
29 Mr. Galazin: Thank you Chair. So I can let the Director talk about what happens next in terms  
30 of this body's approval pursuant to the letter received from the Land Use Commission. The  
31 Department as staff to Commission will forward on this body's vote and recommendation along  
32 with a report to the Land Use Commission within the next 60 days I believe at which point the  
33 Land Use Commission will decide whether, what they want to do with it. So, that's all that you  
34 folks have to do with it for this point. So congratulations to you too.

35  
36 Mr. Carnicelli: Okay, I guess we actually have more on the agenda.

37  
38 Mr. Ickovitz: I just want to thank everybody.

39  
40 Mr. Carnicelli: Thank you.

41  
42 Mr. Ickovitz: From the bottom of my heart.

43  
44 Mr. Carnicelli: Welcome to Maui.  
45

1 Mr. Ickovitz: Thank you very, very much.

2

3 Mr. Carnicelli: New resident.

4

5 Mr. Ickovitz: You really worked hard on this and I really feel like you gave it a fair hearing and  
6 thank you very much. You won't regret this decision and please, please come to attend one of  
7 these events because you'll be moved like everybody else does. It's really that meaningful.

8

9 Mr. Carnicelli: We'll be there after you get your Certificate of Occupancy.

10

11 Mr. Ickovitz: You're not invited until then.

12

13 Mr. Carnicelli: Okay.

14

15 Ms. Pali: Good answer.

16

17 Dr. Abrams: Thank you everyone. I really appreciate you giving us this chance and we're  
18 gonna follow the rules.

19

20 Mr. Carnicelli: Good job. I know it wasn't easy but—

21

22 Dr. Abrams: A long...(inaudible)...

23

24 Mr. Carnicelli: Yeah, thank you very much for your hard work and everyone's support that was  
25 here as well. Director.

26

27

28

Respectfully Submitted by,

29

30

31

CAROLYN TAKAYAMA-CORDEN

32

Secretary to Boards and Commissions II