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**MAUI PLANNING COMMISSION
REGULAR MINUTES
AUGUST 13, 2019**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Lawrence Carnicelli at approximately 9:05 a.m., Tuesday, August 13, 2019, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

Mr. Carnicelli: Good morning everyone. The Maui Planning Commission of August 13, 2019 is now in session. My name is Lawrence Carnicelli, I am the Chair. Also present, P. Denise La Costa.

Ms. La Costa: Aloha Chair.

Mr. Carnicelli: Good morning. Stephen Castro.

Mr. Castro: Good morning Chair.

Mr. Carnicelli: Good morning. Christian Tackett.

Mr. Tackett: Good morning Chair.

Mr. Carnicelli: Good morning. Keaka Robinson.

Mr. Robinson: Aloha Chair.

Mr. Carnicelli: Aloha. Good morning...Good morning Kellie Pali.

Ms. Pali: Good morning Chair.

Mr. Carnicelli: And Dale Thompson.

Mr. Thompson: Good morning Chair.

Mr. Carnicelli: Good morning. Also with us is Corporation Counsel Michael Hopper and Director Michele Chouteau McLean. Am I pronouncing that right?

Ms. McLean: Yes.

Mr. Carnicelli: All right. So on to...for those of you in the audience if you would please silence any noise making devices that would be helpful. I'm gonna check my own, and I guess we'll just go onto our public hearings since we have established quorum. Director.

Ms. McLean: Thank you Chair. There are two public hearings on the agenda this morning. The first one is from Susan Deloria requesting a State Land Use Commission Special Permit to operate a two-bedroom short-term rental home in the State and County Agricultural Zoning District at 620 Kai Hele Ku Street, Unit B in Lahaina. Tara Furukawa is the project planner.

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B. PUBLIC HEARINGS

1. **SUSAN DELORIA requesting a State Land Use Commission Special Permit to operate a two bedroom STRH in the State and County Agricultural Zoning Districts at 620 Kai Hele Ku Street, Unit B, Lahaina, Island of Maui, TMK: (2) 4-7-009:046-0002. (SUP2 2019/0007) (T. Furukawa) (Matter was originally noticed for June 10, 2019. Due to there being a lack of quorum the meeting was canceled and this matter was renoticed for this meeting.) (Commissioners please bring your copy of the report which was sent in the June 10th agenda packet.)**

Ms. Tara Furukawa: Good morning Commissioners. This item has come to you for review because the applicant Susan Deloria is proposing a STRH on Ag land. The applicant is proposing two-bedroom STRH and one farm dwelling on a condominiumized portion of land in Launiupoko. In addition to the two bedrooms, the dwelling which was built in 2002 has two bathrooms, an open concept kitchen, dining and living space, lanais and a garage. The applicant who lives in Lahaina will manage the STRH.

The property has a field verified and implemented farm plan that covers the entire parcel including Unit A and there's a gulch and unusable area at the southern portion of the property. The net area available for farming is approximately 1.43 acres with 51 percent that's planted palm trees, plumeria, banana, avocado, papaya, citrus and vegetable garden and the applicant is here and she can address any questions that you might have regarding your application.

Ms. La Costa: Excuse me Chair?

Mr. Carnicelli: Ms. La Costa.

Ms. La Costa: Thank you. Just for the record I personally know the applicant but I do feel that I can be unbiased and rule according to what is presented.

Mr. Carnicelli: Got it. Does anybody have a problem with Ms. La Costa not recusing herself?

Mr. Robinson: Is it a professional relationship or a personal?

Mr. Carnicelli: You need to speak into the mic.

Mr. Robinson: Is it a personal or a professional relationship?

Ms. La Costa: It's both.

Mr. Robinson: I would go by her judgment. Thank you Chair.

96 Mr. Carnicelli: Thank you. I guess I'll go ahead and say the same thing. It's just like I hold a
97 real estate license. I've known Sue for 20 years, but I feel like I can be unbiased in this. If
98 nobody has a problem with that? Okay. Presentation? No? I'm sorry.

99
100 Ms. Furukawa: There's no presentation at this time.

101
102 Mr. Carnicelli: There is no presentation. Okay, so at this point I guess we'll just go to questions
103 from the Commission. Does anybody have any questions for the applicant? Oh, I'm sorry, we
104 have to do public testimony. Sorry, thank you Michael. This is a public hearing, so is there
105 anybody signed up to testify? Would anybody like to come forward and speak to this item?
106 Then seeing none, if the Commissioners are okay with it we will close public testimony and the
107 public hearing is now closed. So questions, Ms. La Costa.

108
109 Ms. La Costa: Thank you Chair. This question is for the applicant please. Good morning thank
110 you for the presentation.

111
112 Ms. Susan Deloria: Good morning.

113
114 Ms. La Costa: My question is always have you short-term rented this property in the past?

115
116 Ms. Deloria: No, we have not.

117
118 Ms. La Costa: Thank you very much that's all I need.

119
120 Ms. Deloria: Thank you.

121
122 Mr. Castro: No questions.

123
124 Mr. Carnicelli: Christian.

125
126 Mr. Tackett: None at this time.

127
128 Mr. Carnicelli: None.

129
130 Mr. Robinson: I got a question.

131
132 Mr. Carnicelli: Keaka go ahead.

133
134 Mr. Robinson: Hi.

135
136 Ms. Deloria: Good morning.

137
138 Mr. Robinson: You knowing my fellow commissioners I won't hold that against you. Question is
139 is you say that you're gonna manage this property yourself.

140
141 Ms. Deloria: Yes.

142
143 Mr. Robinson: Is there a reason why you didn't go for a bed and breakfast instead of a short-
144 term rental.

145
146 Ms. Deloria: I don't believe we would match that criteria because you have to live on the
147 property and right now we have...we own the cottage, there is somebody else that owns the
148 main house.

149
150 Mr. Robinson: So you're not on the property then?

151
152 Ms. Deloria: We're in the area, we're not on the property. The cottage is separate, it's a CPR
153 parcel. So it's the cottage and the main house. The main house belongs to somebody else.

154
155 Mr. Robinson: Main house belongs to...okay, I might have another question Chair, thank you.

156
157 Mr. Carnicelli: Commissioner Pali.

158
159 Ms. Pali: Yeah, it said this cottage is two bedrooms I see.

160
161 Ms. Deloria: Correct.

162
163 Ms. Pali: I think the only question that clearly we ask others with such a smaller unit is is there a
164 reason why you're choosing not to allow something like this to be part of the affordable rental
165 program or to lease versus short-term?

166
167 Ms. Deloria: Sorry, could you state that again?

168
169 Ms. Pali: So is there any particular reason why you're opting to do vacation rental versus long-
170 term rental. As we've all talked about in the past Maui County has a shortage of housing and
171 with this not being sort of a big mansion where a family couldn't afford it the size would dictate
172 that this would be a perfect sort of starter place for families. And so we're really big on just
173 supporting that infrastructure. And so my question is why didn't you consider long-term leases
174 versus short-term?

175
176 Ms. Deloria: Well, we have in the past had a long-term lease there, the opportunity to have a
177 short-term rental, we have a family in Australia and UK and the idea was being able to have
178 them come over and stay was another reason that we opted to try for the short-term rental
179 permit.

180
181 Mr. Carnicelli: Are you good? Yeah? Commissioner Thompson do you have any questions?

182
183 Mr. Thompson: None at this time.

184
185 Mr. Carnicelli: So, I have a couple questions. First, Tara is I'm assuming that this application
186 was submitted prior to the law changing as far as ohanas being allowed to be part of an STRH?

187

188 Ms. Furukawa: It's on Ag land so it's actually a farm dwelling, it' not an ohana.

189

190 Mr. Carnicelli: So it doesn't, it doesn't fall under that criteria.

191

192 Ms. Furukawa: No.

193

194 Mr. Carnicelli: Okay. My other question is because this is has come up in the past and actually
195 specifically in Launiupoko is this is a CPR property and so because of the way TMKs kinda work
196 you're married to Apartment A.

197

198 Ms. Deloria: Correct.

199

200 Mr. Carnicelli: And I don't see any testimony, I don't see anything in the packet that shows
201 where they are in regards to this. That's always, I mean historically we've kinda just, you know
202 said hey listen they need to, you know are they aware, are they for or against, you know where
203 are they with this whole thing. So I guess is there anything you can provide to us to show where
204 Unit A is in regards to the application?

205

206 Ms. Deloria: We spoke to them directly. They are currently in California. They are renting their
207 main house at the moment to Chuck and Gail Bergson who lost their home in Puunoa and they
208 have not objected to our application.

209

210 Mr. Carnicelli: Okay. Further questions. Keaka.

211

212 Mr. Robinson: Thank you Chair. Tara can you help me here with understanding this property
213 it's a parcel in the CPR and can you, can you kind of simplify this for me in what's happening. If
214 they say it's a farm dwelling so is it a, is it a stand up unit, is it a farm dwelling of a second unit
215 of a property, I don't understand it.

216

217 Ms. Furukawa: Anything on Ag land is a farm dwelling. They don't have ohanas.

218

219 Mr. Robinson: No, but it's...but only part of the parcel is hers?

220

221 Ms. Furukawa: Her condominiumized portion is hers. The other one is owned by somebody
222 else.

223

224 Mr. Robinson: And so when you have that other one is each one responsible to have 51
225 percent of farm or the total concept of that condominiumize has to be 51 percent farm.

226

227 Ms. Furukawa: The total has to be 51 percent.

228

229 Mr. Robinson: So you could have two different things owned, one person could have 51, and
230 the person could have zero.

231

232 Ms. Furukawa: Yeah.

233

234 Mr. Carnicelli: Director.

235

236 Ms. McLean: Thank you Chair. The 51 percent requirement is for the entire parcel and so to
237 your question if all of the agriculture happens to be one CPR unit then that person is responsible
238 for all of the agriculture conducted on the parcel because the Planning Department recognizes
239 condominiumization but all of our standards apply to the parcel as a whole. So a parcel, an Ag
240 parcel can have two dwellings one of which can't exceed a thousand square feet and CPR is
241 just an ownership mechanism to separate that. But everything else applies to the Parcel as a
242 whole and then it's up to the two owners to determine how to maintain compliance and if there
243 would be a violation that would be leveled against both owners. We treat them as co-owners of
244 the entire parcel even though they have their separation of that's yours and this is mine we treat
245 the parcel as a whole. Agriculture that needs to be conducted, any other standards both owners
246 are responsible for meeting those requirements.

247

248 Mr. Robinson: Chair? Director why is this a SUP? What is it a...if it's a farm and so it's still
249 qualified as a short-term instead of a Special Use Permit?

250

251 Ms. McLean: The existence of the two homes if they were occupied long-term that's compliant
252 with the State and County Agricultural District. To operate—

253

254 Mr. Robinson: But they weren't...but they weren't occupied long-term, it's...she just made a
255 designation that it's a farm dwelling so therefore it's exempt.

256

257 Ms. McLean: She was referring to the—

258

259 Mr. Robinson: The five year—

260

261 Ms. McLean: --the Chair's question. No this was...the Council recently adopted a bill that we
262 refer to as the "Ohana Bill"—

263

264 Mr. Robinson: Okay.

265

266 Ms. McLean: --that deals with ohanas in Residential Districts, and part of that bill, you know
267 allowed additional ohanas, larger ohanas, also prohibited new B&Bs and STRHs in ohana units.
268 This is the Ag District it doesn't have ohanas. That bill didn't apply to the Ag.

269

270 Mr. Robinson: So it's for the ohana, but so how about the ownership, you happen to own...this
271 applicant had to be...and like the one we had last month, you know you have to own the
272 property for a some amount of time before you can be a STRH and I remember that that was
273 the last applicant that made it under the time frame to ask for an STRH. We have this one and
274 they're saying that it's exempt because it's a farm dwelling. The exempt is because it's an
275 ohana so therefore it's not considered ohana, it's considered a regular dwelling.

276

277 Ms. McLean: Farm dwelling.

278

279 Mr. Robinson: But how is this qualified for the other one that was passed where you have to
280 have owned this property for five years?

281
282 Ms. McLean: That five-year ownership requirement should apply to this applicant.
283

284 Mr. Robinson: But...so last month it was told that the last...that last applicant was the last one
285 that was going to be qualified for under that five years that just made it for September the one
286 that was in Kihei. So was that not factual.

287
288 Mr. Carnicelli: Ask her how...how long have you owned the property?
289

290 Ms. Deloria: Since 2003.
291

292 Mr. Carnicelli: Okay, so that's why that doesn't—
293

294 Mr. Robinson: Okay.
295

296 Ms. McLean: And it could be—
297

298 Mr. Robinson: No, no, but then when was the...and so the application can come in any time
299 before that. I see what you're saying. Okay. So did the other owner also own the other house
300 from 2003 'cause you guys are considered one.

301
302 Ms. Deloria: We built the cottage and we built the main house on the property. We built the
303 cottage in 2003 and we built the main house in 2008 and we sold the main house and moved
304 back into the cottage.
305

306 Mr. Robinson: When did you sell the main house?
307

308 Ms. Deloria: We sold the main house, it's actually sold twice since we sold it in 2014, and then
309 it just sold again I believe in 2017.
310

311 Mr. Robinson: So are they not considered the same or is it the same lot or not the same lot?
312

313 Ms. McLean: It's the, I'd have to look at the...that's tricky I don't know that we've gone into that
314 detail. I'd have to look at the wording of Maui County Code Chapter 19.65 if the date of
315 construction or ownership relates solely to the dwelling that's being used or if it pertains to the
316 entire property that I'm not clear on—
317

318 Ms. Furukawa: From what I understand each condominiumized portion is considered a
319 separate lot. So...
320

321 Ms. McLean: The STRH Law does have specific provisions relating to CPRd properties that
322 they can be given permits on their own to the CPR unit. And I have to just check that language
323 about the ownership that it would apply just to the CPRd unit and not for whole thing.
324

325 Mr. Robinson: I have one more question.

326

327 Mr. Carnicelli: Go ahead.

328

329 Mr. Robinson: Tara is the 51 percent on this parcel that is CPRd that's going to have the short-
330 term rental or is it 51 percent for the agriculture on the side. If you're going to separate it which
331 one is claiming the 51 percent 'cause I don't think we can have it both ways that's why. So it's
332 part of it, it's not part of it, either it's gonna be a standalone and it already has the criteria for
333 51 percent that's my question.

334

335 Mr. Carnicelli: Corporation Counsel.

336

337 Mr. Hopper: Just to note that this is not an STRH Permit approval. The is a State Land Use
338 Commission Permit so assuming that the STRH Permit is being approved administratively
339 should this SUP be approved.

340

341 Ms. Furukawa: Yes.

342

343 Mr. Hopper: Because there's no trigger for the Commission to review or approve the STRH. So
344 the criteria you're looking at is the State Law criteria along with the State Land Use Commission
345 Rules on State Special Permits correct?

346

347 Ms. Furukawa: Yes.

348

349 Mr. Hopper: And among those requirements there's no requirement for the five-year ownership
350 or other things that would be a question regarding the permit that's being administratively
351 processed right now with the Department.

352

353 Ms. Furukawa: Yes.

354

355 Mr. Hopper: Not something the Commission is approving. Okay, just wanted to get that
356 clarified.

357

358 Mr. Robinson: Okay.

359

360 Mr. Carnicelli: Director.

361

362 Ms. McLean: And perhaps the applicant can comment further. The maps in the application or
363 in the staff report it's not quite clear where the delineation is between the two units. There is a
364 survey map...can the applicant confirm that that survey map it's the line that cuts across and
365 then curves around.

366

367 Ms. Deloria: Correct. That's the CPR.

368

369 Ms. McLean: So within...if you look at the farm plan this is the...this is what's being requested
370 now. There is a portion of the 51 percent

371
372 Mr. Robinson: I'm sorry Director...
373
374 Mr. Carnicelli: Speak into your mic.
375
376 Mr. Robinson: So the 52 percent is concluded in this Unit CPR.
377
378 Ms. Furukawa: It's for the entire lot.
379
380 Mr. Robinson: But is 51 percent contained in her portion is what I'm asking.
381
382 Ms. Furukawa: No, you have to...(inaudible)...the entire property.
383
384 Mr. Robinson: You need part of the other one.
385
386 Ms. Furukawa: Yeah.
387
388 Mr. Robinson: You need part of the other one.
389
390 Ms. Furukawa: Yes. Not just the condominiumized portion.
391
392 Mr. Robinson: Okay, thank you.
393
394 Mr. Carnicelli: And just to note there are CPRs out there that say would even be three where
395 one CPR would contain the main farm dwelling, the CPR contained the accessory farm dwelling
396 and then the CPR would contain just the farm portion of that. So this just happens to be a two-
397 unit CPR.
398
399 Mr. Hopper: Just to note, again this is in 19.65 which is not something that the Commission is
400 approving today, but the...there is a statement that says if the applicant does not own all
401 condominium units on the lot each condominium unit will be considered a lot for purposes of this
402 chapter and each unit owner will be eligible to apply for a short-term rental home permit except
403 that no owner may hold more than one short-term rental home permit. So there's some
404 guidance on how CPRd lots are to be treated and then we can look at the five-year
405 requirements, I'll have to take a look at that but there is that language talking about that for
406 CPRs the Council says that each lot's considered a separate...or each unit's considered a
407 separate lot if here's a CPR.
408
409 Mr. Carnicelli: Right, and speak into the mic and say that again.
410
411 Mr. Hopper: For purposes of Chapter 19.65 which is again is not being approved today but it's I
412 think relevant to know from the Planning Department's perspective what they have reviewed in
413 that respect. So I think the questions are fine but I just wanted to be clear that that's not
414 something the Commission's approving today.
415

416 Mr. Carnicelli: Thank you Mr. Hopper. So before us today Commissioners is the State Land
417 Use Commission Special Permit which you'll see on Page 9 and 10 of the packet which is the
418 criteria with which is for State Land Use Commission Special Permit.

419
420 Mr. Robinson: Chair.

421
422 Mr. Carnicelli: Go ahead Commissioner Robinson.

423
424 Mr. Robinson: As informed by Corporation Counsel we're not here talking about a STRH so
425 what is the Special Use Permit for then? What is the Special Use Permit if we're not here for
426 the STRH?

427
428 Mr. Hopper: Under State Law there are certain uses that are allowed on State Ag land. One of
429 the uses, a use that you would get under HRS, 205-6 allows for special permits to do different
430 types of uses. In this case they want to do a STRH. To comply with State Law they're required
431 to get a State Special Permit. They also have to get to comply with the County Code under
432 Chapter 19.65 a County Short-Term Rental Home Permit that complies with the County zoning.
433 The State Special Permit complies with the State designation under HRS, 205. For purposes of
434 205-6, the Planning Commission is the authority who gets to decide whether to grant that
435 special permit. Under 19.65 the Planning Department because there's no triggers such as a
436 STRH within 500 feet or you know complaints of up to I think it's 40 percent that would go
437 to...that would require the Commission to approve that permit.

438
439 So what you're approving is under HRS, 205-6 a requirement that anybody who wants to do use
440 that's not permitted on State Agricultural designated lands the Commission can allow a Special
441 Permit in order to that use so that's what's being approved. Sometimes you see both of them,
442 sometimes you see one or the other, but for State Ag land just like with this next permit for the
443 bed and breakfast you're required to approve it because neither STRHs nor bed and breakfast
444 homes are permitted uses on State Ag land you need to get the State Special Permit to do that.
445 The criteria for doing that is set forth in your, in your packet. It is different than 19.65 but I think
446 it is, I think it's germane to the issue to ask the Planning Department about 19.65 if they're in
447 compliance with it and the Department should be able to explain why they would meet the
448 criteria for that too. You're just not approving that permit under 19.65 today.

449
450 Mr. Robinson: But we are, we are able to take under the understanding that this special use
451 permit is for a short-term rental, but we're not deciding on the rental.

452
453 Mr. Hopper: I mean yes, when you're, when you're looking at the criteria of 205-6, yes of
454 course you are aware of what they're planning on trying to do and so you could look—

455
456 Mr. Robinson: Because the permit has to be about something can't just be they want a special
457 permit.

458
459 Mr. Hopper: Yes, and then the criteria for the permit as set forth will...is in you staff report and if
460 you, you know if you disagree, agree or you want to add to that...the staff's analysis or question
461 the staff's analysis you can certainly do that, but it's under 205-6 rather than 19.65. I know I

462 think that's tough to keep track of sometimes, sometimes you approve both of them depending
463 on what, under 19.65 if there's a trigger that requires you to approve both, but in this case today
464 based on the agenda you're approving a State Special Permit or you're deciding whether to
465 approve a State Special Permit.

466
467 Mr. Robinson: Thank you.

468
469 Mr. Carnicelli: Any other questions or discussion from the Commission?

470
471 Mr. Robinson: I have another question Chair. I apologize.

472
473 Mr. Carnicelli: Go ahead Commissioner Robinson.

474
475 Mr. Robinson: So on the, on Exhibit, I'm sorry I don't know...on the breakup of the square
476 footage for the farm it's the lot area is 104,000 square feet with 31,000 square feet of planted
477 area for farming and we're using a easement of 23,000 and another non-usable of 18,000 so
478 we're using 40 percent of this lot to say that it's not usable so therefore the criteria of 51 percent
479 of 31,000 puts in and we're using 20,000 of palm trees as ag so is I never knew there was a
480 designation of it's unusable we get to minus that out on top of that. I thought 51 percent was
481 51 percent of the property. Can you help me with that Director?

482
483 Ms. McLean: Yes, thank you for the question. That had been long standing departmental
484 practice with ag land and making that determination for the farm plan. The farm plan which by
485 the way we don't require any more, we've taken a different approach to ensuring agricultural
486 use for reasons such as this that there...to determine...it comes back to the definition of farm in
487 the County Code that talks about the majority of land being use for agricultural purposes. So by
488 majority we took that to mean 51 percent or greater and so then to determine that 51 percent
489 needs to be used at some point long ago it was decided that steep areas that weren't suitable
490 for farming or other areas that couldn't be used for farming such as this archaeological
491 easement would be deducted and then the "usable area" would be where the 51 percent is
492 applied.

493
494 Mr. Robinson: So, and of course the Planning Department is the one that made these
495 determinations that it's too steep to do farming or is that a contention of the applicant?

496
497 Ms. McLean: The Planning Department has to concur with it. I believe the applicant...I'm
498 speculating but the applicant would...and this goes back to 2005 when the dwellings were built
499 that we would verify the farm plan. So we would have gone to the site to verify implementation
500 of the farm plan before we'd sign off on the second building permit that we would have had to
501 concurred that that...those areas were unusable. We don't just look at a piece of paper and say
502 okay, we have to concur with that.

503
504 Mr. Robinson: So, so and this reason with the Planning Department hypothetically I could say I
505 need a 40-foot driveway because I'm gonna have tractors and all this type of stuff to eat up
506 25 percent of property and then like this I'll have 50.6 percent of ag to make myself quality
507 because now I can take out easements as part of my 51 percent or I can make half my property

508 an easement to say I need this for turnarounds and different storage to help me comply and
509 instead of being 50 percent which is the...it's not the, it's not the...it's the intention of this bill is
510 to have 50 percent of ag and when we have 104,000 you know square feet and only 31,000 is
511 gonna be, is gonna be used as agriculture and then 20,000 of that is palm trees planted which I
512 just feel we're finding ways to go around our intention instead of following our intention and
513 especially when now when easements are considered in if there's no guidelines and to where
514 easements can only be counted for certain stuff or a certain driveway, it's just...we're just
515 gonna, we're gonna invite, we're gonna invite abuse. I mean, like I said it's already to where a
516 short-term rental can CPR and there can be two now, you know so we can have STRHs on ag
517 land with 30 percent of the whole property under ag, you know which is...and the pictures I saw
518 were potted tomatoes and again, it's nothing against the applicants, this is, to me this is bigger
519 than just this one application. This is the path for everybody in Launiupoko to go here this is the
520 new one we can do this, claim this an easement, claim this, that it's...and all of a sudden this
521 mountainside unable to use, but every slopes has pineapples and sugar cane and all kinds of
522 things planted on hillsides but this hillside we can't grow anything on. I mean, I just...I don't
523 understand with the Planning Department on why we're trying to move away from what this bill
524 is made for and affecting this whole bill of, you know and this isn't even 51 percent, this is 50.6
525 so that's my feelings Director.

526
527 Ms. McLean: Those are excellent points I agree with many of them which is why we have
528 done...one of the reasons why we've done away with the farm plan. One point about
529 easements you can't just claim an easement and say that doesn't count. In this particular case
530 it's an archaeological easement so that would be an area where it wouldn't be appropriate to
531 conduct farming. If it's a driveway easement or something like that we wouldn't deduct that.
532 There has to be an appropriate reason why that would be deducted so that's just for this
533 particular case. But in the other examples that you gave your driveway and so forth, you're
534 absolutely right.

535
536 Mr. Robinson: So for 23,000 the 20 percent of easement that's being deducted out of here is
537 that paperwork saying that's agriculture is this in our packet?

538
539 Ms. McLean: It's not in the packet but I would ask Tara or the applicant to further describe that.

540
541 Ms. Deloria: The archaeological easement?

542
543 Ms. McLean: Yes.

544
545 Ms. Deloria: Yes, when we bought the property it's been and always has been an
546 archaeological easement. There are terracing.

547
548 Mr. Carnicelli: Is that archaeological easement part of the original subdivision?

549
550 Ms. Deloria: Yes.

551
552 Mr. Carnicelli: So it goes beyond just this particular property, it goes—
553

554 Ms. Deloria: Yes, it runs all through that gulch.

555

556 Mr. Carnicelli: Congruent with other parcels next to you.

557

558 Ms. Deloria: Yes.

559

560 Mr. Carnicelli: Okay. Does anybody else have a question at this point?
561 Commissioner La Costa.

562

563 Ms. La Costa: Thank you. I would just kind of like some clarification from
564 Commissioner Robinson. When you're talking about agricultural the deduction for that of course
565 is not...or won't apply because it will now be a short-term rental so I'm confused as to why the
566 agricultural aspect is such a hot button. I don't understand.

567

568 Mr. Carnicelli: So before you go there Keaka is, is I guess Mike do you want to?

569

570 Mr. Hopper: Just generally under Robert's Rules of Order there's not a...if Commissioners
571 have...generally don't ask questions to other commissioners and things like that. You can
572 certainly address to the Chair saying you know the points brought up here's my take on those
573 and you know you want clarification on something and the Chair can certainly ask that of the
574 member, but I think normally under Robert's Rules you don't get into a commissioner asking
575 other commissioners just a quick point of order just to keep things under Robert's Rules. So
576 you could certainly I think address the question that you had to the Chair and then maybe the
577 Chair can see if there's a way to get answers to those, but generally going back and forth
578 to...from member to member is a bit unusual in those situations.

579

580 Ms. La Costa: Thank you.

581

582 Mr. Carnicelli: So do you have clarification on something that you need?

583

584 Ms. La Costa: Thank you Chair. I need some clarification onto as to why the agricultural tag if
585 you will on this parcel is such a hot button because irrespective of whether it's 33 percent or
586 57 percent of what we're looking at, the ag tax zoning isn't going to apply and with the smaller
587 parcel, the 51 percent or the 50.6 percent is part of the whole so it sounds like we have laws
588 that intersect but don't meld well. So I just wanted to know from the other commissioner if you
589 could please ask why it's such a hot button. Thank you.

590

591 Mr. Carnicelli: Would you like to clarify yourself Commissioner Robinson?

592

593 Mr. Robinson: Thank you Chair. I don't know if it's a hot button. It's when you have, you have
594 agricultural land which is zoned differently which is different things are allowed which the price is
595 different which the water meters are different. There's a lot of things that are different in ag
596 areas and when people come in front of the Council and ...(inaudible)...I want to develop this ag
597 property. I got this whole side, I got this, wanna do this, can I, can I bypass this restriction, can I
598 bypass this restriction and of course we're like yah, everybody loves ag. And then when you
599 have ag properties now becoming short-term rentals that don't have any ag on it then that's not

600 the intention of our planning was and what happens is we end up having a mismatch of all type
601 of zoning and Special Use Permits and a mini hotel here, a semi ag there and these people are
602 complaining about the noise but it's ag, but then it's not because they have this permit and it
603 starts to get away from us as a community. And so I'm all for people for people doing ag, I've
604 supported almost every single bed and breakfast ag because I believe that supports ag, bed
605 and breakfast, foreign workers that whole thing, but short-term vacation rentals means there's
606 nobody here. It's a rental home on ag property so okay, so the criteria for that is you still gotta
607 have ag 'cause you're still an ag lot. You know regardless if you're gonna pay higher taxes
608 because you've become a mini hotel now, so but ag is still ag and that land was zoned for Ag.
609 It's still zoned for ag with a special use permit to use that ag land to rent out to people for one
610 day to whenever days. And so it's not a hot topic it's just that's what the law is and I want to
611 make sure that we follow that criteria of the law and make sure that this doesn't become a
612 loophole for all the lots in Launiupoko and future developments. You know we got people in ag
613 on this side of the island too and I want to make sure that people that are gonna buy into ag
614 lands understand that ag is ag, residential is residential, TVR is TVR, you know, and I think for
615 me as a commissioner what frustrates me the most is everybody coming in here is asking for
616 something special when we already have zones. We have zones for transient vacation rentals.
617 If they want to be a landlord and they want to make profits good for them because we have
618 thousands of them in Maui but they're in TVR zoned areas, they're not residential areas, they're
619 not in ag areas. We have zoned areas that you can buy a property, and you can rent out to
620 people from anywhere and you can make a lot of money and good for you. But when you want
621 to go to a different zone and you want to do that in a different zone well then you gotta follow the
622 criteria and in ag it's majority ag land and that's why I'm trying to bring this up and make sure we
623 find a criteria because a 100,000 acres and only 30,000 being of so-called ag which I still don't
624 see any real true ag yet, I didn't see any money from it and they had it since 2003 and I didn't
625 see no receipts from it...(inaudible)...it just being a place. I see a picture that shows where
626 there's plumeria trees but to me on the picture that was presented to us it's just flat grass. So if
627 you're gonna say you're ag just be ag and then you know, just follow the rules like everybody
628 else is supposed to. That's all. Thank you.

629

630 Mr. Carnicelli: Does anybody else have any other questions at this point in time or need some
631 clarification. Commissioner Pali.

632

633 Ms. Pali: I did just want to ask about the pictures 'cause it looks like I've got a couple different
634 pictures, maybe this is for the Staff Planner.

635

636 Mr. Carnicelli: Okay.

637

638 Ms. Pali: It looks like there are Exhibit 7 and Exhibit 8 it looks like the main home doesn't have
639 a pool so I'm assuming there are just accidently older pictures that were given to us by mistake
640 and then there is a Exhibit 2 and that one just shows the pool is in. So I suspect Exhibit 2 is a
641 more recent, newer picture and just because we have different pictures at different times I just
642 want to make sure I'm looking at the most recent. So Staff Planner would you just confirm that
643 Exhibit 2 would be the most recent picture and accurate as of recent?

644

645 Ms. Furukawa: Yes.

646
647 Ms. Pali: Okay, and not like a couple months but sort of like maybe recent like in the last month
648 or so?

649
650 Ms. Furukawa: It was 2018.

651
652 Ms. Pali: Okay, good, good, good. Okay, and then that would just Commissioner brought it up
653 but I was just trying to look at that particular picture once I figured out that was my maybe the
654 more current and I was looking at the farm plan and yeah, I just all the...in question would be
655 the avocado unless I'm reading the little...maybe...okay, sorry it's the palm tree field stock of
656 19,500 you have that surrounding the Unit A and throughout the entire lot and it kinda swings to
657 the bottom but if you do look at the home with the pool there's just a really large, flat grass area
658 with no trees, no plumeria trees and no palm trees and so I don't know that the graph that
659 depicts the land that's used as ag, the picture doesn't necessarily coincide with what's actually
660 being done and so I would probably question or would like to look to further just to make sure
661 that this graph is accurate 'cause it doesn't seem like it would be and so I just didn't know if you
662 had anything more recent or maybe they were planted after the photo was taken because we
663 are in 2019. I don't know. I just want clarification on that.

664
665 Mr. Carnicelli: Tara.

666
667 Ms. Furukawa: I think the farm plan that you're looking at, this colorful version.

668
669 Ms. Pali: Yes.

670
671 Ms. Furukawa: It's from 2005. And this was actually for the other, the Unit A portion of the
672 property. Unit B she had submitted this other plan here but you couldn't see what was on the
673 other portion of the property that's why I included both for you.

674
675 Ms. Pali: Okay. But I mean I think if we are worried about the 50 percent, 51 percent use of the
676 whole TMK I think it is only fair as commissioners for us to just be able to let us do our due
677 diligence of the 51 percent is being respect prior to changing the use of one particular parcel.
678 So maybe the plumeria and the palm trees were there in 2005 and now have been removed so
679 would that mean that the numbers that you're using to prove the 51 percent is no longer
680 accurate. I just don't necessarily don't want to be a part of knowing that the initial requirement
681 of ag land was not met and then being okay with approving a special use permit under
682 information that may not be completely accurate.

683
684 Ms. Furukawa: We did go out there and field verify everything just to let you for her portion of
685 the property and then we did go look at the archaeological easement in the back too and that's
686 just rock. There's no way that you could plant anything back there. But I think we felt it was
687 sufficient enough to move this application forward that the majority was planted in ag.

688
689 Ms. Pali: So what would help me is if I felt like I had enough evidence to prove that the parcel
690 itself had the 51 percent and that her portion was only needing so much so therefore the rest of
691 her portion was usable for other uses that would make feel comfortable moving forward. But

692 without knowing that the other portion is carrying the weight as it should I don't know that I can
693 make a decision in approval without being certain. So that's just how I feel.

694

695 Ms. Furukawa: Unfortunately I don't have pictures of the second, Unit A to show you.

696

697 Mr. Carnicelli: So I'll just ask a question then Commissioner Pali is you know Tara did say that
698 they field verified it. We don't have pictures in the packet. We don't have a map...one map, we
699 have you know two maps were kinda, kinda put together is that enough for you?

700

701 Ms. Pali: So, I guess I have a couple issues just with the inconsistency of information and now
702 we have different pictures with different dates and if I wasn't such a weirdo in details I would
703 have taken this whole thing has been verified and now we know by questions that this was
704 actually was from 2005 and this what we are seeing that was presented in the presentation
705 packet is actually not valid and so then I would question like why is it even in here if it's no
706 longer valid and so now she wants me to believe, no offense to anyone in particular but that
707 they verified what, they field verified what like I don't even know what that is. I just don't have
708 enough evidence. I think I'm borderline. I think that the applicant seems really sweet and I think
709 that if there's provision for allowing these kind of uses and she did everything right I would love
710 to support her but consciously I just need to support her with my eyes wide open and I just don't
711 want to be a part of looking the other way and taking away ag land if I don't...if I've not been
712 able to validate and substantiate that the parcel itself is utilizing the 51 percent. And if she had
713 most of it let's say on her parcel then we wouldn't have to worry about the other parcel, but this
714 parcel requires the partnership with the other parcel so without verifying and having one of
715 these up to date so we can just see the numbers and then have the testimony of the Planning
716 Staff saying yes, this is what we verified. I think...I feel like that's what I would need to move
717 forward, but I am just one of eight, so...I don't have enough information.

718

719 Mr. Carnicelli: Thank you.

720

721 Mr. Robinson: Chair.

722

723 Mr. Carnicelli: Hang on a second. Is so if we got to State Land Use Commission Special Permit
724 and you go to E, and it says, the land upon which the proposed use is sought is unsuited for the
725 uses permitted within the district. So in a way Director if you could, if you could speak to this
726 because on one hand a special use permit says that it's unsuited for the permitted uses and
727 then we're all sitting here talking about 51 percent. So could you address that for me please?

728

729 Ms. McLean: This brings up a conflict, another conflict between two of our laws one of which is
730 the State Special Permits that we administer that one of the criteria is that the land is not well-
731 suited and so that's your justification for not doing agriculture, that's your justification for doing a
732 use other than the uses permitted in the district. But at the same time, 19.65 the STRH
733 Ordinance requires that STRHs have a verified and implemented farm plan. So on the one
734 hand it's saying the land isn't suitable for ag but then we have a requirement that you do
735 agriculture so those two things conflict, and so it's a challenge to try to recognize both and
736 ensure compliance with both. Typically what we see is that these are on smaller parcels and
737 that commercial agriculture isn't economically viable to the extent that it can support the

738 property owner and so the B&B or the STRH is needed to supplement that income and to
739 support agriculture that's how we generally reconcile the two.

740

741 Mr. Carnicelli: Commissioner Castro.

742

743 Mr. Castro: This is for the Director. You said the field verified. So when was it actually verified
744 and by whom and is it documented?

745

746 Ms. McLean: I'd bounce that question to Tara if I could because she or one of our inspectors
747 would have done the verification so she can comment whether it was herself or someone else
748 on our staff and when that would have taken place.

749

750 Ms. Furukawa: So Jared Burkett was...he's another Staff Planner in our Department and he
751 even went to the UH Ag Program so he comes out with us on all site visits and field verifies the
752 ag for us to make sure that the majority is planted.

753

754 Mr. Carnicelli: Commissioner Robinson.

755

756 Mr. Robinson: I understand what we're talking about the unusable area, but I'm actually talking
757 about the 31,000 and the pictures I have and maybe it might be an opportunity for us to press a
758 pause you know not a yay or nay but a pause to maybe grab current information, current
759 photos, current things that we could show 'cause you know we didn't have a presentation, we
760 didn't see any current things, we saw the photos here and to go through this but the photos
761 aren't there, I'd hate to make a rash decision by lack of information that might, might penalize
762 you and vice versa make another decision that might grant you something that's, that's not for
763 and I think at this point it might be to where it might be an opportunity for you to get some
764 current information, some current readings and that way I think the board will feel a lot more, a
765 lot more comfortable, at least I would.

766

767 Mr. Carnicelli: Yeah, that's...that was the Chair's intent. I think at this point we do have some
768 questions about the ag that's not clear in our packet, but I think what I would like to do is run the
769 gamut of questions at this point and then maybe entertain a motion to defer to come back with
770 clarity on the agricultural portion so maybe I should have said that a little bit earlier. But is there
771 any other questions or clarity that the commission needs at this point? Commissioner La Costa.

772

773 Ms. La Costa: Thank you Chair. Is there a pool on the property either on A or B?

774

775 Ms. Deloria: On our property, no. There is no pool.

776

777 Mr. Carnicelli: How about Unit A.

778

779 Ms. Deloria: Unit A has a pool.

780

781 Mr. Carnicelli: Unit A has a pool, Unit B does not. Okay. Any other need for clarification at this
782 point?

783

784 Mr. Robinson: Is Director before we hear them come back is maybe...do a quick synopsis of
785 what the Planning Department's moving toward and try to do this so that way we're not gonna
786 make a vote in the past, we'll make a vote as what you guys vision going into the future and
787 how we could look at things I think ahead of time. I think that might be beneficial too, a memo
788 or something.

789
790 Ms. McLean: Okay.

791
792 Mr. Robinson: Thank you so much.

793
794 Mr. Carnicelli: So...thank you Commissioner Robinson. So, is the Commission okay right now
795 if we go ahead and defer this item to get clarity on the agricultural portion of this? Yeah?

796
797 Mr. Tackett: Move to defer.

798
799 Mr. Carnicelli: Move to defer by Commissioner Tackett.

800
801 Mr. Robinson: Second.

802
803 Mr. Carnicelli: Second by Commissioner Robinson. Any discussion on the motion?

804
805 Mr. Robinson: Just one discussion for Corporation Counsel does the clock start today 'cause
806 we're asking for more information on deferment instead of a regular deferment of not having
807 majority vote?

808
809 Mr. Hopper: I believe because you did close the public hearing that that's the date that it
810 begins, but we can check that in the rules, but at this point you have closed the public hearing
811 and normally I believe that's when day begins, the time frame begins.

812
813 Mr. Robinson: So are we allowed to keep it open then for the information instead of taking a
814 vote on the deferment?

815
816 Mr. Hopper: If the applicant consents to a...first of all I want to...you could maybe take a recess
817 and see when the actual time is 'cause if they're okay to meet this within the next meeting or so
818 then that's not a problem. I don't think you're running up against time limit yet. I think it's a
819 120 days from the close of the public hearing I think that's what we're looking at so I think that's
820 today would be the close of the public hearing so you'd have 120 days from today. If it gets to a
821 situation where you're coming up close to the deadline and the Commission believes it doesn't
822 have adequate information and would vote to deny it could ask the applicant for their consent for
823 an extension, but at this point I don't know what the Department's schedule is for...maybe we
824 can get a little more detail about what you actually want to see how much time it would take to
825 get it, but if it can be done before the next meeting I wouldn't see a need to you know, have the
826 applicant consent to a deferral at this point.

827

828 Mr. Robinson: Chair, if we're asking for information, there's new information being submitted so
829 does that mean that with the new information people can testify or against this item again
830 because there's new information.

831
832 Mr. Carnicelli: As I understand it, the public hearing was had and closed because it's a
833 contested case hearing so when this comes back the public hearing has already taken place.
834 We've already closed the public hearing is that correct Corporation Counsel?

835
836 Mr. Hopper: Generally in a contested case hearing that would be the case. It's a bit of a hybrid
837 because you're required by State Law to give...not State Law by County Law to give a public
838 hearing so it'll be posted in the paper and give that notice, but once that's closed there's not a
839 requirement to take any further testimony at that point. So...and generally based on some court
840 decisions that we've had we've generally not reopened public testimony as I understand it after
841 public hearings have been closed. It's generally cleaner that way. If members want to discuss
842 potentially reopening testimony we could discuss that but in general in a contested case hearing
843 after the public hearing is closed you wouldn't have further public testimony.

844
845 Mr. Carnicelli: So I'm looking at the...thank you Mr. Hopper... so you guys it was sitting on the
846 desk when we got here is the proposal for the August 27th meeting it looks as though we could
847 actually put this on the August 27th meeting. Tara and Sue do you think that you guys can come
848 up with that information before the August 27th meeting and provide it to us?

849
850 Ms. Furukawa: I'm actually not gonna be available. I'm gonna be on vacation.

851
852 Mr. Carnicelli: You're not allowed to go.

853
854 Ms. Furukawa: Someone else could probably cover for me.

855
856 Mr. Carnicelli: Is there somebody that could cover for you then?

857
858 Ms. Furukawa: Probably, yeah.

859
860 Mr. Carnicelli: Okay, maybe Jared since he did the—

861
862 Ms. Furukawa: I can ask him.

863
864 Mr. Carnicelli: We'll throw him under the bus and make him come.

865
866 Ms. Furukawa: I can ask him.

867
868 Mr. Carnicelli: So are you okay with that Sue.

869
870 Ms. Deloria: Okay.

871
872 Mr. Carnicelli: Okay. So friendly amendment to the motion say we'll defer it to the August 27th
873 meeting. You're okay with that? You're okay with that second?

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Mr. Robinson: I am with a...but I still have a question, but yes, I'm okay with the time.

Ms. McLean: Chair if I could?

Mr. Carnicelli: Go ahead.

Ms. McLean: It would certainly be the Department's intent but if for some reason there is an obstacle to that happening I would rather there no be that specific date. That would be the Department's intent I'll say that now on the record, but if...you know anything can happen so if it can be the soon as possible date and we'll endeavor.

Mr. Carnicelli: Okay, we'll make it to the soon as possible date. We're okay with that, yes, second and motioner agreed to that. Commissioner Pali.

Ms. Pali: One more discussion item since just to help if we're gonna do homework for more information.

Mr. Carnicelli: Yep.

Ms. Pali: So when you condominiumize a parcel some owners opt not to but usually you would have a sort of a covenant record like a CC&Rs agreement between the two owners so that you know who's doing what in following the laws of the land and so I would like to also request a copy of that between the two because my intent is to establish that it's being maintained today but once if the permit is done I would like to know who's going to then continue on with utilizing ag land as ag land and that one more or more would not the ability then to let everything die and reuse the land for anything other than what it was intended which is ag land and so I just I want to see if you guys have that language in the CC&Rs since you are relying heavily more on the other parcel to sort of carry the weight on that if I may ask.

Mr. Carnicelli: So if I get clarity is you would like the...if there's anything recorded—

Ms. Pali: Between the two.

Mr. Carnicelli: Anything recorded or not recorded. Recorded or unrecorded that shows who's responsible for what within the parcel for the agricultural piece.

Ms. Deloria: And if it's not in our CC&Rs which was back when?

Mr. Carnicelli: You have to have some kind of an agreement somewhere.

Ms. Deloria: Right.

Mr. Carnicelli: It may not be part of your CC&Rs. It may be an agreement between the two of you but whatever that agreement is if you could bring that forward for us so we can see that

919 your...that Unit A also understands that if they don't uphold their portion it affects you and vice
920 versa. Good enough yeah? Commissioner Robinson.

921
922 Mr. Robinson: Chair I'm uncomfortable with new information being introduced to an application
923 and not having public testimony and I understand you know the rules are the rules because if
924 we were to vote on the information, the incorrect information today you know that wouldn't be a
925 good thing but then this is what was sent out to the internet and for everybody to read upon so
926 when...if it does...and again, not that anybody is even going to show up but this is a precedent
927 before to where every time we get new information if we're gonna, if we're gonna...if it could be
928 written information where we can take into account, we can look at information, people want to
929 send it in maybe not public testimony but maybe written testimony might be taken into account.
930 I think that's something I could be comfortable with 'cause I'm just I just don't want to set a
931 precedent here that we shut it down and new information comes in and nobody can say
932 anything anymore to contest it in the future.

933
934 Mr. Carnicelli: Yeah this isn't setting a precedent, this is something we've done historically.

935
936 Ms. McLean: ...(inaudible)...problem historically.

937
938 Mr. Carnicelli: It has been a problem historically but this is how we've done it so I mean, so is
939 today the day where we change that and I'm gonna defer to Corporation Counsel because...you
940 know, I could cite the different places. I mean we even have something on the agenda today
941 that that is...falls under the same exact thing. So hang on, I'm gonna let Mr. Hopper discuss
942 this.

943
944 Mr. Hopper: Again, the issue you get into if there is a contested case hearing under HRS 91
945 where there's an applicant and there's no other parties. There's an option to file a petition to
946 intervene, no other parties have filed a petition to intervene in this case in that situation the
947 Sunshine Law, HRS 92 does not apply. So the issue with public testimony and things like that
948 you don't face the same issue as you would on an item that's subject to HRS 92. The parties
949 would be the applicant and that's it. The applicant and then the Commission and so the
950 Commission has to consider what it wants to have as part of the record. And so if you're going
951 to allow...if you're going to renote the public hearing which you'd have to wait another I guess
952 60 days, put it in the newspaper again and do that every time new information was provided by
953 the applicant I don't think that's consistent with the Commission's rules or the contested case
954 hearing procedure or to allow public testimony every time. Now it's been done before for
955 example, the State Land Use Commission to reopen public testimony every single time. I don't
956 think it's advisable because you get to a point for example you could have a contested case
957 hearing, you could have multiple parties, the applicant presents their case, the intervenor
958 presents their case and then you're gonna take public testimony after they both presented their
959 cases and then they may ask oh I want an opportunity to present additional evidence on those
960 items then that evidence is presented and then you allow the public to testify again at the next
961 meeting and then the parties would need to produce evidence again. So that's, that's kind of
962 the what we're looking at for contested case hearings and you know historically going back you
963 know a long time there was public testimony at every meeting and every item but there were
964 some appeals taken and based on those appeals the advice has generally been from there

965 have the public hearing, have notice on the item and provide the opportunity for the public to
966 testify. But once that's done if there's no petitions to intervene and at that point to close the
967 public hearing. There is I believe legally the option to reopen at every time but there are some
968 potential pitfalls for that and so that's where we've I think as I understand it have been at...I
969 haven't been to all of your meetings in the last months but in talking with previous Corporation
970 Counsel I understand that that's what we've been doing and I think that's advisable in these
971 cases to avoid the, you know, challenges based on constantly reopening that testimony as
972 evidence added to the record that would need to be addressed by the parties in the contested
973 case.

974

975 Mr. Carnicelli: Thank you Mr. Hopper. You understand?

976

977 Mr. Robinson: Well, I...is I've been here too and there's been things different ways and lack of
978 information, incorrect information is different than people taking testimony 'cause there was zero
979 testimony today so didn't have to take into account. But my question is, is I mean, is written
980 testimony about to be accepted prior to this and are we able to take it 'cause just a couple
981 months ago it was all of a sudden we couldn't take written testimony for first item ever so I'm
982 trying to, I'm trying to understand the rules and I think it's, I think it's up to you Chair on which so
983 I just want to know before I vote to defer this that it's...is there gonna be any type of testimony
984 taken, written...at least written prior to us hearing this again?

985

986 Ms. McLean: Chair if I could comment?

987

988 Mr. Carnicelli: Go ahead Director.

989

990 Ms. McLean: I would want to confirm with Corporation Counsel. I think it would be putting not
991 only the Commission but the Planning Department in a very difficult position to say no public
992 testimony written or verbal. I do think however and this has been talked about with prior
993 applications that we establish a deadline by which written testimony can be submitted because
994 we are getting emails late last night and this morning and that's not fair to the Commission,
995 that's not fair to the applicant, that's not fair to the public. So to establish a deadline by which
996 written testimony can be submitted and then in terms of verbal testimony as is the case now if
997 there had been testifiers today the applicant has the ability to ask questions of the testifier to
998 clarify things. I'd need to confirm that procedure with Corporation Counsel but that would
999 certainly be my preference, you know unless you know let's say this application comes back, I
1000 don't think this will be case, but this application comes back we do that process and then there's
1001 still something else that we need. Maybe that third time we have justification to say no more
1002 testimony but at least on the second go round to add it again that would be my preference and
1003 that's what I would want to confirm with Corporation Counsel that we would be able to do.

1004

1005 Mr. Carnicelli: So I'm not...I guess so you're saying you want to accept written testimony up
1006 until a certain point, you would feel comfortable with that, but not necessarily verbal testimony at
1007 the next meeting.

1008

1009 Ms. McLean: Oh no, verbal testimony as well.

1010

1011 Mr. Carnicelli: Okay so then...

1012

1013 Ms. McLean: And allowing for the questioning, allowing for the applicant to question.

1014

1015 Mr. Carnicelli: So again, but if...so we're setting precedent again then? I mean, do you use
1016 Commissioner Robinson saying...so if this is what we're gonna start doing then, then this is
1017 what we're going to start doing. So now suddenly we're going okay, the whole part of what
1018 Corporation Counsel's talking about which was I can't remember if it was 91 or 92 if we're now
1019 gonna unwind that and say okay, we're now going to take verbal testimony even though the
1020 public hearing's been closed. We're gonna have another public hearing every single time that's
1021 now what we're setting the precedence to do.

1022

1023 Ms. McLean: We've done—

1024

1025 Mr. Robinson: Not if you recess.

1026

1027 Ms. McLean: We've done that before as well.

1028

1029 Mr. Carnicelli: No, I get it. But I was also told recently ...okay, because rulings, court rulings
1030 that this was Corporation Counsel's comfortable recommendation I guess is, maybe that's...I
1031 don't know if that's the right verbiage to use, but I'm just trying to say like okay, if we're going to
1032 try and literally set the bar right here, right now at 10:03 then which way are we going. I think I
1033 almost want to defer, you know take a recess and have a conversation about it before you know
1034 this falls on me. It's like oh okay, it's the call of the Chair.

1035

1036 Ms. Pali: Want me to move for a recess?

1037

1038 Mr. Carnicelli: Well, I can recess the meeting anytime.

1039

1040 Ms. McLean: It's, I mean, another option would be, this might be cleaner is to reopen the public
1041 hearing then it's as if this entire discussion just continues on at a later date and so it's still a
1042 public hearing. That might be cleaner, procedurally it's a little odd since it was...since the
1043 hearing was closed but I suppose the commission could vote to reopen it and then the public
1044 hearing as well as consideration of the item gets deferred. Otherwise if we do a new public
1045 hearing then that could potentially create the opportunity for intervention to be filed and I don't
1046 think that's the commission's intent to allow that opportunity. That's a one, a one-time
1047 opportunity. So that's how...plus there's the public notice requirement for the public hearing
1048 that takes more time. So I...--

1049

1050 Mr. Robinson: Can I make a motion for executive session Chair?

1051

1052 Mr. Carnicelli: I believe we have a motion on the floor. Hang on a second here.

1053

1054 Mr. Castro: I have a quick question here.

1055

1056 Mr. Carnicelli: Go ahead.

1057
1058 Mr. Castro: This is for Tara. Tara when this report was generated there weren't any letters of
1059 opposition?

1060
1061 Ms. Furukawa: No.

1062
1063 Mr. Castro: Okay. So afterwards have you received any letters of opposition?

1064
1065 Ms. Furukawa: No.

1066
1067 Mr. Carnicelli: And I appreciate that Commissioner Castro. I think where we're kind of are in
1068 this is we want to hear from the public. We want to hear what the public has to say, we want to
1069 hear what the neighbors have to say, we want to hear...we want everybody to have a voice. I
1070 think that sometimes the public feels that it's unfair if, oh public hearing was last time you know
1071 it was in the paper, the agenda is posted and now suddenly you show up and you can't testify.
1072 So I think that that's the sentiment is going like, okay how can we hear what people have to say,
1073 give them a voice and yet at the same time also be fair to the applicant and be fair to the
1074 process and abide by HRS. So that's the part where, it's, it's you know there's a lot of moving
1075 parts. I will accept your motion to move to executive session.

1076
1077 Mr. Hopper: Well, you have to take a vote.

1078
1079 Mr. Carnicelli: No, no, is 'cause we have a motion on the floor, but then he's making a motion to
1080 go to executive session, Commissioner Robinson for the record, do I have a second to that
1081 motion to go to executive session?

1082
1083 Mr. Tackett: I'll second.

1084
1085 Mr. Carnicelli: Seconded by Commissioner Tackett. Any discussion on the motion?

1086
1087 Mr. Hopper: Just to clarify, the purpose of executive session would be to seek legal advice on
1088 the commissioner's rights, duties, obligations, et cetera with respect to public testimony ongoing
1089 on this particular agenda item.

1090
1091 Mr. Carnicelli: Correct, yes. All in favor of that motion please raise your hand. That's six. It's
1092 unanimous. So at this point in time we are going to recess this meeting and go into executive
1093 session.

1094
1095 **It was moved by Mr. Robinson, seconded by Mr. Tackett, then**

1096
1097 **VOTED: To Go Into Executive Session to seek legal advice on the**
1098 **Commissioner's rights, duties, obligations, et cetera with respect to**
1099 **public testimony ongoing on this agenda item.**

1100
1101 **(Assenting – K. Robinson, C. Tackett, D. Thompson, K. Pali,**
1102 **S. Castro, P. D. La Costa)**

(Excused – T. Gomes)

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(The Planning Commission recessed the regular meeting at approximately 10:11 a.m. to enter into Executive Session and adjourned at 10:34 a.m. The Planning Commission reconvened the regular meeting at approximately 10:39 a.m.)

Mr. Carnicelli: The Maui Planning Commission meeting of August 13, 2019 is back in session. At this point in time just to let everybody know what we have on the floor is a motion to defer Item B.1 with which we will take a vote on shortly. There was some discussion about the public hearing and continuing the public hearing. I think at this point in time I'm gonna go ahead and let Corporation discuss that.

Mr. Hopper: I think at this point the public hearing is closed, but I think we can discuss whether there'll be further public testimony taken at that meeting before then I can discuss with the Chair and have some advice for you at that meeting. So I don't think we need to make the determination now. However, I think you should be clear in your motion to defer on what specific information you would like from the applicant to be provided to you before the next meeting.

Mr. Carnicelli: I think that we've been actually pretty clear with that. Also, Director if you would also just talk to the public hearing aspect of this as well like what we just...what you can talk about.

Ms. McLean: It becomes challenging when an item is deferred, the public hearing is closed and it's a contested case when that item is heard again the law certainly allows the commission not to take continued public testimony at the same time it's compelling to want to take public testimony and trying to reconcile those two interests is difficult and we've been presented with that conundrum a few times. What I'd like to do is work with Corporation Counsel and come up with a proposed procedure that the commission can apply consistently in the future for these types of circumstances and we can present that to the commission at a future meeting for the commission to adopt as a procedure.

Mr. Carnicelli: Great. Thank you, Director. So, at this point in time the motion on the floor is to defer Item B.1.

Mr. Robinson: Chair, can I speak to the motion?

Mr. Carnicelli: Go ahead Commissioner Robinson.

Mr. Robinson: Commissioners, the way I understand this is we're not asking for new information, we're just asking for verification of the facts that are presented to us and that's my understanding and I'm comfortable with that. Thank you Chair.

Mr. Carnicelli: Thank you Commissioner Robinson. Anybody else like to speak to the motion? Okay, Director.

1149 Ms. McLean: The motion is to defer, the two notes I have is to confirm the 51 percent ag use
1150 and to receive copy of the condo docs that indicate who's responsible for conducting ag on the
1151 parcel and anything else to confirm, verify current ag use on the parcel.

1152
1153 Mr. Carnicelli: All those in favor? That is six ayes. Motion passes. The item's deferred so to
1154 the next available agenda that we can.

1155
1156 **It was moved by Mr. Tackett, seconded by Mr. Robinson, then**

1157
1158 **VOTED: To Defer to the Next Available Agenda the State Land Use**
1159 **Commission Special Permit to get Additional Information as**
1160 **Requested by the Commission to confirm the 51 percent agricultural**
1161 **use and to receive a copy of the CPR documents that indicate who**
1162 **is responsible for conducting agriculture on the parcel and any**
1163 **additional documentation to confirm/verify current agricultural use**
1164 **on the parcel.**

1165
1166 **(Assenting – C. Tackett, K. Robinson, D. Thompson, K. Pali,**
1167 **S. Castro, P. D. La Costa)**
1168 **(Excused – T. Gomes)**

1169
1170 Mr. Carnicelli: Moving onto our next public hearing item, Director.

1171
1172 Ms. McLean: Thank you, Chair. This is a request from Wesley Wong for a State Land Use
1173 Commission Special Permit in order to operate Peahi Point, a five bedroom bed and breakfast
1174 dwelling and a one bedroom second farm dwelling located in the State Agricultural and County
1175 Agricultural Districts at 300 Hahana Road, at TMK: 2-7-013: 081 in Haiku. Ryan Quigless is the
1176 project planner.

1177
1178 **2. WESLEY WONG requesting a State Land Use Commission Special Permit**
1179 **(SUP2) in order to operate Peahi Point, a five bedroom bed and breakfast**
1180 **dwelling and a one bedroom second farm dwelling located in the State**
1181 **Agricultural and County Agricultural District at 300 Hahana Road,**
1182 **TMK: (2) 2-7-013: 081, Haiku, Island of Maui. (SUP2 2019/0017)**
1183 **(R. Quigless)**

1184
1185 Mr. Ryan Quigless: Aloha and good morning Commissioners.

1186
1187 Mr. Carnicelli: Good morning Ryan.

1188
1189 Mr. Quigless: We meet here this morning to discuss and review the permit request by applicant,
1190 Wesley Wong to operate a bed and breakfast home named Peahi Point. Six bedrooms are
1191 proposed to be rented, four bedrooms, four guest rooms are located in the primary farm
1192 dwelling and two guest rooms are located in the secondary farm dwelling. As mentioned prior
1193 the property is located in the County Agricultural and State Agricultural Districts. The property
1194 has a County approved farm dwelling and agricultural structures declaration as well as a farm
1195 plan for the property designating more than 50 percent of property to agriculture. A site visit

1196 conducted by the Department confirm that the agricultural operation is active and implemented.
1197 Referencing the Paia-Haiku Community Plan the proposed action is in keeping with the
1198 community plan goal that a well-planned community preserve the small town ambiance, rural
1199 character, coastal scenic vistas and extensive agricultural land use and accommodates the
1200 future needs of the residents at a sustainable growth rate with the region's natural environment,
1201 marine resources and traditional uses of the shoreline and mauka lands. The proposed project
1202 will also contribute to the increase of available in the area and in addition, the property owner,
1203 Mr. Wesley Wong will ensure that all guests are educated about Maui Nui's history and culture
1204 and about detrimental impacts to natural and cultural resources particular to the well-respected
1205 and cherished coastal environment and nearshore waters. Commissioners, are there any
1206 questions for either myself or the owners of the property at this time?
1207

1208 Mr. Carnicelli: Are you guys gonna do presentations?
1209

1210 Mr. Quigless: We are not.
1211

1212 Mr. Carnicelli: Okay, then what we'll do is we'll go ahead and open up the public testimony then
1213 we'll go to questions. So at this point in time was anybody signed up?
1214

1215 Ms. La Costa: No.
1216

1217 Mr. Carnicelli: Nobody signed up. Is there anybody that would like to come forward and testify
1218 on this item? Seeing none then without objections we'll go ahead and close the public
1219 testimony and the public hearing. Seeing none, closed. Okay, so Commissioners do we have
1220 any questions for the applicant or for Ryan? Ms. La Costa?
1221

1222 Ms. La Costa: Thank you Chair. This question is for the applicant.
1223

1224 Mr. Wesley Wong: Aloha.
1225

1226 Mr. Carnicelli: Go ahead and state your name for the record.
1227

1228 Mr. Wong: Wesley Wong.
1229

1230 Mr. Carnicelli: Thank you.
1231

1232 Ms. La Costa: Have you done short-term rental or any kind of rental out of your home prior to
1233 you applying for this permit?
1234

1235 Mr. Wong: No.
1236

1237 Ms. La Costa: Thank you.
1238

1239 Mr. Carnicelli: Commissioner Castro?
1240

1241 Mr. Castro: No questions.

1242
1243 Mr. Carnicelli: Commissioner Tackett?
1244
1245 Mr. Tackett: No questions.
1246
1247 Mr. Carnicelli: Commissioner Thompson any questions at this time? Commissioner Pali?
1248
1249 Ms. Pali: Hi, just to be fair to all the applicants, I'm pulling a P. Denise commissioner.
1250
1251 Mr. Carnicelli: You're going to ask about solar?
1252
1253 Ms. Pali: Affordable housing, hello. Have you ever considered long-term rentals or contributing
1254 to the affording housing crisis that we've had and if so, when and if not, why?
1255
1256 Mr. Wong: I have for the last 30 years. Now I'm retired.
1257
1258 Ms. Pali: Okay, thank you.
1259
1260 Mr. Carnicelli: Commissioner Robinson.
1261
1262 Mr. Robinson: Aloha Mr. Wong.
1263
1264 Mr. Wong: Aloha.
1265
1266 Mr. Robinson: I have a question about your name.
1267
1268 Mr. Wong: Yes.
1269
1270 Mr. Robinson: How far are you from Peahi Point?
1271
1272 Mr. Wong: About a mile and a half.
1273
1274 Mr. Robinson: Okay, just don't want to be misleading our visitors when they think they're gonna
1275 be at the Point and they're you know a little distance away, right?
1276
1277 Mr. Wong: Yeah, it's pretty far, but...
1278
1279 Mr. Robinson: Yeah, Peahi Bungalow, but Peahi Point means I would think that I'm on the
1280 point.
1281
1282 Mr. Wong: No, no...
1283
1284 Mr. Robinson: Just a comment from me if I was to rent out. That's all I have for the applicant,
1285 but I do have a question for our staff.
1286
1287 Mr. Carnicelli: Go ahead.

1288
1289 Mr. Robinson: If you could in real quickly you know we've been getting these great RFS reports
1290 and a lot of it is internal, if you could kinda go through it real quick just to say if there's anything
1291 besides something that's internal in these six pages, five pages.
1292
1293 Mr. Quigless: I'm trying to understand exactly what—
1294
1295 Mr. Robinson: The RFS, you know there's all these codings on them.
1296
1297 Mr. Quigless: Okay, so each one of the RFS has an RFS that's submitted by whoever the RFS
1298 is submitted by, member of the public and then the second line item beneath that is how it was
1299 addressed by the administration. So whether the inspector went out and verified that there was
1300 illegal operation or...
1301
1302 Mr. Robinson: So TVR pro what is, what is that? It's a lot of them.
1303
1304 Mr. Quigless: Yeah, I'm not sure, but I do know that one follows the next so that if it's a RFS
1305 that is submitted then description of the RFS states what was the RFS and then the next line
1306 beneath that explains what the justification was from the inspector or the department.
1307
1308 Mr. Robinson: Because what I see here is advertising without a permit. I mean we just had him
1309 testify that there was never, it was never rented out.
1310
1311 Mr. Quigless: That's correct. So there was a period of time where the applicant leased the
1312 property long-term. They went on their own to do some side advertising with Air B&B unaware
1313 to the owner. When he got the violation from the Planning Department and he paid the fine and
1314 immediately began trying to close down what she had set up.
1315
1316 Mr. Robinson: Oh, so it was his tenants then?
1317
1318 Mr. Quigless: It was one of the long-term lease tenants.
1319
1320 Mr. Robinson: Okay. Thank you so much.
1321
1322 Mr. Carnicelli: Sneaky. Are there any other questions from the Commission at this time?
1323 Seeing none, Ryan would you go ahead and give us the recommendation?
1324
1325 Mr. Quigless: Sure. So the Planning Department recommends approval of the State Land Use
1326 Special Permit subject to the seven standard conditions in your report and recommendation.
1327 We can go over that at this time if you would like.
1328
1329 Mr. Carnicelli: Director.
1330
1331 Ms. McLean: Thank you Chair. Sorry, I just wanted to clarify how the agenda is worded versus
1332 the staff report. The agenda indicates a five-bedroom B&B and one-bedroom second farm

1333 dwelling, but then the staff report says four bedrooms in the primary dwelling and two in the
1334 second farm dwelling.

1335
1336 Mr. Quigless: The staff report is the correct description.

1337
1338 Ms. McLean: Okay. And confirming with Corp. Counsel that that's not a public notice problem
1339 that it's six bedrooms altogether, four in the main dwelling, two in the smaller dwelling rather
1340 than five and one?

1341
1342 Mr. Hopper: The total bedrooms is the same.

1343
1344 Ms. McLean: Yes.

1345
1346 Mr. Hopper: I mean it seems that there's five in one unit and there's actually four in one and two
1347 in the other. I don't think since the total amount is the same, I think that should be okay with the
1348 caveat that let's try to be more specific on these, in those cases not to say that this is
1349 substantively a problem, but you know we should make sure to provide as accurate a
1350 description as possible.

1351
1352 Ms. McLean: Thank you. Thank you Chair.

1353
1354 Mr. Carnicelli: Commissioner Robinson.

1355
1356 Mr. Robinson: I have a question is the two units different units in case he's gonna move back
1357 and forth? If he's going to rent out two he might be in the big house and then if there was a
1358 family he'll move into the small house?

1359
1360 Mr. Quigless: Let me defer to the applicant.

1361
1362 Mr. Robinson: 'Cause yeah it's a B&B that's why. Or is there three dwellings?

1363
1364 Mr. Wong: Two dwellings.

1365
1366 Mr. Carnicelli: Go ahead, answer the question.

1367
1368 Mr. Wong: Well, I've been living at both, but registered as a five-bedroom, the owner lives in
1369 one of the bedrooms which that's what how it's supposed to be.

1370
1371 Mr. Carnicelli: You're gonna live in bedroom 2?

1372
1373 Mr. Wong: Correct, yes.

1374
1375 Mr. Carnicelli: That's the green one here, right? That's where you live?

1376
1377 Mr. Wong: That's right. Yes.

1378

1379 Mr. Carnicelli: Okay, is that sufficient.

1380

1381 Mr. Robinson: Thank you, Chair.

1382

1383 Mr. Carnicelli: Any other discussion. Okay, then the Chair will entertain a motion.
1384 Ms. La Costa.

1385

1386 Ms. La Costa: I move to accept the applicant as approved by the planning commission with the
1387 caveat that there is educational information to guests for aina and the sea.

1388

1389 Mr. Carnicelli: I'm sorry, I didn't catch what the last.

1390

1391 Ms. La Costa: With the addition that there is educational information provided. It was not one
1392 of the stipulations that I saw on.

1393

1394 Mr. Quigless: Can I also clarify that? It's in the report and then I also mentioned it earlier just
1395 that exactly that so I just wanted to be clear that we are addressing that.

1396

1397 Mr. Carnicelli: As represented by the report.

1398

1399 Ms. La Costa: Correct.

1400

1401 Mr. Hopper: Just to clarify, so it's to recommend or to approve as recommended by staff with
1402 those conditions and that additional condition.

1403

1404 Ms. La Costa: Correct.

1405

1406 Mr. Hopper: Okay.

1407

1408 Mr. Carnicelli: Do I have a second? Seconded by Commissioner Thompson. Any discussion
1409 on the motion? Seeing none, Director.

1410

1411 Ms. McLean: Thank you, Chair. The motion is to recommend approval of the State Special
1412 Permit subject to the seven conditions in the staff report plus the additional condition that the
1413 Commission has imposed previously relating to educating guests on Maui Nui's culture and
1414 natural resources.

1415

1416 Mr. Carnicelli: All those in favor of the motion please raise your hand. That is six ayes. It
1417 passes. Congratulations, Mr. Wong.

1418

1419 **It was moved by Ms. La Costa, seconded by Mr. Thompson, then**

1420

1421 **VOTED: To Approve the State Land Use Commission Special Permit as**
1422 **Recommended by the Department with the Conditions and**
1423 **Additional Condition as Noted Regarding Educational Information in**

1424 **Regards to Maui Nui's Cultural and Natural Resources be Provided**
1425 **to Guests.**

1426
1427 **(Assenting – P. D. La Costa, D. Thompson, K. Pali, K. Robinson,**
1428 **C. Tackett, S. Castro)**

1429 **(Excused – T. Gomes)**
1430

1431 Mr. Carnicelli: At this point in time we're gonna go ahead and take a recess, we'll be back
1432 in...between 10 and 15 minutes, let's say roughly somewhere just right after 12:00 or after
1433 11:00. In recess.

1434
1435 A recess was called at 10:53 a.m., and the meeting was reconvened at 11:07 a.m.
1436

1437 Mr. Carnicelli: Good morning, Maui Planning Commission of August 13, 2019 is back in
1438 session. So at this point we are at Item C.1 which is a continuation of the meeting of
1439 May 28, 2019 and June 25, 2019. Did I just steal your job?

1440
1441 Ms. McLean: You did a great job.
1442

1443 **C. UNFINISHED BUSINESS**
1444

1445 **1. LEW ABRAMS representing the SACRED EARTH ASSEMBLY, a non-profit**
1446 **interfaith church, requesting a State Land Use Commission Special Permit**
1447 **to utilize approximately 14.8 acres of the Ahimsa Sanctuary Farm and a**
1448 **7,693 square foot two-story agricultural building for church-related**
1449 **activities at 4504 Hana Highway, TMK: (2) 2-8-003:075 (por.), Haiku, Island**
1450 **of Maui. (SUP2 2017/0011) (T. Furukawa) (Public Hearing held on**
1451 **May 28, 2019) (Continued from 6/25/19 meeting)**
1452

1453 Mr. Carnicelli: Thank you. I think what we'll do is at this point in time we'll go ahead and start
1454 with Tara if you could go ahead and just kinda let us know where we are.
1455

1456 Ms. Tara Furukawa: Okay, so the item was first heard by you on May 28, 2019. At that time,
1457 the Maui Planning Commission voted to defer review of the project until a survey map could be
1458 provided that shows the acreage proposed for church use is less than 15 acres.
1459

1460 On June 25th, the item was heard by you again. At that time, the hearing on the item was
1461 recessed until today, August 13, 2019 so that the Department could check with the Land Use
1462 Commission on whether they need to review the application because the parcel is greater than
1463 15 acres.
1464

1465 So the applicant is proposing a church on approximately 14.8 portion of a 25-acre parcel of land
1466 in Haiku. The agricultural building proposed for church use is two stories and approximately
1467 7,693 square feet. There's a natural gulch surrounding the property that comprises 30 percent
1468 pasture that comprises 30 percent of fruit trees that comprise 20 percent in bamboo, vegetables
1469 and herbs that comprise 20 percent. The applicant is proposing to utilize the 3,623 square foot
1470 main floor as an assembly and worship hall. The lower level which has a kitchen is for meetings

1471 and potluck gatherings. At the first meeting the applicant also requested to use a portion of the
1472 lower level as a bookstore and gift shop for churchgoers only. The minimum required parking is
1473 26 parking stalls and there will be 65 stalls on site.

1474
1475 The church will have a congregation of no more than 100 members. Plans to hold weekly
1476 services on Wednesday and Friday from 6:00 to 9:00 p.m., however they may be held at other
1477 times. Typically attendance will range from 10 to 30 people. Holiday celebrations will occur
1478 between 4:00 to 9:00 p.m. with estimated attendance of approximately 50 to 75 people and this
1479 excludes New Year's when the applicant has requested to operate outside of those times and in
1480 excess of the amount of people. The applicant is here and can respond to any questions you
1481 might have about the application.

1482
1483 Mr. Carnicelli: Thank you Tara. And then also just to reiterate for the Commissioners and
1484 everybody that's here is that the public hearing portion of this, public testimony sorry has been
1485 closed. I was made aware that there was additional written testimony submitted however that
1486 was not distributed to us as Commissioners and will not be considered as part of the record or
1487 as part of what it is that we consider in our deliberations. I believe at this point we'll go ahead
1488 and defer to Mr. Abrams. Mr. Abrams.

1489
1490 Dr. Lew Abrams: Yes, Dr. Abrams.

1491
1492 Mr. Carnicelli: Dr. Abrams, sorry.

1493
1494 Mr. Leslie Ickovitz: Good morning Commissioners.

1495
1496 Mr. Carnicelli: I need you to speak into the mic please.

1497
1498 Mr. Ickovitz: Good morning Commissioners, my name is Leslie Ickovitz.

1499
1500 Mr. Carnicelli: Good morning Les, Leslie.

1501
1502 Mr. Ickovitz: I'm the attorney for Sacred Earth Assembly and the Abrams and at the close of the
1503 June 25th meeting, Corporation Counsel, Mr. David Galazin told that we would have this
1504 opportunity to put on whatever evidence we want in rebuttal of the neighbor's complaints and to
1505 basically put on the record whatever we want to support our application and you know, there's
1506 been questions that have been raised regarding jurisdiction that I want to discuss a little bit later,
1507 and there's also discussions about it going to Land Use Commission. Since the Land Use
1508 Commission is entirely dependent upon the record and there's a lot of confusion about what's
1509 actually in the record and I'm gonna get to that. So we've actually...we're submitting a folder of
1510 documents to each of you and to the Commission to make sure the record is complete. So Lew
1511 is gonna go around.

1512
1513 One of these, the top one is gonna be a map, the new map that we've drawn up with the
1514 driveway included within the 14.8 acres. The next letter is the...or my letter to Michele McLean
1515 regarding our position why the jurisdiction does not go to Land Use Commission and it also
1516 includes a fully elaborated farm plan showing that more than 50 percent of the land is in

1517 agriculture as concluded. We just got the...renewed our organic certification which is not an
1518 easy inexpensive thing to do and we also had Dr. Abram's resume that shows what he's been
1519 doing his whole life as far as helping people. On the left side there's been a lot of issues about
1520 ...(inaudible)...neighbors so we still stills, we going to show a drone video that really
1521 dramatically shows you where the perspective of the property and the neighbors and you have
1522 the stills from that drone right here, then you also have the fall equinox flyer. This one just as an
1523 example of free celebration equinox showing our events going till 9:30. This memorandum is
1524 something I went through especially for...to summarize things especially for the new
1525 commissioners who weren't here perhaps in the original hearing, but this goes through the
1526 entire Department of Planning report and recommendations and it clearly shows that the
1527 Abrams met and have or exceeded every single condition. You know the Commissions as I
1528 understand is really wants to protect agriculture and it wants to make sure that commercial
1529 operations don't take place on agriculture and people don't use special uses as a cover for a
1530 commercial operation. So you know, we're gonna basically demonstrate how, to what degree
1531 there's never been a commercial operation because he's been holding free celebrations for a
1532 long time, for 20 years supporting his people.

1533
1534 On the right side because a lot of questions about how big is the congregation, how many
1535 people, what limits do you need in order to be able to satisfy you need to practice your religion
1536 with the people who quite frankly are already doing it. So got Mr....Dr. Abrams to go back and
1537 really come up with some criteria to show the Commission what kind of support they have. So
1538 on the right side you have a one-page memo that summarizes what's there. So what we did, on
1539 the bottom with a big clip you have a total of...a listing here, right here, so we're, we're
1540 submitting 26 new letters of support.

1541
1542 Mr. Carnicelli: Okay, I get that...we want you to be quick and do this—

1543
1544 Mr. Ickovitz: Yes, I'm trying—

1545
1546 Mr. Carnicelli: But we're trying to, we're trying to follow you too, so like you're just going to all
1547 these things so it's just like—

1548
1549 Mr. Ickovitz: I will slow down.

1550
1551 Mr. Carnicelli: Yeah.

1552
1553 Mr. Ickovitz: I'm a little sleep deprived so I apologize.

1554
1555 Mr. Carnicelli: I have a three-year-old as well.

1556
1557 Mr. Ickovitz: Okay, so anyway on the right side what we have is the evidence of support for
1558 Sacred Earth Assembly Church. So the top document is a Dr. and Mrs. Abrams co-led services
1559 two days ago at Temple of Peace like they have for the last 20 years every Sunday and we
1560 have a petition in support of Sacred Earth Assembly that we've submitted 62 signatures. That's
1561 just two days ago. We also put the petition online and we have 138 people who signed that
1562 petition online in less than 24 hours. The list of letters include the letters that were originally

1563 attached to Exhibit 23 of the Department of Planning report. Also the seven letters that we
1564 submitted at May 28th hearing and 26 letters that we are submitting for the first time here. The
1565 top letter is from Mark Sheehan, the expert talking about that the church will have no impact on
1566 property values. But what I'm encouraging the commissioners to do if you haven't already is
1567 look at the list of people who have come out there's 42 individual people who have taken the
1568 time to read, to come either testify and/or write letters to this Commission and look who they
1569 are. They're all, you know, half of them are elders, they're all over 50 years old, 60 years old,
1570 70 years old, they're reverends of all crafts and creeds and they've all testified and they've all
1571 written talking about the community service that Dr. and Mrs. Abrams have provided a unique
1572 gathering space for people who don't have family here. A lot of people don't have Thanksgiving
1573 opportunities and the Abrams provide that. So the right shows...we also have, there's a two-
1574 page thing here, these are signed...two of the 56 pages are sign-in sheets that the Abrams
1575 have accumulated. We have 566 signatures of people who have expressed their support for the
1576 Abrams ministry. So the issue of jurisdiction, so we're at this time two things, one we're
1577 requesting that this...all these documents, this folder documents be submitted into the record at
1578 this time.

1579
1580 Mr. Carnicelli: Thank you Leslie. Corporation Counsel before I admit this into the, into the
1581 record could you clarify how this is not new written testimony since you know we've not allowed
1582 that. So is this I guess different than what it is that we've talked about earlier?

1583
1584 Mr. Galazin: Thank you Chair. Yes it is in the sense that the public testimony portion of the
1585 hearing has been closed. You know anybody from the public who just wished of their own
1586 accord to come to you and bring forth evidence that opportunity was afforded and then closed.
1587 Now this is the applicant's opportunity to provide whatever evidence the applicant feels would
1588 be beneficial in support of the application itself. It appears that it does include names,
1589 signatures, you know letters that provide, you know, unsworn opinions about the application. I
1590 would suggest, you know you folks need to look through this before you decide that you're
1591 gonna take the kit and caboodle, but even if you accept all of these documents into the record
1592 itself, you do have a duty to consider the fact that you know as with any kind of you know written
1593 testimony that's presenting one side so that's...there's nothing precluding you from taking it in
1594 as long as you are able to weigh that with everything else that you have. So it is not public
1595 testimony because it's not being offered by the public, it's being offered by the applicant.

1596
1597 Mr. Carnicelli: Okay, thank you. So if there are no objections I'll go ahead and accept this as
1598 part of the record. Seeing no objections it is now part of the record.

1599
1600 Mr. Ickovitz: Thank you. So the next thing, the next question is after testimony was closed
1601 neighbors, Michelle Drewyer and Jerome Labat and Tim Robinson all submitted documentation
1602 via email to the Commission. Those documents were...should not have been forwarded to the
1603 Commissioners because it was after testimony was closed. I objected strongly about the
1604 documents at June 25th hearing. This meeting was given an opportunity to ask questions and
1605 cross examine these witnesses about the testimony and their documents. I sent each of them
1606 letters inviting them here for that purpose and none of them have shown up. So I submit that all
1607 the documents that were submitted by the...any and all neighbors after the May 28th hearing
1608 was closed be excluded from the record and not be considered by the Commissioners because

1609 there's nothing...you can't...if bring...allow these in, you're not allowing me to cross examine
1610 the person. You're letting them in without a cross examination of the person submitting them so
1611 that is totally against any kind of contested case procedural situation.

1612
1613 Mr. Carnicelli: Corporation Counsel.

1614
1615 Mr. Galazin: Thank you. So counselor you're going to allow this Commission to cross examine
1616 the people who submitted the written testimony in favor of your client?

1617
1618 Mr. Ickovitz: Our representation is these people sent us letters and if you want to, if you want to
1619 defer this hearing so that you could have the opportunity to cross examine these people, sure,
1620 but I don't think that's necessary.

1621
1622 Mr. Galazin: And also counselor at the last meeting we discussed two sets evidence. One
1623 consisted of written testimony that had been distributed in hard copy to the Commissioners and
1624 distributed to your client. Some of them involved written responses from your client to these
1625 very people, Labat and Drewyer, and your client at the time waived the objection to the inclusion
1626 of those based on the fact that they had commented...he commented back to those very
1627 testifiers when we discussed the possibility of wanting to bring back some of these people. We
1628 did have colloquy on the record about what you would do if they failed to appear because they
1629 were not mandated to do so. So because they are not here is as if I understand you correctly I
1630 hope that you're prepared to do that today.

1631
1632 As it regards to the information that was not distributed in hard copy, I can let the Department
1633 speak to a little bit more. I am aware that there were some files maintained on a Dropbox, the
1634 link to which the Commissioners had access at one point. That Dropbox wasn't maintained by
1635 the Department, it wasn't maintained privately however I do not know for sure that the entirety of
1636 those contents were available continuously to all members by link. So my suggestion would be
1637 to the members if you would be so inclined to disregard, to go ahead and I think there was some
1638 illusion to objecting to that at the last time but at this point go ahead and move to disregard the
1639 information that was available by Dropbox link.

1640
1641 Mr. Ickovitz: If I may—

1642
1643 Mr. Carnicelli: I will go ahead and entertain a motion—Leslie go ahead.

1644
1645 Mr. Ickovitz: You asked at the hearing whether or not we wanted Lew's letters to the neighbors
1646 to be in the record we...the one incorrect thing you said Lew's letters were responses to their
1647 letters. Actually, Lew's letters were sent before those letters were sent to the Commission.
1648 Instead of responding to Lew's letters they sent it to the Commission. So Lew's letters show his
1649 active effort trying to resolve things with the Commission. So the letters with the neighbors so
1650 I'm asking that because it was submitted and it shows the good faith of what he's been trying to
1651 do that Lew's letters to Michelle Drewyer and Jerome Labat be accepted into the record
1652 because it shows their efforts to make that happen.

1653
1654 Mr. Carnicelli: Corporation Counsel.

1655
1656 Mr. Galazin: Thank you. So counselor I thought we had talked about this all last time. The
1657 hard copy documents that were received, that your client received in advance of the hearing,
1658 that the Commissioners received in advance of the hearing, that I in fact received in advance of
1659 the hearing all those documents, not the electronic ones, all of those documents were accepted
1660 as part of the record at the last hearing.
1661
1662 Mr. Ickovitz: ...(inaudible-not speaking into the mic)...
1663
1664 Mr. Carnicelli: Please speak into the mic.
1665
1666 Mr. Ickovitz: No, if you look at the transcript which I have the documents that were submitted by
1667 email that was...that Tara put up in the Dropbox those documents were never accepted into the
1668 record of the Planning Commission and I have a transcript of it that I made myself that I could
1669 guarantee that it was never accepted into the record.
1670
1671 Mr. Galazin: Counselor, yes the Dropbox items those were not dealt with the last time that's
1672 why I brought them up for discussion and motion which I believe the Chair was just going to try
1673 and address it at the moment. However, the other documents the ones that were not sent by
1674 Dropbox, the ones that were physically delivered that were here.
1675
1676 Mr. Ickovitz: Which one—
1677
1678 Mr. Galazin: --your client seems to be shaking his head, I don't know do you—
1679
1680 Dr. Abrams: ...(inaudible—not speaking into a mic)...I assume it's the letters—
1681
1682 Mr. Galazin: Microphone.
1683
1684 Mr. Carnicelli: You're gonna have to speak into the mic. Identify yourself and then speak into
1685 the mic.
1686
1687 Mr. Ickovitz: Yes, but I apologize I have no idea what you're—
1688
1689 Mr. Carnicelli: Okay, okay guys we're talking over the top of each other, we need to—
1690
1691 Dr. Lew Abrams: Yeah, I'm Dr. Lew Abrams. I'm assuming that you're referring Counsel to the
1692 letters from Michelle Drewyer and Jerome Labat and Tim Robinson that were emailed to the
1693 County after the testimony was closed after the first hearing. It came in slightly before the
1694 second hearing.
1695
1696 Mr. Ickovitz: I don't recall any hard copy documents that you're referring to at that June 25th
1697 hearing.
1698
1699 Mr. Carnicelli: Recess at the call of the Chair.
1700

1701 A recess was called at 11:25 a.m., and meeting was reconvened at 11:33 a.m.

1702

1703 Mr. Carnicelli: ...August 13th, of course it's the 13th is now back in session. Leslie would you
1704 please clarify for the record what it is that you're asking from us?

1705

1706 Mr. Ickovitz: Yes, on June 12th Tara Furukawa sent a memorandum, one with documents to the
1707 Commission via email. And so going through it, the documents, the first document that
1708 we're...there's some documents we want for the record because we think it's important and
1709 relevant so I'm gonna go just go through it. So June 2nd, the first document, Exhibit A was the
1710 revised map at that time which now we're submitting a new revised map today potentially if you
1711 need to have the driveway included. Newsletter to Jerome Labat that we want in record.
1712 Jerome Labat's letter—

1713

1714 Mr. Carnicelli: Exhibit B?

1715

1716 Mr. Ickovitz: That is Exhibit B, yes.

1717

1718 Mr. Carnicelli: Okay.

1719

1720 Mr. Ickovitz: Exhibit C is Jerome Labat's letter to the Commission. This is the one that we
1721 wanted to cross examine so...and he's not here, we would like to exclude his letter.

1722

1723 Mr. Carnicelli: So could I just...I wanna, I wanna ask you a question on that.

1724

1725 Mr. Ickovitz: Sure of course.

1726

1727 Mr. Carnicelli: Because you want your letter in but not his, but I, I recall my recollection is at the
1728 last meeting when we came out of executive session and we said that we were going to go
1729 ahead and defer this to today because you wanted the opportunity to cross examine them we
1730 actually did say they may not be here, they might not be here 'cause they're not...they don't
1731 have to be here so be prepared to go ahead and address, you know your concerns with their
1732 testimony should they not be here. So that's where we're at now and so now you're saying oh,
1733 because they're not here I want their testimony stricken.

1734

1735 Mr. Ickovitz: Well, I believe and I'm not the one who can advise the council, it's Corporation
1736 Counsel's job, but I believe in any kind of contested case situation Mr. Galazin said you're
1737 treating this as a contested case. He told me that verbally last week that you cannot allow
1738 things in the record that have not been vetted through cross examination and that's what those
1739 letters represent. So you know those letters are just hearsay, they're saying things offered for
1740 the truth asserted and they have no relevance unless you give me an opportunity to cross
1741 examine them. That would just be against every procedural rule. Now you don't follow the rules
1742 of evidence but that have to be relevant and according to the contested rule, Administrative
1743 Hearing Rules for the State of Hawaii you have to give me the opportunity to cross examine the
1744 person submitting the documents before you accept the documents into the record. That is just
1745 procedural law in the State of Hawaii.

1746

1747 Mr. Carnicelli: Corporation Counsel.

1748

1749 Mr. Galazin: Thank you Chair. So as you, as you pointed out you are not gonna be able to tell
1750 the Commission what to do so frankly if that's the basis for your objecting to any particular
1751 exhibit why don't you just say that's why you're objecting and just go exhibit by exhibit and we'll
1752 just get through it that way.

1753

1754 Mr. Ickovitz: Okay. I mean, but—

1755

1756 Mr. Carnicelli: Okay, so then fine, so you're objecting to Exhibit C of this—

1757

1758 Mr. Ickovitz: Yeah, I'm objecting to Exhibit C, Jerome Labat's letter. I'm objecting to the
1759 104 pages of documents that he submitted that are listed in the Dropbox folder because again
1760 there's 104 documents my representation will tell you that at least 48 of them involve events that
1761 did not take place at Ahimsa Sanctuary Farm, and you know 12 pages are regarding one event
1762 it was a New Year's Eve, another 12 pages are from five other New Year's Eves. Most of these
1763 events, in fact all of these events were not church services they were holiday celebrations that
1764 the Abrams have been doing with their neighbors and their friends in the community for the last
1765 20 years. So you know a lot of accusations have been made about zoning violations. The fact
1766 is they haven't...there aren't zoning violations. They have never had a commercial operation in
1767 their farm which is what this Commission I know is dead set against.

1768

1769 And the other thing I want to clear up is that at the last meeting is that three of the
1770 Commissioners voted against the Abrams application under the mistaken belief that all the
1771 neighbors were there before Dr. Abrams and his wife. The fact of the matter is Jerome Labat
1772 and Tim Robinson bought after Lew, Dr. Abrams had the property, after their built their temple
1773 and they knew, Labat was...you know but he was there, and they knew what was going on for
1774 years. So this is not a surprise and this is not something...and the other thing that we'll
1775 represent is that Mr. Robinson never once called to complain about noise to Dr. Abrams.

1776

1777 Mr. Carnicelli: Okay, so we're gonna—

1778

1779 Mr. Ickovitz: And so we're going back to...okay, so then—

1780

1781 Mr. Carnicelli: Exhibit C and the Dropbox associated with Exhibit C?

1782

1783 Mr. Ickovitz: Yes.

1784

1785 Mr. Carnicelli: Okay, and how about Exhibit D.

1786

1787 Mr. Ickovitz: That's again, Exhibit D is a letter from Lew Abrams.

1788

1789 Mr. Carnicelli: Okay, you want to keep that in there?

1790

1791 Mr. Ickovitz: Yes.

1792

1793 Mr. Carnicelli: Okay, and then Exhibit E?
1794
1795 Mr. Ickovitz: And Exhibit E, keep that in there.
1796
1797 Mr. Carnicelli: You want to keep Exhibit E as well?
1798
1799 Mr. Ickovitz: Yes.
1800
1801 Mr. Carnicelli: So the only thing you're objecting to then in this is Exhibit C and the Dropbox
1802 associated with that Exhibit C.
1803
1804 Mr. Ickovitz: And Michelle's letter which is I guess D-1.
1805
1806 Mr. Carnicelli: Which is a separate thing.
1807
1808 Mr. Ickovitz: Yes.
1809
1810 Mr. Carnicelli: So I'm just going, I'm just—
1811
1812 Mr. Ickovitz: Yeah, this one was not sent by—
1813
1814 Mr. Carnicelli: Hang on. Hang on.
1815
1816 Mr. Ickovitz: This was not sent by Tara.
1817
1818 Mr. Carnicelli: Right. Right now we're going through Tara's letter—
1819
1820 Mr. Ickovitz: Yes.
1821
1822 Mr. Carnicelli: --dated June 12th and so what you would like to have stricken from this is
1823 Exhibit C of Tara's letter dated June 12th and the Dropbox associated with it?
1824
1825 Mr. Ickovitz: Yes, that's correct.
1826
1827 Mr. Carnicelli: Okay. Corporation Counsel.
1828
1829 Mr. Galazin: Thank you Chair. And for the Members as I mentioned because of the problems
1830 associated with the access to the Dropbox itself my recommendation would be to go ahead and
1831 disregard the items that are there purely because you know it's not, it's not reliable at the
1832 moment. You know, I tried to access the site the other day and could not pull up everything so
1833 without knowing exactly what may have been working at the time and what may not be working
1834 now it might be safer to just go ahead and disregard everything in the Dropbox.
1835
1836 Regarding the letter, you know it was from June 12th, two weeks before the hearing, you can
1837 choose to reject that letter, you can keep it in the record and note the objections and...or if you
1838 want to discuss in more detail exactly how to, to use it should you want to include it that would

1839 probably be something better for a closed session. But if you want to move on the Dropbox and
1840 then separately deal with everything else that might be one way.

1841
1842 Mr. Carnicelli: Okay, so at this point in time I'll go ahead and entertain a motion to remove the
1843 Dropbox from the record.

1844
1845 Ms. La Costa: I so move.

1846
1847 Mr. Carnicelli: Moved by Commissioner La Costa. May I have a second?

1848
1849 Mr. Robinson: Second.

1850
1851 Mr. Carnicelli: Second by Commissioner Robinson. Any discussion on the motion?
1852 Commissioner Robinson.

1853
1854 Mr. Robinson: Chair, I apologize but I could not hardly follow all the talk and jumping around. I
1855 assume that the recommendation from Corp. Counsel is that it's...that it's okay, and so I'm
1856 basing it on top of that. Thank you.

1857
1858 Mr. Carnicelli: Likewise.

1859
1860 Ms. La Costa: Ditto.

1861
1862 Mr. Carnicelli: All those in favor of the motion raise your hand. That is...please raise your hand
1863 again so I can look around. That is five ayes. Opposed, seeing none. One abstained. So the
1864 motion passes, the Dropbox from Exhibit C has been removed from the record.

1865
1866 **It was moved by Ms. La Costa, seconded by Mr. Robinson, then**

1867
1868 **VOTED: To Remove the Dropbox of Exhibit C from the Record.**

1869
1870 **(Assenting – P. D. La Costa, K. Robinson, D. Thompson, C. Tackett,**
1871 **S. Castro, K. Pali - Abstained)**

1872 **(Excused – T. Gomes)**

1873
1874 Mr. Carnicelli: At this point Leslie and Corporation Counsel what I'm gonna do is I'm gonna hold
1875 off on trying to make a decision on Exhibit C because if we have to...I don't want to like as we're
1876 walking through this, if we have to go executive session every single time we're gonna be here,
1877 you know, for forever. So I'm gonna go ahead and hold off on Exhibit C and then we can go...I
1878 think you said you wanted to go to D.1 which was the letter from the Department.

1879
1880 Mr. Ickovitz: The letter from Michelle Drewyer to the Department that was submitted the Friday
1881 before the Tuesday hearing, I don't know if—

1882
1883 Mr. Carnicelli: Got it. Okay. So then, and then what is it—

1884

1885 Mr. Ickovitz: I want to make sure, I don't know where, what, what the status of this document is
1886 but I want to make sure it's excluded from the record.

1887
1888 Mr. Carnicelli: Okay, so you're asking for exclusion from the record on this one as well?
1889

1890 Mr. Ickovitz: Yes.

1891
1892 Mr. Carnicelli: And based on the same reasons that you gave for Exhibit C?
1893

1894 Mr. Ickovitz: Yes, and I mean quite frankly the offer of proof is that if you want us to go through
1895 and show you every line that Ms. Drewyer contained in this letter we will do so. We have no
1896 desire to besmirch her reputation on the record but I can guarantee you and I'm speaking as a
1897 lawyer of 40 years I'm giving you my word as a lawyer who will only speak the truth to this
1898 Commission that this letter is full of lies, misrepresentations and—
1899

1900 Mr. Carnicelli: Okay, so I'm gonna go ahead and note those objections and I'm gonna also just
1901 hold off on this with Exhibit C to then potentially go into executive session to make a decision
1902 with...recommendations from our counsel. So what else is it that you would like to have
1903 removed from the record Leslie?
1904

1905 Mr. Ickovitz: I believe that's as far as removal of the record. Oh, there's also a letter from
1906 Tim Robinson that was sent to the Commission via email, also it was sent June 20th, but Tara
1907 didn't, wasn't in that day I think and we didn't get it forwarded to us until June 24th. He
1908 submitted an email along with two letters from the ... one from the Maui Department of...Hawaii
1909 Department of Transportation, another one from Maui Police Department about travel statistics
1910 back from 2016. Again, he's not here. I invited him and I don't know if the Commissioners ever
1911 saw that but I just want to make sure that that letter and enclosures excluded from the record.
1912 Yes, this is another one marked D.1 and also I'm objecting to it with the same reason of just no
1913 opportunity to cross examine.
1914

1915 Mr. Carnicelli: Okay, so if you would please hand that back to me. Thank you Leslie.
1916 Commissioners I just want to make sure that okay, if you don't have this in front of your I'm
1917 gonna give you time to go ahead and look at this now and see if any of you object to removing
1918 these three things which would be this D.1, and this is also D.1 but this is the letter from
1919 Michelle Drewyer. Oh, okay, we'll put both D.1s together and then this is the letter June 12th
1920 from Tara and Exhibit C. So I think at this point in time...
1921

1922 Mr. Robinson: Chair can I ask a question please?
1923

1924 Mr. Carnicelli: ...go ahead Commissioner Robinson.
1925

1926 Mr. Robinson: The people aren't here to be cross examined but isn't the...doesn't the applicant
1927 have a chance to verbally or written do a rebuttal to that letter? I mean, to wipe out somebody's
1928 testimony because they're not present because they have a job. We don't...we're not here 5:30
1929 at night after people's working hours to just eliminate this. What is the, what is the legalese on

1930 people being able to say something and then somebody have you know, point...counterpoint
1931 and that's it and let us be the judge?

1932

1933 Mr. Carnicelli: Corporation Counsel.

1934

1935 Mr. Galazin: Thank you Chair. And Commissioner Robinson that's a great question. What the,
1936 what the remedy is is actually what we have right now. The applicant if you have written
1937 testimony, the applicant has the ability to object to it and state specific reasons on the record
1938 why, and in addition as you noted submit rebuttal testimony. Right now, you know, you've
1939 already excluded the Dropbox link and everything that was included with that. If you are just
1940 talking about these three specific letters that were sent in if you want to hold onto making a
1941 decision on it for now that's fine, the applicant can go ahead and objections are noted on the
1942 record, they can present rebuttal into that as well as whatever other evidence wanted to present
1943 today and you can move forward that way. Because this is written testimony that came in after
1944 the first hearing before the second day of the continued hearing it's a little bit different than
1945 written testimony that comes in before the first hearing and you know nothing says that written
1946 testimony is unreliable or that you can't use it, it's just this is somewhat of a unique case and the
1947 applicant's make an objection and you know if you want to talk about the specific legal aspects
1948 of other specific objections I would probably go into an executive session to do that, but for time
1949 being rather than you know if the Chair not rather tie everything up we can just go on and then
1950 perhaps if you have other questions we can just address them all at once.

1951

1952 Mr. Robinson: Okay.

1953

1954 Mr. Ickovitz: And if I can make one statement just to clarify, Michelle Drewyer who is the
1955 neighbor who wrote this letter on June 21st was present at the May 28th hearing. She sat in the
1956 front row and she chose not to testify. She chose not to give any information. She waited until
1957 after—

1958

1959 Mr. Carnicelli: Okay, thank you.

1960

1961 Mr. Ickovitz: --waiting until after the hearing to submit information literally the Friday before the
1962 Tuesday hearing.

1963

1964 Mr. Galazin: Okay, and Commissioners I would just ask that you disregard the counsel's
1965 testimony about what was possibly in Michelle's Drewyer's mind at the time. Thank you.

1966

1967 Mr. Robinson: Chair?

1968

1969 Mr. Carnicelli: Commissioner Robinson.

1970

1971 Mr. Robinson: Commissioner Pali.

1972

1973 Mr. Carnicelli: Oh, Commissioner Pali.

1974

1975 Ms. Pali: Counsel I have a couple questions for you. We just had with a previous case today
1976 this whole timing on just new information and closed testimony and open testimony, and if
1977 there's new information potentially then we can open back up for open testimony and so I just...I
1978 don't have a timeline. I don't want to make decisions on guessing or relying on others because
1979 that's not my judiciary responsibility in my opinion so I have a question for you. With new
1980 information that was presented at the first hearing does that then make any other additional
1981 testimony like this particular letter we're talking about does that make it allowed or does it not.
1982 As it stands with our rules now does that second letter become allowable potentially based off of
1983 maybe what was conveyed on the first hearing and then to follow up on the question when we
1984 had the second hearing was more information presented to then allow other information? I just
1985 want to know as it's written what is allowed, what isn't based off of information.
1986

1987 Mr. Carnicelli: Corporation Counsel.
1988

1989 Mr. Galazin: Thank you. So right now the record is developed during the hearing and it can be
1990 closed and can be reopened to admit more evidence it's what we're doing today is the applicant
1991 here has more information to share with you or going to be supplementing the record today.
1992 The question becomes when you have a record and there is testimony that comes in and you
1993 have to make a decision whether to reopen the record and for what purpose and I think each
1994 case is going to fall individually on its merits. There no hard and fast rule of yes you can always
1995 do it and no you can never do it. It's really dependent on the circumstances. Whether
1996 somebody testified previously it has no bearing on whether to reopen a record to take more
1997 testimony.
1998

1999 Ms. Pali: So to answer the question then when these other written testimonies came in after the
2000 first hearing before the second hearing was it open, did we accept it or was it all coming after it
2001 was closed and now we're deciding today which ones we want to allow and reopen and which
2002 ones we won't. I'm not understanding when they were submitted was it open at the time?
2003

2004 Mr. Galazin: So prior to the second hearing date in June, on June 25th the first hearing date
2005 was on May 28th. Between May 28th and June 25th there was some written testimony that was
2006 received by the Department and forwarded onto the Commission. At that hearing on June 25th
2007 the applicant raised an objection to some of that information. Although the applicant did note
2008 that he had responded to some of those testifiers it's my understanding that it was unclear at
2009 that time which items had the applicant was okay with accepting and which items the applicant
2010 was not so that's what we're attempting today.
2011

2012 Ms. Pali: So I'm...I'm not asking what the applicant's okay with. I'm just asking on record was it
2013 open or closed for us.
2014

2015 Mr. Galazin: Well, that's—
2016

2017 Ms. Pali: ...(inaudible)...
2018

2019 Mr. Galazin: There's no real close date for public testimony per se. There is...there's the public
2020 hearing where people show up, but you know, written material, this...the Department's always
2021 received it and forwarded it on to this Commission as it's staff, however—

2022
2023 Ms. Pali: It evolves.

2024
2025 Mr. Galazin: as it evolves. However there was an objection to some of that so that's what we're
2026 trying to deal with.

2027
2028 Ms. Pali: And is it precedent in the past that it would be okay if we did decide to open up the
2029 record that we would only take just one side and do the testimonies or the witnesses do they
2030 bear the burden to carry the burden of proof like the applicant does or are we talking about the
2031 same responsibility here and are we saying that we don't...they don't have a right to rebuttal
2032 when they do have the opportunity to rebuttal. Does the rebuttal have to be in person or can it
2033 just be against a letter or the testimony? I just...I'm trying to compartmentalize like what is
2034 really being offered and what really isn't and what's true and what's not true.

2035
2036 Mr. Galazin: Mr. Chairman, may I?

2037
2038 Mr. Carnicelli: Yeah, go ahead.

2039
2040 Mr. Galazin: Thank you. So this is a good time for me to probably you know, helping make
2041 sure that everyone's understanding where we are in this process. Because it is a contested
2042 case hearing this is a quasi-judicial function that you're exercising right now. You're all are
2043 sitting as, you know the judges in this situation. You are taking in evidence and the parties have
2044 different rights and responsibilities. Now right now there is only one party if you will. There's
2045 the applicant, and the applicant you know being party to these proceedings has certain rights,
2046 rights to open, rights to close, rights to provide rebuttal testimony. This is not a question of
2047 reopening a record because right now the only thing that had closed had been the public
2048 testimony portion. The hearing itself was never closed and the hearing is in its entirety is the
2049 opportunity for the applicant to present whatever evidence the applicant thinks is necessary to
2050 prove beyond a reasonable doubt that it will meet the standards and criteria necessary within
2051 the Code. So you may want to make sure that you keep those two things distinct and you don't
2052 want to conflate what we have under the rights for a public hearing which is afforded by the
2053 County Code which is mandated before this type of permit can be granted or denied and the
2054 contested case hearing procedures set forth in Chapter 91 in the Hawaii Revised Statutes.
2055 There are contested case procedures that apply just to the applicant and then there are public
2056 hearing procedures that apply to public testifiers. They are slightly different although they're
2057 interrelated. Hopefully that answers.

2058
2059 Mr. Carnicelli: Do you have any other questions? Okay—

2060
2061 Mr. Ickovitz: If I may, can I make one statement though?

2062
2063 Mr. Carnicelli: Let me ask you a question is, so right now those Exhibit C and D.1 we've noted
2064 your objections. We haven't made the decision as to whether or not to remove them from the

2065 record or not. What is your, your intention as far as where you're gonna go with your
2066 presentation I guess that's kinda like...is like what can we expect 'cause we are up against
2067 lunch and yet, I also want to be respectful to everybody that's here and everything like that so
2068 kinda like what's your sort of intent?

2069
2070 Mr. Ickovitz: Sure. Okay, so I was gonna just add maybe five or ten minutes myself, about just
2071 the overview of what you're doing here and the objection to the record. I was going to discuss
2072 jurisdiction, the jurisdictional issue.

2073
2074 Mr. Carnicelli: Okay.

2075
2076 Mr. Ickovitz: And then I was going to turn it over to Lew to talk about the needs of the...of this
2077 ministry because now that there's no...the neighbors have...I mean if assuming you exclude the
2078 letters, and the reason why you have to exclude the letters—

2079
2080 Mr. Carnicelli: Okay, I don't want...don't go into the...just tell me where you're going.

2081
2082 Mr. Ickovitz: No, but this one issue is Michelle Drewyer has multiple times accused Dr. and Mrs.
2083 Abrams of stealing water. That there is a greater defamatory thing that any neighbor can do
2084 towards another neighbor who's a farmer. So if you allow this in, you would allow in a public
2085 record, making a false accusation against Dr. and Mrs. Abrams and if this letter said he slept
2086 with my teenage daughter it have the same effect. It's a statement saying he did something
2087 illegal and without any opportunity to cross examine her as to what evidence do you have for
2088 this statement and what evidence do you have for this statement. So if you allow these letters
2089 in without...that's allowing these people to lie without allowing me to cross examine them would
2090 be just horrible and legally just not allowed in any kind of judicial proceeding or your
2091 administrative proceeding...(inaudible)...

2092
2093 Mr. Carnicelli: Your rebuttal is noted. Thank you.

2094
2095 Mr. Ickovitz: Okay. So anyway but that's the idea is that we finish up talking jurisdiction and
2096 then hand it over to Lew.

2097
2098 Mr. Carnicelli: Okay, so I think what we might do is let you go ahead and finish up and then we
2099 may take the break then have, have Lew go after the...after lunch.

2100
2101 Mr. Ickovitz: So I just wanted—

2102
2103 Mr. Carnicelli: To get our blood sugar back up.

2104
2105 Mr. Ickovitz: I wanted to clarify and Lew will go into similar perhaps is that these events that
2106 they talk about, you know these neighbors said all these events, all these zoning violations, all
2107 these events are celebrations they have held with their community and friends every year for
2108 20 years and they've provided community gathering space, these are free events, alcohol free.
2109 You know accusations were made that they're a party house. You don't have parties with 50 to

2110 80-year-old people who don't serve alcohol. Those aren't parties, these are gathering that are
2111 very meaningful to these people.

2112
2113 There's multiple questions were asked that whether there were church activities before. The
2114 semantic question about what is a church? A spiritual gathering is not a church activity. We
2115 submit how we define a church and I think how most...the Commission would is if you hold
2116 weekly services that's what a church does, but mostly what a church is used for is to use that
2117 entity as a way of making money or raising money. If you're a public church you can do, you
2118 can do all sorts of things and that's why people try to be a church. This is very different from the
2119 Spirit of Aloha which right now is in...Federal...(inaudible)...trial, on a three week trial because
2120 that was the situation where the person was doing commercial wedding operations for 20 years
2121 and when you shut them down then he became a church and applied for a permit. That was a
2122 commercial operation trying to legalize with his...with a church. All the evidence in the record is
2123 that these two amazing people, the most inspiring people, ...(inaudible)...if you read the letters
2124 from the community from the elders it will bring tears to your eyes what they say from their
2125 bottom of their hearts what these two people have done out of the goodness of their heart and
2126 of the givenness to the community that to accuse them of anything disreputable is just wrong. It's
2127 just not right. There's just no evidence and I just really want to encourage the Commission
2128 to...you know the agricultural use, so shall I wait for the jurisdiction or do you want me to go into
2129 the jurisdictional argument?

2130
2131 Mr. Carnicelli: Go ahead.

2132
2133 Mr. Ickovitz: So in front of you, you have the file. The letter that I wrote to Planning Director
2134 McLean, Planning Director McLean and I lay out, this is in response to the August 1st letter that
2135 the Land Use Commissioner, yes...it's response to the Land Use Commission letter to
2136 Ms. McLean in response to two possible hypotheticals as to whether or not the Land Use
2137 Commission would be asking for...saying they want jurisdiction. Now the issue what has been
2138 repeatedly stated and I've been told by multiple people that historically the Maui Planning
2139 Department has never considered the driveway into the special use area to be part of the
2140 special use designated space because it's just access and that has always as far as I know that
2141 has always been the position.

2142
2143 Now based upon the Land Use Commission letter it may be that the Planning Commission may
2144 be changing its position with regard to that and now including that. I don't know if the
2145 Commission's adopted that or plans to, but just in case, if not, if it's not included we want to go
2146 with the map that we submitted in June 25th. If they do submit it, we want to go with the map
2147 that we just submitted which includes the driveway within the 14.8. So...and the letter from the
2148 Land Use Commissioner clearly said if you make these findings regarding that the agricultural
2149 use is going to go away or the church use is going to limit it that is...Lew is, Dr. Lew is going to
2150 talk about that the more...we're an earth based spirituality church. We educate people so the
2151 more churchgoers we have, we more people being farm volunteers, they're helping us do more
2152 so the more people in our church, the more agricultural activities we actually do, and that's you
2153 know, it's unusual what they do is unique but it's true, every word we're saying is absolute.

2154

2155 So jurisdiction wise I say there's no reason to go to the Land Use Commission because
2156 there's...you cannot make the findings that commissioner, the Land Use Commission says you
2157 have to make if you make those findings then it goes to the LUC. But if here's no evidence in
2158 the evidence that agriculture is going to be impacted negatively by this church use which there
2159 isn't any evidence then there's no...the findings cannot be made I submit and there's no reason
2160 to go to the Land Use Commission because without making those findings Land Use
2161 Commission does not have jurisdiction.

2162
2163 Dr. Abrams: And there's also the piece about spilling over into the non-designated area--
2164

2165 Mr. Ickovitz: Right. Right.

2166
2167 Dr. Abrams: And there's no reason...(inaudible-not speaking into a mic)...
2168

2169 Mr. Ickovitz: Yeah, you know both of those two findings there's no evidence to support either of
2170 them, but you know if we wanted, if the Commissioners want to discuss actual details of that
2171 we'll be happy to respond.

2172
2173 Mr. Carnicelli: Sure. Leslie, Corporation Counsel has a question for you.
2174

2175 Mr. Ickovitz: Sure.

2176
2177 Mr. Galazin: Thank you counselor, so in terms of what this Commission does, this Commission
2178 isn't going to decide Land Use Commission jurisdiction. The Commission doesn't have that
2179 authority, but I do want to help the Commission understand what is being considered as the
2180 land use, the actual use here and the size of it and the scope of it. So what is the relationship
2181 between the church and the agricultural activities on the parcel?

2182
2183 Mr. Ickovitz: That's good. Dr. Abrams is gonna have to speak.
2184

2185 Dr. Abrams: It's Lew Abrams. So we have an active organic recertified farm. We're with
2186 diversified agriculture and we also have this agricultural building that we built as a multipurpose
2187 space where we originally permitted it for drying and packaging herb teas, making bamboo
2188 musical instruments and toys and our intention was also to use it to host free community
2189 gatherings.

2190
2191 So the church activity that we're proposing is to be able to utilize that building more freely and
2192 the church activities would be contained within that space. However, the people who are
2193 coming are interested in organic agriculture and permaculture and part of what we are inviting
2194 them to do is to get their hands into the aina and do some volunteer work and learn in an
2195 applied way how to grow food naturally without chemical pesticides and on.

2196
2197 So the land around it would only...any activity of the churchgoers on the land outside the temple
2198 would also be agricultural in nature and part is I will get more help on the farm as volunteers and
2199 be able to educate our congregants about the earth-based spirituality which is part of the
2200 unpinning of our ministry since it's in honoring the earth and being stewards for future

2201 generations part of the challenge is we need to figure out how to grow food in a way that doesn't
2202 lead to environmental degradation and as well as to generate energy in a renewable sustainable
2203 way. So we do have solar and wind demonstration projects and farming that people...that's one
2204 of the reasons people are interested in coming is 'cause they want to learn more about that.
2205 Nothing that would happen would preclude any kind of agriculture. I mean, our orchards are
2206 planted, the fish ponds are in, the greenhouse is you know being used for starts. None of that
2207 would change except maybe I could get some volunteer help from the people who come to
2208 church to help work in the greenhouse and weed and you know harvest thereby learning and
2209 helping with our farm production.

2210

2211 Mr. Galazin: Okay, thank you Chair.

2212

2213 Mr. Carnicelli: Sure. Thanks Leslie, go ahead.

2214

2215 Mr. Ickovitz: Well, I think that for now I can...so jurisdictionally I'm just summing up the question
2216 that I'd ask the Commission to make findings that based upon the record that there is no impact,
2217 the church use will have no impact on the outside...on the agricultural because that is based
2218 upon the testimony of Dr. Abrams there will be no impact on ag. The church use will not have
2219 any negative impact on agricultural use will expand into agricultural use that would take
2220 agricultural use out of production. It's all about agriculture and so there's no finding...there's no
2221 possible way and we're asking the Commission to make findings that there's no adverse effect
2222 on agriculture, the scenario that the letter suggested are not met and therefore Commission
2223 says that the LUC does not have jurisdiction on it.

2224

2225 Dr. Abrams: Can I add one thing? 'Cause in that letter from the Land Use Commission they
2226 also talked about if it's obvious that the use associated with the special use will spill over onto
2227 the adjoining acreage outside the less than 15 acres that that would be a reason that they would
2228 take an interest in a special use permit of less than acres. But the way our land is laid out the
2229 driveway just comes right off the Hana Highway and there's a straight shot down to the
2230 14.8 acres which is away from our home and more where we have our farming activities. So we
2231 have a sort of private section on the upper part of the land where we're not inviting churchgoers
2232 to come. It's fenced. They just drive down the driveway and they're in this 14.8 section where
2233 we have our agriculture activities, greenhouse and so on and the main ag building that we're
2234 here today to ask you to approve so that we can hold church activities in that temple space.

2235

2236 Mr. Ickovitz: To give an idea Hana Highway is right here, Ms. Drewyer's house is right here,
2237 these are...Dr. Abrams will talk about the very limited sight in...even the driveway this is all
2238 bamboo from protected from the neighbors there. You have this whole gulch, so Dr. Abrams is
2239 going to go into the...go into the relative impact, but we're basically submitting that based upon
2240 the evidence that we're providing that we will have minimal, minimal adverse effect on the
2241 neighbors and that basically that it's time to go back to the Department of Planning report and
2242 recommendations and I'd like to have Dr. Abrams speak to that after lunch.

2243

2244 Mr. Carnicelli: Okay, thank you very much. I appreciate that. One quick question just in the
2245 jurisdictional issue for Corporation Counsel. In reading their letter we don't transmit it to the
2246 Land Use Commission do we? I mean, do we transmit it?

2247
2248 Mr. Galazin: Chair, we can, we can probably get into the mechanics of that after lunch might be
2249 a better time.
2250
2251 Mr. Carnicelli: All right, so Leslie you're done for now?
2252
2253 Mr. Ickovitz: I'm done for now.
2254
2255 Mr. Carnicelli: And then we got Lew after lunch. Go ahead Lew.
2256
2257 Dr. Abrams: Before adjourning I know that some of our supporters have taken time out their
2258 day, I was just hoping that maybe they have something to do after lunch I'm wondering if we
2259 could have them raise their hand and just identify if they're here in support of our special use is
2260 that possible?
2261
2262 Mr. Carnicelli: I don't think that...not at this time. We'll—
2263
2264 Dr. Abrams: So...
2265
2266 Mr. Carnicelli: I think that we can note...I think we can note that there's only...you know who's
2267 in the congregation versus...so anyways we are now gonna go into recess till 1:05. Thank you.
2268
2269 A recess was called at 12:08 p.m., and the meeting was reconvened at 1:07 p.m.
2270
2271 Mr. Carnicelli: The Maui Planning Commission meeting of August 13, 2019 is back in session.
2272 We're in the middle of Item C.1. Lew I believe you were gonna go ahead and do a presentation
2273 at this in time, correct?
2274
2275 Dr. Abrams: I believe my attorney was going to make a statement...(inaudible-not speaking into
2276 a mic)...
2277
2278 Mr. Carnicelli: You gotta, you gotta speak into the mic.
2279
2280 Dr. Abrams: I believe, this is Lew Abrams, I believe that our attorney Les is just in the bathroom
2281 he was gonna make one statement, but I could make it. I just wanted to address the issue of
2282 receiving in the letters from the neighbors as well as my letter that I wrote them, if that feels
2283 unfair to exclude their letters but include mine, I would be fine to exclude both sets, you know
2284 the letter that I wrote to them offering how...explaining how I was going...would mitigate their
2285 concerns doesn't need to be included 'cause I'm here and I can speak to that. So if it feels
2286 more fair to just leave out everything that came in after the initial testimony I'm fine with that.
2287
2288 Mr. Carnicelli: Okay, thank you. So noted. Don't put that microphone away 'cause you're still
2289 gonna need it if you're doing a presentation.
2290
2291 Dr. Abrams: I'm going to stand up.
2292

2293 Mr. Carnicelli: Oh okay.

2294

2295 Mr. Robinson: I wasn't aware there was a wardrobe change requirement.

2296

2297 Dr. Abrams: I was a little sweaty.

2298

2299 Mr. Robinson: You look good, look good. I like your shirt. I like your shirt.

2300

2301 Dr. Abrams: So, ...(inaudible—not speaking into the mic)...

2302

2303 Mr. Carnicelli: You gotta speak into the mic. Yeah, come.

2304

2305 Dr. Abrams: ...(inaudible—not speaking into the mic)...well, thank you ladies and gentlemen of
2306 this Commission. I truly appreciate this opportunity to reappear before you and clarify any
2307 misunderstandings that may have arisen in the first two hearings. I acknowledge the difficult
2308 situation that you all are in trying to balance the needs of competing parties. In my work as a
2309 psychologist I run into that frequently with couples where they just want different things and it
2310 can be very challenging to find out what's fair, have a win-win or quid pro quo arrangement and
2311 so I totally thank you for sparing us at the end of last session where it looked like we were being
2312 voted down and to allow us to come back and try to communicate our...with sincerity what this
2313 vision is and hopefully to instill in you guys an appreciation for our efforts and the ministry we're
2314 offering the community. So again thank you for this opportunity.

2315

2316 I know there's a couple of people that may not have been here on my very first presentation.
2317 I'm not gonna go over all that but I did just want to speak briefly to my background. I am a PhD
2318 licensed clinical psychologist and I've worked on Maui since 1997. I started out at the
2319 psychiatric unit at Molokini Unit at the hospital then I worked for different agencies, then I
2320 developed a private practice, then I took some time off to develop this farm and build this
2321 building, and now I'm back to working as a therapist three days a week up in Lahaina at
2322 West Maui Counseling Center and enjoying that. It is my calling.

2323

2324 But I do want to speak to the parallel development in addition to being a clinical psychologist,
2325 I'm also an organic farmer and have studied permaculture design. I'm a member of the
2326 Maui...the Hawaii Farmers Union, Maui Chapter. I'm also an artist. I do sculpture. I've been
2327 sculpting since I was 17 years old working in my clay and my wife also is a potter as well as the
2328 other arts she does. I do play music. Part of what I do at the Temple of Peace at
2329 Reverend Kedar's side is I sing backup vocals and play percussion and my wife also sings
2330 harmonies and leads a sacred movement at the end of the service each week.

2331

2332 And then I have developed as an interfaith minister. We started hosting
2333 Reverend Kedar St. Johns informal singing circles at old house up Awalau Road in Haiku every
2334 Sunday for three years when we had small children we have to...we chose to clean house, get
2335 all the Legos stuck in the closet and host 20 to 40 people. Each Sunday I would make a big pot
2336 of chai, we would have signing circle and it was a very beautiful inspiring service that we were
2337 glad to host and then we also were glad when Kedar was able to find a public church in Haiku to
2338 move to. And so we participated when we hosted it at our house and as well all the different

2339 locations, the couple different location that Reverend Kedar has had the Temple of Peace and
2340 we became, both my wife and I, ordained ministers in the Temple of Peace in 2000 which is
2341 19 years ago I guess.

2342
2343 But we also established our own ministry with the encouragement of Reverend Kedar, a more
2344 earth-based ministry because we did have this larger parcel of land where we could teach about
2345 permaculture design and organic gardening. I could just briefly describe that ministry. We invite
2346 people of all faiths who share the value of honoring the earth as sacred and who see human
2347 beings as stewards of the planet for the future generations to gather together in community to
2348 celebrate the gift of life by sharing locally grown food, sanctifying the holidays as in the Third
2349 Commandment, honoring rites of passage for our community members and we further assert
2350 that creative self-expression is divinely inspired so that's part of what we do when we gather to
2351 pray is we play music, and dance, and have spoken word, and share our visual arts as well
2352 together. So that's the mission of our ministry and part of it is exposing people to permaculture
2353 design and ways of growing food that doesn't deteriorate the earth, it actually enhances the life
2354 force and builds the microorganisms in the soil and so we have various kinds of gardens and
2355 orchards that need a lot of attention. The cane grass has been winning lately I'm sorry to report.

2356
2357 So we were living on Awalau Road hosting the gatherings of the Temple of Peace and then we
2358 realized that we were outgrowing that place. I had planted fruit trees there and built a fish pond
2359 and so on. We were looking at possibly putting up a gathering space in the back and then the
2360 neighbors subdivided their two-acre...it was a horse pasture next to us and then it became a
2361 place with two houses and one of the houses was built on stilts looking right down into our
2362 backyard so we started to look for a new place. We spent two years looking at many different
2363 properties on the island. Most of them were two-acre parcels in neighborhoods where it just all
2364 felt kind of too close. And after viewing 200 properties we did find this 25-parcel at 4505 Hana
2365 Highway which is where we live now and have established our organic farm.

2366
2367 It's a unique location. It's right on the smooth road from the airport. It's like 20 or 25 minutes
2368 from the airport yet it feels completely rural. As I'll show you in a moment the parcel of land is
2369 surrounded on three sides by gulch and there's hundreds of acres of open land all around us.
2370 So it felt like we had found a place where we could practice and develop our permaculture and
2371 organic farm but also be able to host some community gatherings without disturbing others.
2372 And so we actually chose the site for this building the furthest away from the neighbors as
2373 possible way out on the northern point with gulches on three sides of us.

2374
2375 And when we...and in answer to the question about why not find a different spot with more
2376 supportive neighbors, I just want to try to impart the amount of energy that we put into this place
2377 for 12 years we've been investing and rebuilding the soil, planting orchards, building
2378 aquaculture ponds, installing solar and wind grid tied system. We built a 20 x 48-foot
2379 greenhouse because it's really important to have some of the plants be protected from fruit flies
2380 in the tropics. And just as an aside that was one of the things in Ms. Drewyer's letter she keep
2381 saying, accusing us of not having a permit for this greenhouse which is very far from her land,
2382 not in her view and we did build it with a permit. The permit number is BX0062 it was an
2383 Act 203 ag building. We did it all by the books and I don't know somehow she wasn't able to
2384 find the permit number and accused us of doing it without a permit.

2385
2386 And then we built a spacious, light, airy, comfortable gathering space with using long lasting
2387 materials like stucco and tile roof, and trex decking to serve multiple functions to be able to use
2388 for agricultural purposes. We dry our turmeric in the center, and package our herb tea there,
2389 but we also built it with the hope of someday being able to host the community there. And it's a
2390 very unique spot. It's a big open meadow, some sweeping ocean views, and when we set the
2391 intention, when we broke ground for that building we did it in ceremony in the way that often
2392 Hindu temples are initiated where typically a statue of Vishnu is buried at the center of every
2393 Hindu temple and then we wanted it to be interfaith so we included symbols of every possible
2394 tradition. We had a cross, a Jewish Star, Egyptian pyramid, Native American Medicine Wheel,
2395 Yin Yang, you name it, any spiritual tradition it was welcome and established from the very
2396 beginning in this, this space that we're asking for your approval to be able to use for church
2397 related activities and Reverend Kedar St. John was there at the breaking of ground for that
2398 building and blessed it.

2399
2400 So today we're here seeking approval for this Special Use Permit before you so that we can
2401 begin holding regular weekly church services. What we've done today have been pretty
2402 sporadic, not on a set schedule, never weekly and not formal church services, but more rather
2403 informal gatherings, spiritual gatherings of our friends, playing music, our sons have used that
2404 building too to practice music. They have a band. Now they live in Seattle but maybe five or six
2405 years ago when they were around more there was more sound coming out of the building as
2406 they are electronic, you know, musicians and so I just want to instill the sense that that has
2407 really changed. Our sons are now 25 and 31. They're pursuing their music career as the band,
2408 Wolf Child you might want to look them up out of Seattle and we're lucky if we can get them to
2409 come home and visit. They're not here inviting their friends over for loud music jams.

2410
2411 The people that tend to come to our gatherings are elders as you saw in this outpouring of
2412 support that was truly humbling. I just gotta say hearing these community leaders that came
2413 and testified in support of us was really touching. I have never heard so many good things and
2414 validation for what we've been doing and usually you only hear that at memorials when
2415 someone dies. It was really touching to see how many people are valuing what we're doing.
2416 And as our attorney pointed out there's some other indicators that we actually are reflecting a
2417 community of people that are in support of what we're doing as evidenced by the petition that
2418 was signed and various...the sign in sheets that have over 500 signatures and just more letters
2419 of support have been pouring in. We now have I think 36 handwritten letters of support from
2420 community leaders and 17 of them were from elders over 65 years old. There's like three
2421 M.D.s, two PhDs, five ministers, four Kanaka Maole, indigenous Hawaiian cultural specialist
2422 including Uncle George Kahumoku and Alalani Hill who sat on this Commission, Leiohu Ryder,
2423 so it was very gratifying to feel recognized by those people.

2424
2425 So I just want to turn to speaking to what the needs of our ministry are. Last hearing the focus
2426 was a lot about what the concerns of the neighbors were and as we see here today they didn't
2427 come back to this hearing to subject themselves to a cross examination about some of their
2428 claims. It's open to speculation why neither Jerome Labat or Michelle Drewyer or Tim Robinson
2429 are here. I did send them letters and reached out to them in the interim and ask to meet with
2430 them to see if we could work out something informally. And in those letters I reminded them of

2431 some of the concessions and things we would do to try to mitigate their concerns. I also offered
2432 to install speed bumps on the smooth driveway that leads in from the Hana Highway 'cause that
2433 was a concern that they were saying our guests drive really fast down this 500-foot length of
2434 driveway. They're mostly older people. It's hard to picture that happening but we are certainly
2435 willing to put in a speed bump if the neighbors would like that.

2436
2437 And so in general in the last hearing I tried to embrace the conditions proposed by you
2438 Commissioners as we discussed different things like numbers and timing and so on and I did
2439 agree to them at that time on that day because I was really hoping that we would be granted the
2440 Special Use Permit that day, but then it was voted down. And so then I've had several, you
2441 know, couple months to be really reconsidering what the needs of our church really are and in
2442 discussions with people who want to come and participate at our place and with my mentor
2443 Reverend Kedar St. John basically we recognize that some of the suggested conditions
2444 imposed a substantially burdensome restriction on our freedom to gather and worship with our
2445 existing community of friends. So I'm gonna suggest that...I'm asking you all if you'd be willing
2446 to go back to the original report by Ms. McLean from the Planning Department with its set of
2447 recommendations to the Commission. Those seemed to us to actually reflect our needs and
2448 seemed quite reasonable and we're ready to agree to them and so I'd like to suggest that we
2449 invite you to review what those recommendations were as a jumping off point for our discussion
2450 today. And so I'm just asking you in addition to being concerns about any impact on our
2451 neighbors that you also let into your hearts and minds the recognition of that what we're offering
2452 to the community is a positive service. It has value as reflected in all those letters and
2453 testimonies.

2454
2455 So I do just want to just speak to some of the concerns that what we have done to mitigate the
2456 neighbor's concerns. You all asked me try to work it out with the neighbors and so I'm just
2457 gonna summarize what our efforts have been to date to give you the overall impression. It's not
2458 like we've just been blowing off the neighbors and don't care. We've talked to them and we
2459 tried to address their concerns so I'm just gonna run through this.

2460
2461 To address Ms. Drewyer's concerns about car headlights shining onto her property when cars
2462 would be leaving our place we hired a big bulldozer and created a berm that would block the
2463 light so that as cars left our property they wouldn't shine up towards where her house was. That
2464 was a significant investment. We voluntarily stopped using an important section of our own loop
2465 road on our property to prevent guest cars from driving across Ms. Drewyer's view plain. If we
2466 could use our entire property without Ms. Drewyer complaining we have a perfect one-way loop
2467 where cars leaving would never encounter cars entering. But because she didn't like the cars
2468 driving on our own property, on our own driveway behind a berm where they're not visible to
2469 her, but she said she could see the glow of the lights and so even after we built the berm she
2470 didn't appreciate us using that section of the road and so to honor her we stopped using that
2471 area, that section of our road and then we...because she was coming up with more things that
2472 she was unhappy with we ended up voluntarily not using the whole acreage that adjoins
2473 Ms. Drewyer's property. It's never been surveyed but it's at least two to three acres of our land
2474 that we've just left as a buffer zone between our houses so that we could just have some space
2475 between us and I can show that when we get to the pictures that we're gonna show you.

2476

2477 There was one New Year's Eve party where in part because Ms. Drewyer didn't want us to use
2478 that section of road where we could have an entrance gate that there was a backup of cars I
2479 believe it was in 2014 New Year's there was some cars that made it back out onto our driveway
2480 and since that time we changed the location of the front gate to just be at the church building
2481 itself and so there's plenty of room for more than a hundred cars to drive onto our 25-acre
2482 parcel and park off by the side of the road. We've never had any problems with parking
2483 overflowing onto the neighbor's land. I have no idea what Mr. Labat was talking about when he
2484 said that our guests were parking on his property or had damaged his property in some way. I
2485 don't know where he was coming from and it certainly hasn't happened in the last five years.
2486 So that was something that I wanted to bring to your attention. So by changing the location of
2487 the front gate we haven't had any more backups or parking issues or traffic issues in the last
2488 number of years.

2489
2490 We did move the place where we have our dogs. They're you know right by our house. We
2491 moved it over to the other side of our house so they're not right by the driveway where cars
2492 come and go and so they're not triggered to bark as much anymore. And when we do have
2493 gatherings now we've been taking the dogs inside. So we've gone to get lengths to reduce the
2494 disturbance of barking and it is better. I don't...you know if they were here I think they would
2495 acknowledge that there's less disturbance from the dogs. But I also have to point out that our
2496 neighbors also have dogs. Fedde has a couple of big dogs. Ms. Drewyer has three dogs.
2497 They also bark. Sometimes the dogs start barking back and forth. Even last night at three in
2498 the morning while I was preparing for this hearing Ms. Drewyer's dogs were going off, but I have
2499 to say they're so far away, over two berms and over 500 feet away now you can like barely hear
2500 them in the distance, yet somehow Ms. Drewyer has been concerned about whenever our dogs
2501 bark she apparently is very attentive and listening and I just question exactly...how much of a
2502 disturbance it really is.

2503
2504 Our dogs bark when someone comes to the door, if we have a visitor, they're watch dogs, they
2505 bark for a few seconds, maybe up to a minute, we quiet them down and then they're quiet. We
2506 do not have incessant dog barking, yelping every 30 seconds to drive you crazy. In the span of
2507 a 24-hour period I am quite sure that our dogs bark, you know that 23 hours and 57 or 50
2508 minutes of it they're not barking. They do have little bursts of barking when someone comes to
2509 the door but for whatever reason it's been very...you know it's been an issue with Ms. Drewyer
2510 where she, you know, has called me and complained about our dogs barking and so to address
2511 that concern we now keep our dogs on the other side of the house away from the road and so
2512 they're not triggered to bark when cars come and go.

2513
2514 We also, she you know there's a mention she was concerned that people were driving kind of
2515 fast on the first stretch of driveway when they turn off the Hana Highway. It's a very smooth
2516 driveway and it's a little bit slanted downhill. So if you don't pay attention it is possible to pick up
2517 some speed but it's only 300 feet long before it disappears onto our property and the window of
2518 view that Ms. Drewyer has of that driveway is only about a hundred feet. And then once they go
2519 by that 100-foot section they enter our property and disappear from sight from all of our
2520 neighbors, Mr. Labat, Tim Robinson, no one can see onto our property and to be affected by
2521 these cars in part 'cause one of the first things I did when moving to this property is to plant a
2522 privacy hedge of bamboo and I can actually point that out to you. I don't know I guess this is as

2523 good of time about that as any. If you want to just pick up this colored, these stills, we do have
2524 a video to show actually...

2525
2526 Mr. Ickovitz: ...(inaudible-not speaking into a mic)...

2527
2528 Dr. Abrams: Go through this first. Okay. So the first page just gives an overview of the
2529 property and shows where the neighbors that were, you know, concerned where their houses
2530 are. And in the foreground you can see this giant gulch, almost a third of our property is this
2531 200-foot deep gulch that's a very thickly wooded and you know, definitely not a place of human
2532 habitation. And then if you look in the center you see that building with the blue tile roof that's
2533 the church, the proposed church building that we're addressing and you can see if you look in
2534 circumference around that building there's I believe a thousand feet in every direction and in
2535 many directions way more of that where there are no other neighbor's dwellings. And you can
2536 see that Jerome Labat's house is off to the left. Tim Robinsons who I only spoke to once when
2537 he moved to the neighborhood to welcome him, he's completely across that gulch that's you
2538 know very far away and right next to the Hana Highway his house is probably within a hundred
2539 feet of the Hana Highway where we have 400,000 cars going by annually and he does not
2540 share our driveway and has no visual whatsoever onto our property. So I really, you know want
2541 to question how he could be affected by our activities. He did express some concerns about the
2542 curve of the road. His driveway is on the curve but as I'll show you in this...in these pictures
2543 and in the drone footage, our driveway is on a straight away. There is big open views in both
2544 directions of about 1,000 feet in each direction when you pull onto the highway or leave. And
2545 just as another aside, I've taken it on me to be the one to trim the vegetation around the mouth
2546 of that driveway 'cause when even the grass grows a little tall it can start to obstruct the view of
2547 the cars. So we've been staying on keeping that trimmed back.

2548
2549 And then just to go back to my other point about the smooth driveway and a potential to
2550 increase speed. We have made a portable A-frame sign that we put up when we're expecting
2551 guests it says welcome, drive slow, five miles an hour and it's right at the mouth of our driveway
2552 so it reminds people even though there's maybe a natural tendency to pick up speed there to
2553 drive slowly.

2554
2555 Okay, I'm just gonna go over these pictures really again. So that first one is the overview. It
2556 shows the gulch and the neighbor's houses. The next one again, points out how much open
2557 land there is around the blue roof proposed church building. The next picture again is just
2558 showing the relative position of the neighbor's homes that had come to testify and you can see it
2559 I believe it's well over 500 feet between the homes and there's hedges of bamboo, and gulch,
2560 and berms. This is not a congested little neighborhood. These are big parcels of land with a lot
2561 of space between the houses. And then if we turn to the next page there's a label there about
2562 the bamboo buffer. If you see one of the first things we did when we moved to this property was
2563 to plant the entire windward side of the property and much of the leeward side of the property
2564 with clumping bamboo at six feet on center so it forms a windbreak and visual privacy barrier.
2565 And now that it's filled in there is no view from the Labat's land onto our property or Michelle's or
2566 Robinsons, or Ms. Drewyer or Mr. Robinson. No one really has a view of what happens onto
2567 the property because we did plant perimeter with bamboo. And you can see this is a view of the
2568 gulch on the far western side of the property where Peahi Farms road goes down kind of across

2569 from Jaws Country Store and that is just a massive gulch with a lot of space that buffers us from
2570 any neighbors.

2571
2572 And then I just wanted to turn the next picture that's taken right at Michelle Drewyer's home and
2573 then you can see all the way in the left-hand corner is where that proposed church building is.
2574 It's over a quarter mile away. It is...and our house is between. There's two berms and our
2575 home in between Michelle Drewyer's home and the proposed church building and so when
2576 there's music, when there's music playing at that church, proposed church building we can't
2577 hear it at our house. It could be loud, my sons jamming electronically it doesn't make it the
2578 1,100 feet to our house so...and Ms. Drewyer had affirmed on multiple times, she said, Lew I
2579 can't hear or see anything going on down there. All I care about is the cars going by and the
2580 dogs barking. So I just wanted to make that point.

2581
2582 And then if you look the next one is sort of a bird's eye view of the section of the farm where the
2583 proposed church building is including our greenhouse and photo voltaic system and our coconut
2584 orchard and so you could see there's a lot of open space with no, no neighbor's houses there.

2585
2586 And then the next one is pointing to the shared driveway. What's ironic about this, the most of
2587 our land is completely isolated visually and auditorily from the neighbors. There's only this initial
2588 flag lot driveway that attaches us to the Hana Highway and that driveway is about 400 feet long.
2589 More than half of it is protected by a berm that is on Michelle Drewyer's land so she can't see
2590 the driveway except for a little 100-foot gap in the berm as cars leave the highway and enter our
2591 property, the lower portion of our property. And once they go by that 100-foot section they're
2592 completely contained on our land. All of the parking, all of the driving there's nothing impacting
2593 the neighbors. And there's a close up of that driveway at the last page you can see
2594 Michelle Drewyer's house on the left and it leads to a cul de sac there at the end and our
2595 entrance to our farm is the driveway off to the left, to the right it goes to Jerome Labats, and
2596 straight down goes down to his lower portion of land as well. So there's a really a very...it's
2597 probably 20 seconds from leaving the Hana Highway till disappearing onto our farm that
2598 either...that Ms. Drewyer could even see or hear a car and Jerome Labat has no visual on that
2599 driveway. So I just wanted to try to clarify that with you and we do have some...a two-minute
2600 drone video footage that really captures the situation of this building and why we chose to build
2601 it in this spot. So we're gonna see if we can get the...get it to play.

2602
2603 Mr. Ickovitz: Unfortunately this project unit doesn't have a USB port...(inaudible-not speaking
2604 into a mic)...Unfortunately, the projection unit that the Commission has does not accept a USB
2605 connection and therefore we have a problem, we can't show the video. So I'm just gonna play it
2606 on my PC and just walk around it while he describes it.

2607
2608 Dr. Abrams: Will that work with that you guys?

2609
2610 Mr. Galazin: Chair if I may? So Dr. Abrams is that recording something that you have a copy of
2611 that we can keep for the record?

2612
2613 Dr. Abrams: Yeah we can send it to you—
2614

2615 Mr. Galazin: Into the mic please. Into the microphone.

2616

2617 Mr. Ickovitz: Yes, we...I have it. It's YouTube that I was gonna provide to you on a disk drive.
2618 It was in my machine, it fell and it's broken.

2619

2620 Dr. Abrams: So we can give you a link, a YouTube link to that video.

2621

2622 Mr. Ickovitz: But I can provide, get you a USB drive with that, the representation as soon
2623 as...(inaudible)...

2624

2625 Dr. Abrams: But I still like you know...(inaudible-not speaking into the mic)...

2626

2627 Mr. Carnicelli: One at a time.

2628

2629 Ms. Furukawa: The YouTube videos we cannot access from our computers 'cause of Firewalls
2630 and stuff, so...

2631

2632 Mr. Ickovitz: And I was expecting a USB.

2633

2634 Ms. McLean: Just a flash drive would be...if you can give it to us on a flash drive.

2635

2636 Mr. Ickovitz: Yeah, I can't do it right this moment but we can get it to you.

2637

2638 Dr. Abrams: Is this flash drive broken...(inaudible-not speaking into a mic)...

2639

2640 Mr. Ickovitz: Yes.

2641

2642 Dr. Abrams: Okay, so the stills will have to suffice for now. But especially if you look at the top,
2643 the front picture you can see the building we chose to site it as far as possible from any
2644 neighbors. I do want to say another accommodation that we made to Ms. Drewyer, we had a
2645 plans to develop a commercial photo voltaic solar grid tied system on our land on the portion of
2646 the land closer to Ms. Drewyer's. We even applied for and were granted a building permit for
2647 this project and I discussed it with her, I mentioned I said, hey we're gonna put out some solar
2648 panels here and she was dead set against it. She felt like if we got our solar project installed
2649 that she would not be able to get her own grid tied solar system. I don't know if that's true
2650 there's an allocation for a neighborhood but in any case we went and met with her and her
2651 husband at the time. We sat with them and looked towards our property trying to see like what
2652 we were gonna do, would it impact her view, we erected a pole to see how tall the panels would
2653 be and whether they would be able to see I from their place. It really was not visible over the
2654 berm, but she was so insistent and somewhat threatening that if we did this she was going to
2655 make our life difficult, so we agreed and we withdrew the permit and canceled our project. First
2656 I just canceled the project then she called me and asked me to formally withdraw the permit to
2657 make room for her to apply for her solar permit and so we did that. And that potentially was a
2658 profitable installation that may have helped us financially but in order to accommodate to our
2659 neighbor's needs we ...(inaudible)...and canceled that project.

2660

2661 Mr. Carnicelli: Lew, when was that?

2662

2663 Dr. Abrams: That was when her husband was still alive, it's probably six years ago.

2664

2665 Mr. Carnicelli: Okay. Thank you.

2666

2667 Dr. Abrams: Something like that. And then one other thing that we did that was somewhat
2668 accommodating was there was a situation where we were trying to assess the fire protection
2669 available to our three homes from a fire stand centrally located up at that near that cul de sac.
2670 It's a shared interest, the Drewyers, Jerome Labat and our home they're all protected by the
2671 same fire stand and it didn't, it didn't...you know there was a question about whether the fire,
2672 the water pressure was sufficient there. So we were all talking about like how we want to make
2673 sure our homes are protected and in that research apparently Ms. Drewyer turned off an
2674 important valve coming out of the well tank and left it off for a day and a half without telling us.
2675 At first she admitted that she did it because the former owner of Labat's property had told her
2676 that if she change that valve it might affect the fire protection system. Then later when it turned
2677 out that that water had cut off property water to all of our three properties and our pump had run
2678 dry and burned out and required replacement then she changed her tune and said, no she didn't
2679 do it or she wasn't responsible for it. In any case, we had the pump replaced and did ask her if
2680 she might be willing to pitch in to cover the replacement cost of this pump that was damaged
2681 because she had cut off the water supply that feeds that pump and she said it wasn't her
2682 responsibility, she didn't want to help with that and we just let it go and accepted that. So that
2683 was another sort of neighborly accommodation.

2684

2685 And I'm just gonna list a few other things, not that these are so major but one of them is a
2686 concern we noticed the signs of Roundup are being sprayed around our well, the shared well
2687 and the fence line that borders our organic farm and it was apparent that it was being sprayed
2688 on the Drewyer's fence line and so I called Michelle and expressed some concern and at first
2689 she denied spraying the Roundup but it was very apparent, there was the telltale dead brown
2690 grass along there and then I actually sent her some articles about the potential dangers of
2691 glyphosate and how it's in the tissues of every human being on the planet and that it was
2692 associated with cancer and then she admitted to have being spraying it she and her husband
2693 and agreed to stop but only if we took on the care of the shared well tank area 'cause the grass
2694 grow around there. So I immediately said yes, we will take this on, we'll do manual trimming
2695 with our weed eaters and sickles and so since then and that's again probably eight years ago
2696 that's something that we've been doing for the neighborhood even though that well tank and
2697 pump house is not on our land, it's actually on Jerome Labat's land we do have an easement to
2698 access it for our water supply. And I do have a picture of that tank. We've worked really hard to
2699 stay on top of the cane grass and trim there. So we asked her to stop spraying Roundup
2700 adjacent to our organic farm 'cause we're downhill from her property and she did agree to stop
2701 and stopped for some time. It feels like she may have started again. Sadly after I sent the
2702 article about the cancer causing potential of Roundup her own husband Darby did get
2703 diagnosed with brain cancer and died in like six, seven years ago. So that was a unfortunate
2704 thing that may explain some of you know her upset, and I feel sorry about that. Darby was a
2705 nice guy.

2706

2707 So I'm just gonna go on to some of the other things. We took on taking care of the well house
2708 and the pump house, the well tank and hand trimming instead of allowing her to spray Roundup.
2709 We cut...we deal with the view plain out at the mouth of the driveway to make sure there's
2710 ample view to the oncoming cars. On one occasion Ms. Drewyer asked me to cut or trim back
2711 some trees that had grown into her view. The very next day I was out there with a chainsaw
2712 and cut them down all the way to accommodate. It was just like a African tulip weed tree. I
2713 wasn't attached to it, was glad to remove it from her view. By the way, I don't recall her ever
2714 acknowledging or thanking us for any of these efforts. And then when asked by Ms. Drewyer to
2715 contribute financially to her project she decided she wanted to plant some palms out at the
2716 mouth of the driveway on her side, she basically told us that we should pitch in for the backhoe
2717 and we agreed. We never, we really weren't consulted and I don't know that there was a need
2718 for those palms but we did spent several hundred dollars without making an issue to help her
2719 with that project.

2720
2721 Other small things, over the years we've brought Ms. Drewyer several harvest boxes when we
2722 were doing more commonly CSA boxes, sometimes we'd have extra produce and we would
2723 bring them as a gift to her and she accepted them a couple times but at the last time she was
2724 upset with us about something and she just left the box there by her gate and I called and said
2725 it's still there and she said she refused to pick it up and that we should send someone to retrieve
2726 the box but it shouldn't be me or Mariah 'cause if we approached her gate she might refile a
2727 restraining order on us so that was an unusual thing.

2728
2729 So that's just some of our efforts to be neighborly, to accommodate to the concerns of the
2730 neighbors.

2731
2732 And now I do wanna just address a couple of the misrepresentations that have appeared or that
2733 appeared in Ms. Drewyer's letter that we're still trying to decide whether it will be allowed into
2734 evidence, but I...whether...you know, you guys have a had a chance to read it already so it's
2735 basically like you can't unring a bell that's it's already been posted for the public to see. That
2736 letter from Ms. Drewyer was quite uncharitable about my character I have to say. I felt defamed
2737 and falsely accused of things and so I'm just gonna try to correct any misunderstandings around
2738 that. So in it she...there was this claim that we have this greenhouse on our property that was
2739 built without a permit. I have no idea where she came up with that. It was built with a permit.
2740 The permit number is BX2015-0062. And I also wondered why she would care it's nowhere
2741 near her property not in her view, it seemed like she was just trying to stir up trouble for us.

2742
2743 Another important misrepresentation in her letter was reporting about the IWS Septic Report
2744 that we had done by an engineer. That report found that we have...we built a very large septic
2745 system to accommodate that proposed church building because we had thought about building
2746 an ohana that would feed into that same system. So it was like the maximum size septic
2747 system and ...(inaudible)... the engineer looked at the thing and certified in saying this system
2748 is big enough to hand a hundred people for a church dinner. So a hundred people coming for
2749 services and having dinner and washing dishes and using the toilet and that was estimated that
2750 that might take a thousand gallons if we had a hundred people eating dinner there. But
2751 Ms. Drewyer quoted report and deceptively conflated the maximum daily capacity of
2752 1,000 gallons with the estimated daily use. She said, oh yeah, the report shows that they do

2753 church there it's going to take a thousand gallons of water a day and that is definitely not true
2754 because if we didn't do dinner that ten gallons per person rate it drops down to three gallons a
2755 person and so in theory our septic system is big enough for almost 200 people if we're not
2756 serving dinner. But she, but the way she spoke about it in the letter was to misrepresent that
2757 report and make it seem like the report proved that if we did host church activities there that we
2758 would be using an extra 1,000 gallons of water a day.

2759
2760 And this might be a good place to insert this aside, that water system in the original subdivision
2761 was built to serve our three properties, now the five...Jerome Labat has two properties so
2762 there's two TMKs that he has, the Drewyers had one, we had one and there's a whole nother
2763 property across the gulch where Tim Robinson now lives. I believe that was like eight or twelve
2764 acres that were a part of the original subdivision of 75 acres. That well system was designed to
2765 supply across the gulch multiple home sites. It's overkill. We are not using all of the water that
2766 that well is a capable of producing. There's never been a shortage of water. As the County
2767 report shows we sit on a huge aquifer of water and in our private water agreement there's no
2768 stipulation about any maximum amount of water that any party to the water agreement can use.

2769
2770 The only stipulation is is that maintenance cost would be shared equally, maintenance or
2771 replacement of the pump and that by metering the use of water each property can pay
2772 proportionately for the amount of water they use because it's basically the only bill is the electric
2773 bill associated with the well pump that pumps the water up into holding tank. And so by figuring
2774 out the use of the water we can have a monthly or quarterly is how it's turned out to be,
2775 Ms. Drewyer has been managing the water system and figuring out who owes what and sending
2776 us the bills. But the basic gist of that is there's ample supply of water and any water that we
2777 have used we have paid for. And we do use more water as a 25-acre farm than the other
2778 parcels which are primarily sort of gentleman estates without a lot of agriculture going on. But
2779 we're actually irrigating orchards and so on, so we have always been very willing to pay our fair
2780 share for the use of the shared water system. And we are up to date with our payments.
2781 There's been a couple times I've been a little late admittedly but also Ms. Drewyer was not very
2782 consistent in sending the bills. Sometimes she would send them every month, sometimes she
2783 would go a number of months, and I have made my best effort to make sure we always pay for
2784 our share of water so that was why it was a surprise when she started accusing us of stealing
2785 water. And I would say we don't need to steal water. There's plenty of water where are you
2786 coming from with that.

2787
2788 And then she says, well I know that you're using the fire protection system to make an end run
2789 around paying your fair share of the well bill and this was news to me because I didn't know that
2790 the water that was set to be the fire protection systems of these buildings I had no idea that that
2791 water didn't run through the meters until she accused me of using it to avoid paying my share of
2792 the water bill. And I was really puzzled 'cause we've never done that. I've never even opened
2793 the fire hydrant and so I was saying...and she says I have proof, and I'm saying what proof?
2794 You can't have proof 'cause I didn't do it. But she's...what her proof was is that there was a
2795 discrepancy between the meter on the primary well pump and the three meters that divide up
2796 the use of the water by the individual properties. And so she inferred from that discrepancy that
2797 somehow we must be stealing water. Another more plausible explanation which would be
2798 applying Occam's razor, a more simple explanation is that somewhere in the system there's

2799 some kind of leak that allows some of that water to drain off before it makes it to the meters.
2800 Anyways I'm just here to represent to you I am not a thief, I am a person of integrity. I would
2801 have no reason to steal the water. I didn't even know that there was a way of getting water that
2802 wasn't metered. And so even though I tried to explain this repeatedly to Ms. Drewyer she would
2803 keep coming back to it in this fixed way that was bordering on delusional. I actually called her
2804 that I'm saying look I'm telling you we're not doing it, there's no evidence we're doing it, but yet
2805 you keep thinking we are, I just don't understand. So that was an issue that I wanted to speak
2806 to 'cause that really does feel like a defamation of my character. That not only did she write that
2807 in the letter to you,(inaudible)...the commissioners, it got posted as link to the minutes of that
2808 meeting and everyone on the island was free to read this thing and see, you know possibly be
2809 influenced by it. So I am concerned. And in the letter that I sent to her asking to meet and talk
2810 about her concerns that we did ask her to withdraw that false accusation about us stealing water
2811 but she did not respond to that.

2812
2813 Other misrepresentations. It's kind of cleared up to the degree that we're removing the stuff that
2814 was in the Dropbox this becomes sort of a nonissue. But...you know there were over a hundred
2815 pages of things that were submitted but a large majority of that stuff was about events that did
2816 not even happen at our property. They were things happening at the Studio Maui or at
2817 Charley's. There was just to the degree that it was represented that this was information
2818 proving that we are violating agricultural zoning it was really not. In fact it did not in contained
2819 that kind of incriminating evidence. So there was a definite misrepresentation like for example
2820 one of our friends has a band, they downloaded his website calendar of where he played and he
2821 played many places around island. They circled all these dates and sort of implied that that was
2822 all happening at our place when it was not. One time it did, but...

2823
2824 Mr. Carnicelli: And Lew we've removed all of that from the record.

2825
2826 Dr. Abrams: Thank you so much.

2827
2828 Mr. Carnicelli: Yeah, yeah, everything in the Dropbox we've removed from the record.

2829
2830 Dr. Abrams: Beautiful. A couple more points. I feel like there was a certain exaggeration about
2831 the traffic and sound disturbance associated with our gatherings. As I was telling you there's
2832 only a very little short stretch of driveway that is visible to the neighbors and again, her home is
2833 within 87 feet of the Hana Highway where over a thousand cars go by each day. Nubby trucks,
2834 nubby tired trucks, tour vans, all kinds of vehicles, we can hear them slightly at our house
2835 depending on if it's like a loud motorcycle or something. But clearly compared to this constant
2836 flow of tourist traffic on the Hana Highway within 90 feet of her bedroom it's hard to understand
2837 why she was feeling so disturbed by the few cars that would turn off the highway and come to
2838 visit us. But for whatever reason it was something that she would let me know that you know
2839 she would text me quite periodically saying lotta cars on the driveway, things like that, and I
2840 would respond and say, well we did have a friend stop by. You know, it just seemed like it was
2841 an exaggeration about...and that she was almost developing a paper trail to try to incriminate
2842 us. So I am challenging that assertion that there's a huge or a significant disturbance of traffic
2843 or sound associated with the activities at this proposed church building as the other picture

2844 showed you it's more than 1,500 feet from Ms. Drewyer's home to the site of the proposed
2845 church building and that's about city blocks, three Wailuku blocks, it's not close.

2846
2847 And then there was another thing in a statement made by Mr. Labat in his testimony where he
2848 said there's been parking issues and that cars have parked out on his land or maybe parked all
2849 the way out to the Hana Highway. This is bizarre to me. This 20...we have 25 acres of land,
2850 we have plenty of room to park literally hundreds of cars on our property. There's no reason
2851 that anyone would park on our neighbor's lands and to my knowledge they never have. So I
2852 don't know where that came from. So I'm challenging that as well. And in his testimony he said
2853 it's been happening more lately I believe when we went over it and that is clearly not the case
2854 because we've scaled down and we don't have very many visitors these days.

2855
2856 And then see what else. False allegations that there had been property damage caused by our
2857 guests parking on neighbor's property. That doesn't...the only thing I can think of is when my
2858 son graduated Seabury we did have a graduation party for him that was crashed by the kids
2859 from King K and I had to break up a fight that happened and kicked one of the kids out and
2860 when he left he dug some ruts, donuts on the median alongside the driveway which mostly was
2861 on our ten feet that we own, but immediately the next day we went out there and filled in the ruts
2862 and reseeded the grass and it was done. It happened one time when my son was 18, he's now
2863 25 years old. That's the only property damage that I'm aware of that's ever happened in this
2864 place, but it was mostly on ours.

2865
2866 And then I mentioned about the defamation and falsely accusing of stealing water.
2867 She's...Ms. Drewyer sort of threatened to file restraining orders on my wife at one point. I won't
2868 go into that. Let's see what else. Efforts on the part of the County regulation...oh yeah there
2869 was a representation in the letter of Ms. Drewyer saying that it looked like we hadn't been trying
2870 to work with the County to get the after-the-fact permit we were seeking. I spent two years with
2871 constant correspondence to the DSA Head Mr. Goode or Grood, David Goode, trying to work
2872 Rulan Waikiki down at the Planning Department. We were being stymied. We wanted to try to
2873 comply but we were caught between these two different branches of the Planning Department
2874 where we couldn't get Ms. Waikiki to release and approve of a building permit and the other
2875 people were fining us for something. So eventually we just stopped trying and removed the
2876 unpermitted work and resolved that issue. And I'll say all of the...you know there are few RFSs
2877 in the record from starting...you know, off to like 2016, we successfully addressed and resolved
2878 every one of those complaints and it's...they're nonissues at this time. And I did make a
2879 concerted effort believe me to try to get the permits that we wanted and it was quite frustrating.

2880
2881 One other, couple things in Ms. Drewyer's letter she, you know, let me say this...after the first
2882 hearing we had a meeting at our place and Ms. Drewyer walked down our road to come to the
2883 church building and we met with my wife and Jerome Labat and Ms. Drewyer and afterward she
2884 wrote in the letter that our road was virtually impassable that she didn't think even a car could
2885 get down there that it was like a clay track. And that's just a misrepresentation. It's a well-
2886 maintained road. I mean there might have been a few grooves from the rain but I do have
2887 pictures here that I can show you of the road. Just to you know set that record straight. Let just
2888 see if I can just...(inaudible-not speaking into the mic)...but this is like a close up that shows

2889 that the road is not this impassable track. We want a fire truck to be able to get down there to
2890 protect our building. We certainly would not want to endanger anyone.

2891
2892 Okay, I'm almost through this. Oh yeah, in her letter she misrepresented our community
2893 gatherings...wrap it up, okay...as a party house and we do have a family friendly atmosphere.
2894 We have multi-generations. We have 80-year-olds and little babies. We do not serve alcohol
2895 and it is far from a party house.

2896
2897 Okay, we're gonna go on. So now I just want to turn to ask you to consider what our church
2898 really needs and to hopefully be moved to pass this special use permit for us today and I'm
2899 going to just speak to the conditions that we are suggesting that you all consider and since the
2900 neighbors aren't here to be cross examined and I would like to suggest that we start back at the
2901 recommendations in Ms. McLean's Planning Department report to the Commission. Because
2902 those were reflective of the needs of our ministry and we were quite, you know satisfied with
2903 those. So I'm just going to go on to tell you what we would like you to consider, what you would,
2904 you know and I appreciate your having open minds and wanting to be fair and do the right thing
2905 by all the parties concerned. So please...and I do also want to acknowledge that there was an
2906 effort especially on your part Mr. Robinson to propose some compromises or alternatives and I
2907 really sat with that and as you recall I did agree to those but then we were voted down and then
2908 after-the-fact the more I looked into it and talked with our people who want to come to our place
2909 it really was not an adequate number of people. As our petitions show we really have more like
2910 30, 40, 50 people that would come to our gatherings. Who knows how many people would
2911 come regularly but 25 is definitely not adequate and we would like to have a weekly...at least a
2912 weekly service of up to 40 people. So I'm gonna just read this to you.

2913
2914 So thank you for considering this and note that they are very close to what Planning Director
2915 McLean recommended in her report to this Commission.

2916
2917 So A, Services shall occur no more than three times per week plus holiday celebrations and we
2918 shall maintain an average of no more than 40 people for weekly services and an average of no
2919 more than 100 people for holiday celebrations.

2920
2921 We...B, we're asking for a 10:00 p.m. sound curfew with amplified music being turned off by
2922 9:30 p.m. and this comes from the experience actually hosting community gatherings.
2923 Oftentimes we'll call the potluck for 6 o'clock but people who work during the week by the time
2924 they get home and shower and make potluck dish, get there oftentimes they don't show up till
2925 6:30 or 7:00 which means our potluck fellowship time kinda runs to about 7:45 which leaves us
2926 from 8:00 to 9:30 as the time when we can actually have a prayer circle or sharing and so that,
2927 that flow works better. To have it over by 9:00 would really feel like an undue burden and not be
2928 as conducive to our pursuit of our, you know, religious freedom so I'm asking that the same
2929 sound curfew that applies to any other business or any other private party you know typically I
2930 believe the County ordinance is that the music needs to come down at 10:00 p.m. We're willing
2931 to turn the amplified music off at 9:30 p.m.

2932
2933 And then back to the sound levels issue, one of the things we discussed in the previous hearing
2934 I appreciate your reasonableness and moving back from that first stipulation about it being not

2935 detectable past the boundaries of the property. We're asking for you to approve sound levels to
2936 stay within County established decibel levels beyond property limits and of course, we agree to
2937 turn down the volume if we were to be bothering the neighbors. If they call or text whatever the
2938 volume is I'm glad to turn it down. And what we found is if we just close up the windows and
2939 door and turn the volume down, the master volume down a little bit, the sound is very much
2940 contained and we did have one experience. I don't...I think Jerome may have called me like
2941 twice over these nine years, one was when my son's band was rehearsing and they were
2942 playing electric music and he called and he said the music's kind of loud. I said, okay, I'm
2943 gonna work on this and so we turned down the music, we closed the doors. I called him back
2944 and he said, yes, that's much better, you've met...you know thank you. You've satisfactorily
2945 addressed our concerns and that's what neighbors do and we will be very glad to accommodate
2946 if there is any concern we will turn down the music without a problem. And I would note that if,
2947 you know, if concerns like that...well, I'll just go on.
2948

2949 So D, New Year's Eve celebration. We do have this tradition of meeting on New Year's Eve.
2950 We collaborate with the Temple of Peace. We have a...you know we play, there's music
2951 playing but we always adjourn at 11:30 and have a midnight prayer ceremony where we light
2952 the peace flame that lives at the Temple and Peace and it's a beautiful, beautiful community
2953 moment where it's not just like get drunk and shoot off fireworks. It's actually dropping into
2954 sacred space together and planting our seeds of consciousness for the future year and so on.
2955 So we would like to be able to continue with the New Year's Eve celebration and on that night
2956 we are proposing that rather than the 100 person limit for the larger gatherings that the
2957 maximum number of guests will coincide with the building occupancy as determined by the
2958 Fire Marshall. That was something we talked about last time. It seems very reasonable. Of
2959 course we're not going to exceed the building occupancy and that occupancy has not been set
2960 yet 'cause we're still in the process of developing the sprinkler system and so on, but once the
2961 Fire Marshall does come in and inspect I understand that a certain number will be set over
2962 which is beyond capacity. So I'm asking that for the New Year's Eve's party celebration that we
2963 can go larger up to whatever the building occupancy will be. I don't know what that will be, but
2964 I'm quite sure it will be over 100 and probably less than 200.
2965

2966 And then there was a suggestion about providing a free day with no church services for the
2967 neighbors. I believe it was you Mr. Robinson that suggested that just so that there's one day a
2968 week they can be sure that nothing's going on. I totally understand and support that and we're
2969 not interested in having day in and day out events and traffic. We appreciate our quiet and
2970 peace as well. I do have to say though I had originally...I chimed in and I say, oh yeah,
2971 Sundays will be good because that's when we go Temple of Peace, but with further consultation
2972 and talking with Reverend St. John and so on, we realize that Sunday afternoon really is a
2973 prime time for families with school age kids to come out and participate in church activities.
2974 During the week, it's you know the kids have to be doing homework and so on, so we don't want
2975 to agree to it sticking with it being Sunday. We would much prefer if we could make that one
2976 day a week off a Monday and we would be appreciative if you would flex with us on that. The
2977 one exception might be if one of the special holidays that has an astrological alignment like
2978 Summer Solstice or there the Spring Equinox if it falls on a Monday it's really desirable to gather
2979 and meditate and pray right at that moment as human beings have done around the world for
2980 millennia and so we would ask that if there is a correspondence of a holiday that lands on a

2981 Monday that we be able to trade that day for a different day that same week, but still maintain
2982 that and with advance notice posting on our website so that neighbors could plan and
2983 understand that you know there would be a day off with no church activities.

2984
2985 And then finally, thank you for your patience, I am reverting and encouraging you all to review
2986 the Planning Department recommendation that said we have met all of the criteria and have
2987 recommended approval of the Special Use Permit for five years. And I know there was a
2988 motion to limit to one year and I just want to you know speak to that this whole process has
2989 been very absorbing. It's taken more than two years of our time to prepare this application and
2990 to deal with all of the different hoops we had to jump through. This has been a distraction from
2991 our ministry and the longer term frame, time frame for the special use allows...is really needed
2992 for planning and development and fundraising and capital development. If we have any kind of
2993 program it takes them time to get it off the ground and raise the funds and implement it. It's
2994 hard to get people to get excited about something that could end just in a few months. So we'd
2995 like to you consider giving that full approval of five years or at least three years and you know
2996 we're just noting you it's no different than what any other business might need like a lavender
2997 farm or other that needs to make like a five-year plan and planned program development. And
2998 of course, however long the SUP is approved for, I'm assuming you will approve it we will still
2999 address any complaints that come up in a timely way if a neighbor calls it doesn't matter
3000 whether there's a one or five year SUP we will jump on it and try to address their concerns.

3001
3002 So yeah, before you make your decision about this SUP I do ask you to consider a couple of
3003 things one is the outpouring of positive testimonials and letters of support from so many
3004 respected community leaders. I know I've mentioned that but for me when I heard people
3005 coming over here saying how touched they had been and how important the service that we've
3006 been offering the community has been it was really amazing and if you do, if you notice on the
3007 right side of your packet there's a list of all the people who wrote letters and we included all the
3008 letters for your review. And it includes you know community leaders, three doctors, several
3009 ministers, many elders and I just would like you to weigh that as data to consider, you know, as
3010 you face this decision.

3011
3012 And then I also would like you to consider the multi-million dollar investment we have made in
3013 this property, the buildings, the infrastructure of Ahimsa Sanctuary Farm. We've poured
3014 everything that we have into this piece of land. We've planted hundreds of fruit trees, we've
3015 built many out buildings, we built this proposed church building to last. We poured footings with
3016 rebar, everything is sturdy because I would like this to be something that will live on into
3017 posterity for future generations. I'm 59 years old I don't know how much more time I'm gonna
3018 be around on this planet but I do want to let you know that I have two healthy sons Gabriel and
3019 Eli, they're 31 years old and 25 years old raised in this interfaith tradition who are poised to
3020 carry on this ministry and probably are better suited than almost anyone 'cause you know my
3021 wife was from Honduras raised Catholic. I grew up in Rhode Island I was raised Jewish. Both
3022 of us expanded our interests in different kinds of mystical traditions, we've both spent time with
3023 Tibetan Buddhist teachers and done Native American sweat lodges and Sufi campout at Camp
3024 Keanae for last 20 years so we exposed our kids to that. We celebrated Hanukah and
3025 Christmas. When we would Passover Seders we would make it a universal discussion of the
3026 right of all people to be free from oppression and I have Muslim friends that read from the Koran

3027 at our Passover Seder and my wife turns the matzah and wine into the Eucharist and we pray
3028 for the Palestinians. I mean it's a very universal experience that we've exposed our kids to.
3029 And they are poised to continue both this organic permaculture farm project because especially
3030 Eli my younger son is totally in the ahupua`a idea. He wants to restore the flow of water in the
3031 gulch and plant taro down there and he's you know helped on the farm and he's gonna be the
3032 one that I'm gonna pass this baton to. My older son, Gabriel is more wed to the urban lifestyle
3033 of being a rock and roll star but still he's definitely got a good heart and will be available to help
3034 his brother pull this together. So I just wanted you to recognize that it's not just us that we're
3035 doing this for. We've done it for a whole community of people and we're hoping that it will serve
3036 future generations and inspire people who come to visit, you know we do these permaculture
3037 farm tours, inspire them to rethink how they're growing their food, how they're generating energy
3038 and perhaps apply some of these permaculture design principles at home even on their balcony
3039 of their condo. I make sure that when I lead these farm tours that I inspire people to minimize
3040 their carbon footprint.

3041
3042 So I think that covers my remarks to you all. Thank you for your patience and again thank you
3043 for the opportunity to try again with you guys and I know that trying to balance everybody's
3044 needs is not an easy thing. I do really appreciate your willingness to feel the value of what
3045 we're offering. Thank you.

3046
3047 Mr. Carnicelli: Thanks Lew. How long are your ceremonies? This one was an hour and ten
3048 minutes.

3049
3050 Dr. Abrams: Oh I see. Usually it's about an hour and a half of actually sitting in a circle and
3051 sharing.

3052
3053 Mr. Carnicelli: Okay, I'm just having fun. I'm just breaking the tension after an hour and ten
3054 minutes is all there.

3055
3056 Dr. Abrams: Yeah.

3057
3058 Mr. Carnicelli: So I would like Corporation Counsel wants to say something.

3059
3060 Mr. Galazin: Thank you.

3061
3062 Dr. Abrams: Yeah I was gonna give you a sample of a Dharma talk that I gave at the Temple of
3063 Peace that I have on my phone that I could like email it to you or something about transforming
3064 difficult life situations into opportunities for personal growth.

3065
3066 Mr. Carnicelli: Thank you.

3067
3068 Dr. Abrams: So I'll share that with you if you're interested.

3069
3070 Mr. Carnicelli: Okay, thank you. Corporation Counsel.

3071
3072 Mr. Galazin: Thank you. Dr. Abrams—

3073

3074 Dr. Abrams: Yes.

3075

3076 Mr. Galazin: --I just wanted to give you an opportunity to clarify one thing. Your counsel had
3077 stated earlier today that there had been no zoning violations on the property is that accurate?
3078

3079

3080 Dr. Abrams: In the last five years there have been none. We did get a couple of RFS warnings.
3081 One, there wasn't...it wasn't found in violation because it was a one-time party when I let
3082 someone hold a birthday party at our place and we did have the guy from the County out and he
3083 had brought in a Coconut Glen's ice cream truck and bouncy trampoline things and apparently
3084 they're not allowed on Ag zoned land so we got a warning letter and it was already gone by the
3085 time letter got to us because it was just a one-day thing. So that's one violation related to that,
3086 but nothing in the last since I think 2016 was the last concern. We did have one issue with an
3087 area under the church building that we were working on getting that after-the-fact permit on that
3088 I told you about but that was all resolved.

3089

3090 Mr. Galazin: So I'm not talking about just the last five years, just have there been any zoning
3091 violations?

3092

3093 Dr. Abrams: I don't believe we've found as having zoning violations. We did get a couple of
3094 warning letters. One was we put some A-frame signs out.

3095

3096 Mr. Galazin: Okay, well...I'm looking for a yes or no.

3097

3098 Dr. Abrams: Okay. No commercial operations, no violations in the past five years and no
3099 significant violations that I'm aware of.

3100

3101 Mr. Galazin: Thank you.

3102

3103 Mr. Carnicelli: Director.

3104

3105 Ms. McLean: In the staff report there is a copy of a Notice of Violation from 2016 and a receipt
3106 of a fine that was paid a \$1,000 that was paid for that violation.

3107

3108 Dr. Abrams: Right. Yeah, that was...that area where we were trying to get the after-the-fact
3109 permit. A \$1,000 or \$1,500? I thought we paid \$1,500.

3110

3111 Ms. McLean: Well, this violation says use of a commercial retail structure art gallery.

3112

3113 Dr. Abrams: Oh that's right.

3114

3115 Ms. McLean: Not permitted in the Agricultural District.

3116

3117 Dr. Abrams: Yeah, we do art. My wife's a potter, I'm a sculptor, my son's a artist and we did
3118 have a overzealous webmaster who put on our website a invitation that when people come to
our farm tour to come check out the farm made, family made art and it said on there that none

3119 of the art would be for sale on site. We did not have any hours of operation. We had no cash
3120 register, no price tags, we never sold anything, but we did display our art that we made, my
3121 son's and my wife and I in an area down underneath that proposed church building and so that
3122 was...somehow it came to someone's attention and we did get, I guess it was a violation for that
3123 which we appealed. We paid the \$500 we were gonna appeal it but then when we met our
3124 planner at the County as we were embarking on this SUP she looked at the record and she said
3125 you know just clear this up. It's better to just pay the fine and close it and so that's what we did.
3126 But it never was a commercial art gallery. I have my art at Maui Hands in Makawao for selling
3127 publicly.

3128

3129 Mr. Carnicelli: Great. Thank you Lew. Leslie, do you have anything else? Are you going to
3130 conclude this?

3131

3132 Dr. Abrams: Thank you.

3133

3134 Mr. Ickovitz: I actually was gonna give you the opportunity to tell me you've heard everything
3135 but I'll be very, very fast, very quick. So I just want to summary very quickly and just state from
3136 my own heart that the Abrams have provided a unique community resource that has given so
3137 much to Maui for 20 years and it's all from their heart. It's never been about the money. It's all
3138 about how to raise the consciousness and the spirituality of this into this island that needs so
3139 much. The world is facing a lot of grave issues and it's people like Dr. Abrams and his wife who
3140 provide a community gathering space where we all can pray together for a better world. We can
3141 pray for a leader that tells the truth everyday instead of lies every day.

3142

3143 So we're urging you to...one thing that Dr. Abrams did not mention, Ms. Drewyer complained,
3144 made all these statements about this horrible road and she couldn't even walk and it was unsafe
3145 and a fire truck couldn't get to go. So Dr. Abrams installed a brand new gravel road. Again, we
3146 didn't have rebuild it, we didn't have a chance get a picture of it but brand new gravel road.

3147

3148 So right now there's nothing in the record regarding any justification or adverse effect on the
3149 neighbors. We're asking you not be more restrictive than the conditions provided. The five-year
3150 just from any kind of capital required...if this...if we were asking for permit to be a botanical
3151 garden you would not consider anything less than five years because nobody can...no bank will
3152 give you a loan unless you have a five-year permit so you can pay back that loan in five years.
3153 So to restrict us more than you restrict a botanical garden would not be fair to a church. One
3154 condition that he didn't mention that you did that's appropriate is that no public church services
3155 start happening until we have a Certificate of Occupancy and we will definitely would honor that.
3156 We think that's a very fair condition. And this is really the only place in the world that they can
3157 do their own church. It's a sacred unique space, again, I think Lew touched on that
3158 Mr. Robinson never called once to complain, Mr. Labat called may be twice in seven years and
3159 each time they resolved it, and Mr. Labat also confirmed that. So the community has provided
3160 overwhelming support and we just urge you to give this community what they really need and
3161 want and provide the Abrams what they have so diligently and worked so hard to ask this
3162 Commission to allow it to carry its ministry on its own property and to really serve all of you.
3163 Thank you.

3164

3165 Mr. Carnicelli: Thank you Leslie. So, I think at this point the first thing that we need to do is
3166 address Tara's letter and Exhibit C in Tara's letter and then D.1 which...two D.1s which were
3167 those items that Leslie asked for us to strike from the record. I look at those is Mr. Abrams and
3168 Leslie both, I'm sorry Dr. Abrams.

3169
3170 Dr. Abrams: Thank you.

3171
3172 Mr. Carnicelli: Excuse me.

3173
3174 Dr. Abrams: ...(inaudible-not speaking into a mic)

3175
3176 Mr. Carnicelli: Probably still paying off the debt too, right. You know last, as we had talked
3177 about earlier we gave them the opportunity to address those concerns even if those people
3178 didn't show up for the last, you know, I mean prior to the break and then you know since then I
3179 think that we've covered each and every point in those letters. If you guys are okay with leaving
3180 them on the record we can do so. Okay, go ahead Corporation Counsel.

3181
3182 Mr. Galazin: Thank you Chair. And so for the members I would say if you want to include them
3183 because you've heard extensive rebuttal testimony that pertains to them just understand that
3184 anything in those letters has to be weighed against what was provided in response to it. So you
3185 know you cannot decide that one is true and one is false just based on the fact that one came
3186 from one person and one came from another. Just look at the evidence. So when you keep
3187 that in mind in making any determination that if it's based on one of those two exhibits or three
3188 exhibits rather that you also rely on what was submitted both the responses to those letters that
3189 were drafted by Dr. Abrams as well as the testimony today that was provided in rebuttal.

3190
3191 Mr. Carnicelli: So if there are no objections we'll go ahead and leave those as part of the
3192 record? Seeing no objection...okay.

3193
3194 Mr. Ickovitz: Of course, the record that I objected to the record.

3195
3196 Mr. Carnicelli: Yes, that's...yeah, that's part of it. Thank you.

3197
3198 Mr. Robinson: A few times.

3199
3200 Mr. Carnicelli: A few times. Okay, so you know, Lew would you come back up again please I
3201 just want before we move forward I want to get clear here on these conditions, right, kinda like
3202 starting where we left off. So we have the standard conditions. This is our green form right
3203 here which we get from the Department and then we made a bunch of changes and added
3204 conditions you agreed to them and now you're not agreeing to them. And you, I'm just gonna
3205 go through what you proposed.

3206
3207 Dr. Abrams: Yes.

3208

3209 Mr. Carnicelli: I'm not saying this is what we're gonna go with but I want to start from where
3210 you, what you're proposing which was you won't start anything until you get a Certificate of
3211 Occupancy.

3212
3213 Dr. Abrams: Correct.

3214
3215 Mr. Carnicelli: But you want three services per week of up to 40 people plus—

3216
3217 Dr. Abrams: Up to three per...up to three services.

3218
3219 Mr. Carnicelli: Up to three services per week.

3220
3221 Dr. Abrams: Right.

3222
3223 Mr. Carnicelli: With a maximum of 40 people per service, correct?

3224
3225 Dr. Abrams: I believe the language from the Planning Commission was—

3226
3227 Mr. Carnicelli: I'm asking you. This is what I thought I heard you say so that's why I want to get
3228 clear right now before we go forward with this.

3229
3230 Dr. Abrams: I would be fine with that. I'm not sure how an average would actually be figured on
3231 this.

3232
3233 Mr. Carnicelli: No it's not an average. I'm talking about maximum like maximum 40 people. So
3234 you get up to three per week and those services will be up to 40 people.

3235
3236 Dr. Abrams: Yes.

3237
3238 Mr. Carnicelli: Those services.

3239
3240 Dr. Abrams: Yes.

3241
3242 Mr. Carnicelli: Okay. You said plus holidays of up to 100 people.

3243
3244 Dr. Abrams: Yes.

3245
3246 Mr. Carnicelli: Okay, I'm gonna hit the pause button right now because you've already said
3247 multiple times on the record that you celebrate every single denomination that there is. So I'm
3248 just saying is if we say okay holidays, every day could be a holiday. It could be potentially.
3249 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
3250 gonna have to somehow define what this is, right. And I get that you're saying you know...so
3251 I'm just trying to wrap my head around you know is it...

3252

3253 Dr. Abrams: We did, we did go through and look at what holidays we would ideally like to
3254 celebrate many of which we often do and so we have a calendar of 2019 and to 20 of what
3255 holidays we would like to have that option.

3256
3257 Mr. Carnicelli: Perfect. Let's put it as part of the record then.

3258
3259 Dr. Abrams: Okay.

3260
3261 Mr. Carnicelli: Let's put that part of the record.

3262
3263 Dr. Abrams: Right. Okay.

3264
3265 Mr. Ickovitz: ...(inaudible-not speaking into a mic)...

3266
3267 Mr. Carnicelli: Yeah, is if everybody could get a copy that would be great.

3268
3269 Mr. Ickovitz: This is a schedule for –

3270
3271 Mr. Carnicelli: Just go ahead and hand them out and we'll look through that. So while you're
3272 that Leslie I'm gonna go ahead and say so Lew the other thing was that these weekly services
3273 would be done at 10 o'clock but the amplified sound would be done at 9:30?

3274
3275 Dr. Abrams: Yes.

3276
3277 Mr. Carnicelli: My question is, is are these done inside?

3278
3279 Dr. Abrams: Inside that church building yes.

3280
3281 Mr. Carnicelli: Inside the church building. So these aren't out like on the deck or lanai or not out
3282 in the fields, they're inside the building?

3283
3284 Dr. Abrams: Right.

3285
3286 Mr. Carnicelli: Okay, just, just trying to get clarification. You're okay with the sound being at
3287 County levels.

3288
3289 Dr. Abrams: Yes.

3290
3291 Mr. Carnicelli: And that you will turn down the music at the request of your neighbors?

3292
3293 Dr. Abrams: Yes, absolutely. I will respond. Reasonable requests, yes.

3294
3295 Mr. Carnicelli: Okay, define reasonable.

3296
3297 Dr. Abrams: No, if someone is bothered I will respond in whatever way I can, you know
3298 and...right we have actually had the occasion of Ms. Drewyer texting us saying wow, there's a

3299 lot of activity and noise at your place tonight Lew when we're sitting quietly in our living room
3300 when nothing is happening whatsoever.

3301
3302 Mr. Carnicelli: Okay, is—

3303
3304 Dr. Abrams: So I have to have it be based on something that I can quiet down.

3305
3306 Mr. Carnicelli: Well, then you can turn down your T.V.

3307
3308 Dr. Abrams: Last night we heard her dogs...oh no, she's texted us last night.

3309
3310 Mr. Carnicelli: Is we're...we've been doing this two hours, so I'm just—

3311
3312 Dr. Abrams: Yeah okay, no problem.

3313
3314 Mr. Carnicelli: Let's keep rolling here.

3315
3316 Mr. Robinson: We're volunteers.

3317
3318 Mr. Carnicelli: Yeah, we're volunteers. Is you're not gonna do anything on a Monday.

3319
3320 Dr. Abrams: Mondays, yes.

3321
3322 Mr. Carnicelli: Do any of these fall on a Monday?

3323
3324 Dr. Abrams: One.

3325
3326 Mr. Carnicelli: Okay, which one?

3327
3328 Dr. Abrams: Do you remember, ...(inaudible)...

3329
3330 Mr. Ickovitz: ...(inaudible-not speaking into a mic)...

3331
3332 Dr. Abrams: I think it was like Passover.

3333
3334 Mr. Ickovitz: In 2020 ...(inaudible-not speaking into a mic)...

3335
3336 Dr. Abrams: One in 2020 we understand.

3337
3338 Mr. Carnicelli: Okay. That you said that you wanted a five-year permit, you'd be okay with a
3339 three-year permit.

3340
3341 Dr. Abrams: I'm requesting a five-year permit so we can go forward but I would be most
3342 blessed whatever you guys decide if we can get this special use permit. One-year is a burden
3343 and would make it difficult for us to move forward with the longer term plan, but three years we
3344 could live with for sure.

3345
3346 Mr. Carnicelli: So now I want to go to New Year's Eve.
3347
3348 Dr. Abrams: Okay.
3349
3350 Mr. Carnicelli: Which we're gonna have two of them potentially in this...if I go to 2020, right.
3351
3352 Dr. Abrams: Yes.
3353
3354 Mr. Carnicelli: We got two of them potentially in this...if I go to 2020, right? If I...means we got
3355 two them.
3356
3357 Dr. Abrams: Yes.
3358
3359 Mr. Carnicelli: So you want the number of people to the building occupancy.
3360
3361 Dr. Abrams: Please.
3362
3363 Mr. Carnicelli: Which we'll get to parking after that. But what was the 11:30? 'Cause I'm going
3364 like okay, you got New Year's celebration, you said something about the celebration ends at
3365 11:30 or something to that effect? I'm going like well, how can you have a New Year's Eve
3366 party that ends at 11:30?
3367
3368 Dr. Abrams: Yeah, we have music playing and people dancing and my son's band playing and
3369 then we stop it all at 11:30 so that we can call people into a prayer circle for the midnight hour,
3370 and then we start again at 12:15.
3371
3372 Mr. Carnicelli: Okay. And then I recall that you guys go till sun up?
3373
3374 Dr. Abrams: No, the music starts at 2:00 and then we do invite people who wish to return or
3375 stay come for a sunrise prayer, yes.
3376
3377 Mr. Carnicelli: So wait you end at 11:30 but you want to go till 2:00?
3378
3379 Dr. Abrams: No, we break, we break at 11:30 to 12:15, yeah.
3380
3381 Mr. Carnicelli: Okay, and then you want to start the music up again and go till 2:00?
3382
3383 Dr. Abrams: Yes, I would like that. I could, we could...
3384
3385 Mr. Carnicelli: I'm just trying to get clarity here so we can...I'm just trying to understand what it
3386 is and then other people may or may not show up until sunrise. That's kinda how...that's how
3387 that function happens, that's how that celebration happens.
3388
3389 Dr. Abrams: Right.
3390

3391 Mr. Carnicelli: Okay.

3392

3393 Dr. Abrams: Actually so that reminds me of one thing we do outside.

3394

3395 Mr. Carnicelli: Hang on.

3396

3397 Dr. Abrams: Outside the temple.

3398

3399 Mr. Carnicelli: Oh okay.

3400

3401 Dr. Abrams: We have a medicine wheel which is a stone ring. It's 90 feet across, it's aligned
3402 with the directions and so at sunrise we go out to the medicine wheel and make a prayer not in
3403 the temple under the dome of the sky on our sacred Mother Earth honoring the directions no big
3404 drumming you know but—

3405

3406 Mr. Carnicelli: Are there, are there...do you play musical instruments at that time?

3407

3408 Dr. Abrams: We have traditionally blown a conch at sunrise, at the...(inaudible)...

3409

3410 Mr. Carnicelli: A conch shell, okay.

3411

3412 Dr. Abrams: Yeah.

3413

3414 Mr. Carnicelli: Humming, singing?

3415

3416 Dr. Abrams: It's pretty much silent meditation while we're waiting for the sun to come up after a
3417 long night, yeah.

3418

3419 Mr. Carnicelli: Okay, I'm familiar. As far as conditions go, conditions Commissioners do you
3420 have other questions as far as what he's kinda proposed, what he's okay with at this point in
3421 time? Commissioner Thompson, Commissioner Pali, you have questions? Just for...no?
3422 Commissioner Robinson.

3423

3424 Mr. Robinson: Dr. Lew.

3425

3426 Dr. Abrams: Yes.

3427

3428 Mr. Robinson: We, we tried real hard last time here to get some conditions which didn't get
3429 approved and we're back today changing all the conditions the opposite way.

3430

3431 Dr. Abrams: Yes.

3432

3433 Mr. Robinson: And I'm not sure of your guy's strategy with, with us not accepting it the first time
3434 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
3435 better this time. My, myself, I don't really...you know, we talked a lot about your church.
3436 Everybody does stuff, it's not about what you do, what you don't do or who does this, do that, I

3437 think it's all, it's all about zoning, area, traffic and noise and parking and safety and all that type
3438 of stuff. The one thing that I've that I remember that I wanted was as a neighbor is I wanted one
3439 day that I could count on.

3440
3441 Dr. Abrams: Yes.

3442
3443 Mr. Robinson: And it was a weekend day, it wasn't a weekday, it was weekend day and it was
3444 that maybe you know I could, I could at least you know switch my schedule around, at least I
3445 could have one day that I could sleep in and I could know that it would be okay. Monday thru
3446 Friday, I'm probably gonna be at work so there is no sleep in day. Change the amount of the
3447 people which is going to change the amount of volume, change the amount of events that's
3448 gonna be more than people which is going to change the volume, it's going to change the
3449 serenity of being a, you know a decent neighbor. I believe that that some of the things that were
3450 on top of these letters might have been exaggerated but I also believe that some of them might
3451 be partially true as well and I just wanted to let you know for weight. I believe some of your
3452 testimony was partly true and partly not true as well. It's all...everybody it's the eye of the
3453 beholder, if you get two attorneys and they both believe that one guys is guilty and one guy is
3454 innocent, but you know it's just the way it is and—

3455
3456 Dr. Abrams: I live my life speaking the truth.

3457
3458 Mr. Robinson: Right, exactly. And I think you know I think everybody...(inaudible)...We asked
3459 you a question today was there any violations, you said no only warnings. When you pay a fine
3460 that's not a warning. A fine is a paid violation.

3461
3462 Dr. Abrams: Okay, then I stand corrected.

3463
3464 Mr. Robinson: Well, no and again, but it's okay, you know we're not here to crucify you, we're
3465 here to try to come to some stuff and to some, you know understanding because you know it's
3466 for—

3467
3468 Dr. Abrams: It wasn't a legitimate violation from my point of view since we did not have a
3469 commercial gallery for which we were being cited.

3470
3471 Mr. Robinson: Okay, I got you. Okay, I got you. So, and I guess what I'm...by working with
3472 you last time I'm asking now are you sure these conditions are the ones you want us to consider
3473 and these are hard conditions. They're not something that you would like but you would, you
3474 would accept something different because, because once it goes to a vote, and we know how
3475 the vote went last time.

3476
3477 Dr. Abrams: That was scary.

3478
3479 Mr. Robinson: And this, this pulled me away from one way because I was for the quiet day.
3480 You know everybody has their thing. And so I've kinda lost that. So—

3481

3482 Dr. Abrams: Well, we are talking about one day a week quiet. In terms of sleeping in on
3483 Sundays.

3484
3485 Mr. Robinson: Saturdays fine too.

3486
3487 Dr. Abrams: We, we go—

3488
3489 Mr. Robinson: You choose.

3490
3491 Dr. Abrams: We go to the Temple of Peace on Sundays from 9:30 to 1:00 and so there will be
3492 nothing on Sunday morning at would cause anyone to wake up 'cause we're doing the ministry
3493 at our friend's church.

3494
3495 Mr. Robinson: Some people work at night and come home at 8:00 a.m. and they sleep to then.
3496 Again, this is up to you. I'm not trying to tell you know, I'm just trying to say—

3497
3498 Dr. Abrams: Yeah, and it was in consultation with the people who want to participate when I
3499 told them that we would, you know, not do anything on Sunday. There was people that felt like
3500 that's really the main day.

3501
3502 Mr. Robinson: What about Saturday?

3503
3504 Dr. Abrams: Well, the weekends are the days that families with kids can come out.

3505
3506 Mr. Robinson: Okay.

3507
3508 Dr. Abrams: And so, we, we, and traditionally churches...(inaudible)...

3509
3510 Mr. Robinson: Okay, no it's your call.

3511
3512 Dr. Abrams: Yeah.

3513
3514 Mr. Robinson: It's your property, it's not mine.

3515
3516 Dr. Abrams: Right. We are...the beginning service that we're hoping to offer is the Sabbath or
3517 Shabbat, Friday evening Shabbat and it goes from Friday evening through Saturday and so you
3518 know, it's just...

3519
3520 Mr. Robinson: How can it go through when it has to stop at 9:30?

3521
3522 Dr. Abrams: I mean the holiday runs sunset to sunset.

3523
3524 Mr. Robinson: No, I'm familiar with it too, you know.

3525
3526 Dr. Abrams: Yeah, I mean, we're not gonna be making noise on Saturday from the Shabbat the
3527 night before.

3528
3529 Mr. Robinson: Yeah, and thank you. And Chair, the 120 times a year or 24 times a year,
3530 hundred people that wasn't even close to what we discussed last time. In fact it was like I think
3531 it was...we gave them 12 so this is double.

3532
3533 Dr. Abrams: I don't actually anticipate that we're gonna have that many people, but it would be
3534 nice if people were called to come and we could grow our ministry that we could accommodate
3535 them. Right there was a discussion Commissioner Robinson last time about 24 times in a year
3536 to be able to go over to larger size group and basically that's what these holidays correspond to.

3537
3538 Mr. Robinson: It was 12.

3539
3540 Mr. Carnicelli: Okay, is you know, is at this point—

3541
3542 Dr. Abrams: Okay, I recall 24.

3543
3544 Mr. Carnicelli: Let's, let's keep rolling.

3545
3546 Mr. Robinson: Thank you.

3547
3548 Mr. Carnicelli: Commissioner Tackett do you have any questions about the conditions as to
3549 where we are right now with what it is that the applicant would like?

3550
3551 Mr. Tackett: I see pretty clearly what he's asking for.

3552
3553 Mr. Carnicelli: Okay, thank you. Commissioner Castro.

3554
3555 Mr. Castro: I think the only question I have is about the occupancy certificate. Is it ongoing or
3556 what's the hold up?

3557
3558 Dr. Abrams: Right. We're in...working with an engineer to develop the fire protection plan that
3559 provides the increased fire protection that goes when you go from an agricultural workshop to a
3560 public building like a church. So that, that is being designed. We haven't implemented it yet,
3561 but we did determine that the aquaculture ponds that we have on the land if we go to the route
3562 of sprinklers which is now what is required can provide sufficient enough water to run the
3563 sprinkler system assuming we put in this powerful pump. So we're in the process of developing
3564 that but it isn't ready for the Fire Marshall to come out and decide the occupancy. I think most
3565 of it is associated usually with square footage so I know from the Temple of Peace it's a much
3566 smaller room and they have like 87. So I'm assuming ours will be twice that.

3567
3568 Mr. Castro: Is there a time frame on the design?

3569
3570 Dr. Abrams: Part of it is economics of being able to implement all this, but as soon as we can
3571 pull it together yeah we want to get this established.

3572
3573 Mr. Carnicelli: Tara does the current building have a building permit?

3574
3575 Ms. Furukawa: I think so, yeah.
3576
3577 Mr. Carnicelli: Okay.
3578
3579 Dr. Abrams: Yeah, it's all done to Code.
3580
3581 Mr. Carnicelli: And so, so what we're doing is we're going from an ag structure to a commercial
3582 structure and you're working with an architect or an engineer right now but you haven't even
3583 submitted for permits on that yet, is that correct?
3584
3585 Dr. Abrams: Well, we've been...we've definitely submitted to Susan Watanabe and she went
3586 through and gave us you know things like exit signs that we would need, we're in process
3587 making sure that we comply with whatever church requirements there are.
3588
3589 Ms. Furukawa: On the site plan all of the building permits are listed, Exhibit 5 in the staff report.
3590
3591 Mr. Carnicelli: Got it.
3592
3593 Dr. Abrams: Right, so everything was done to Code and inspected and permitted on there and
3594 we had to every structure, every little shed for our SMA and implemented farm plan have all
3595 been gone over with a fine tooth comb.
3596
3597 Mr. Carnicelli: Got it. Thank you. Commissioner Tackett.
3598
3599 Mr. Tackett: My question is for the Director. They're waiting for a Certificate of Occupancy but
3600 as I understand there's been a lot of functions not necessarily church functions that have been
3601 going on in there before a Certificate of Occupancy is that acceptable, is that the way it is
3602 typically done or I just...I'm confused how we could have no Certificate of Occupancy but these
3603 things going on in this space for this amount of time so I would just like clarification as to what—
3604
3605 Dr. Abrams: Yeah, these were private gatherings of our friends.
3606
3607 Mr. Carnicelli: Hang on, hang on, hang on.
3608
3609 Mr. Tackett: Can you have large—
3610
3611 Mr. Carnicelli: He's asking—
3612
3613 Mr. Tackett: --private gatherings of friends in a structure like that with no Certificate of
3614 Occupancy. I'm trying to find out what the parameters for something like that would be.
3615
3616 Mr. Carnicelli: Director.
3617
3618 Ms. McLean: I don't know the details of the permit for what we're calling the church structure of
3619 what exactly that was permitted for. If it was permitted for ag processing I think that's what was

3620 said earlier that it was an ag processing facility it would have been understood that at that time
3621 that people would have been occupying that structure to do their agricultural work. I don't know
3622 at what point a line would be crossed depending on how many people there were and what their
3623 activities would be, but that structure is supposed to be used for its intended permitted purpose
3624 and if it was used for purposes other than that then that's something that we would, we would
3625 question but it's not clear to me how many people and what the structure has been used for
3626 other than what it's permitted as.

3627
3628 Mr. Tackett: So that leads me to my question for you, like it's so many different things that
3629 you've talked about that you've had, that you've held in this place it doesn't seem like
3630 agricultural processing you know, without a Certificate of Occupancy and it doesn't seem like
3631 you've been following the rules that all. It just...it seems like, it just seems like it's been a free
3632 for all, you know, and I don't know if I'm misreading that but to, from what I just got by definition
3633 was processing. To me processing people are going in there as workers and they're processing
3634 whatever you're producing but parties and the different types of events that you've described
3635 that have been going on in that place without a Certificate of Occupancy it doesn't seem right to
3636 me.

3637
3638 Mr. Carnicelli: Commissioner La Costa.

3639
3640 Ms. La Costa: My question is or my clarification point when I looked at the schedule that we
3641 were given and I multiplied the weeks by three and then I added all of these other functions that
3642 278 services and there may be some additional ones that are not here. I'm in concurrence with
3643 Commissioner Robinson in that everyone needs a day of peace whether it's the Sabbath on
3644 Friday or on Saturday or on Sunday. So I think that you are asking for a lot and when we try to
3645 compromise with you it doesn't seem to be enough. Everyone needs some down time and your
3646 neighbors need some down time and your doggies need some down time and so it has to
3647 be...you have to understand that while you might want to eat cotton candy, I want to eat ice
3648 cream, so other people don't like cotton candy and they don't want to do what you think they
3649 should by forcing them to listen to your services and the car, the traffic and everything that is
3650 going on. So you need to be mindful of your neighbors and Matthew 7:12, do unto others as
3651 you would have them do unto you.

3652
3653 Dr. Abrams: Absolutely. Yeah, when we're gathered in that building I don't believe the
3654 neighbors are impacted.

3655
3656 Ms. La Costa: Well, they said that they were when they came and testified. The other thing I
3657 have is the permit and I am not the director, but when you're given a permit if it were to be one
3658 year it doesn't mean that everything stops, it means that 90 days before that time you reapply to
3659 have it renewed and generally then it's for a longer period.

3660
3661 Dr. Abrams: I see.

3662
3663 Ms. La Costa: So if everything has been done within the law, that there haven't been
3664 complaints, you have been a good neighbor and your neighbors have appreciated that then
3665 that's, you know, it's like an engagement before marriage I guess.

3666
3667 Dr. Abrams: I understand that.
3668
3669 Ms. La Costa: Make sure that you really want to do that and maybe you really don't.
3670
3671 Dr. Abrams: Really. I appreciate that.
3672
3673 Ms. La Costa: So that's...I needed to give you the clarification for that. Did your attorney want
3674 to say something he keeps jumping up to say something?
3675
3676 Mr. Carnicelli: No, no, no, it's okay. It's did you have a question for Lew or was that just more
3677 of a statement?
3678
3679 Ms. La Costa: No, I just wanted to...I'm just waiting, I'm waiting for him to comment.
3680
3681 Dr. Abrams: Les is...when we checked his calendar there's only two Saturdays in 2020 that
3682 would involve corresponding to any of these holidays so pretty much every Saturday is free from
3683 this schedule.
3684
3685 Mr. Ickovitz: So what we would saying there's not only...there would be 50 Saturdays that
3686 would free, it would also be 52 Mondays. So I think that's almost two days a week of every
3687 week of the year except for two weeks.
3688
3689 Ms. La Costa: Thank you.
3690
3691 Mr. Ickovitz: And I think that's pretty good. And there's only one Monday in 2020...and maybe
3692 two Mondays in 2020, but you know we can work with those.
3693
3694 Mr. Carnicelli: So are you saying that the regular services three times a week will never fall on a
3695 Saturday?
3696
3697 Dr. Abrams: We don't really have that scheduled—
3698
3699 Mr. Carnicelli: Speak in, speak into the mic.
3700
3701 Dr. Abrams: Yeah, it's Lew Abrams. We'd like to maintain flexibility of when things can happen.
3702 We don't have specific Saturdays in mind—
3703
3704 Mr. Carnicelli: Okay.
3705
3706 Dr. Abrams: --but we would like to have some flexibility.
3707
3708 Mr. Carnicelli: No, I'm just trying to understand—
3709
3710 Dr. Abrams: Glad to announce it in advance and trade for different days so that you know
3711 there's still down time.

3712
3713 Mr. Carnicelli: Gotcha. I just...is your attorney had suggested that there's only two Saturdays
3714 but that's on the holiday schedule not necessarily on the regular, you know, the regular church
3715 service.
3716
3717 Dr. Abrams: Right.
3718
3719 Mr. Carnicelli: So it's not like, just saying like oh it will be two days, only two Saturdays and only
3720 one Monday when you know as the conditions, as the conditions you suggested are—
3721
3722 Dr. Abrams: Yes.
3723
3724 Mr. Carnicelli: With that flexibility you could do a church service every single Saturday so then
3725 suddenly it's not that. So that's just...I'm just trying to get clarity. That's where I'm just trying to
3726 understand—
3727
3728 Dr. Abrams: So far what we're proposing is to start with a Wednesday morning prior to a
3729 community farm work day to do meditation prayer, yoga thing and then people can come and
3730 help on the farm and then Friday evening that's what we're proposing at this point, but we would
3731 like to, you know—
3732
3733 Mr. Robinson: You would have my support if there was 50 Saturdays and 50 Mondays that had
3734 no activity. I tell you that.
3735
3736 Ms. La Costa: So when you talk about...go ahead I'll let your attorney finish doing what he's
3737 doing.
3738
3739 Mr. Ickovitz: I'm just trying to help clarify so we're asking for 24 events but if you look at 2020,
3740 six of those events take place on Friday night so really there's only going to be eight...for six
3741 Fridays they're double holiday so really there's gonna be 18 in 2020 and not 24.
3742
3743 Mr. Carnicelli: And how many of those days fall on a...how many of the 2020s fall on a
3744 Saturday?
3745
3746 Mr. Ickovitz: Two.
3747
3748 Mr. Carnicelli: How many fall on a Monday? Two on a Saturday, one on a Monday.
3749
3750 Ms. La Costa: So while you're looking at that, I'm confused. I don't think it has anything to do
3751 with being in a blonde in this case but you said you wanted to have service three times a week.
3752
3753 Dr. Abrams: Up to three times a week.
3754
3755 Ms. La Costa: And then you have this which is 200 and...I show 278 so could be many more
3756 than 278 services?
3757

3758 Mr. Carnicelli: No, no 178.

3759

3760 Ms. La Costa: No, I'm adding...I'm sorry I'm adding 19 and 20 so everything on this sheet.

3761

3762 Mr. Carnicelli: So it's still not, the math's wrong. Because 52×3 is what, 156.

3763

3764 Ms. La Costa: Yes.

3765

3766 Mr. Carnicelli: Plus another twenty something is 178.

3767

3768 Ms. La Costa: You're right. See I was a blonde, never mind. Can't add either. So I just want to
3769 be very, very clear that it's not going to be three times a week and then it's gonna be four times
3770 a week, and then it's gonna be five times a week and pretty soon there is no peace and quiet for
3771 anyone ever.

3772

3773 Dr. Abrams: Yeah, we are not looking for that. You know, we too value the peace and quiet
3774 and serenity of that place. We don't want to be flooded with people all the time especially my
3775 wife is very sensitive to that. So I share that sensitivity and would not want to stack things back
3776 to back like you're describing.

3777

3778 Ms. La Costa: And what kind of guarantee are you willing to give us that it will not increase past
3779 three times a week?

3780

3781 Mr. Carnicelli: So...go ahead.

3782

3783 Mr. Ickovitz: Ladies and gentlemen of the Commission I want to say something from my heart
3784 which is this, I've known Dr. Lew Abrams for 12 years but I've gotten to know him in the last two
3785 and I've been so inspired by their vision by what they've accomplished and what their goals are
3786 for this island and for their farm, after 40 years of living on Oahu I am moving to Maui effective
3787 next month to dedicate my life, the rest of my life to helping them achieve their vision. So I'm
3788 telling this Commission right now that I will personally make sure that the Abrams stay within the
3789 conditions that are imposed by this Commission and if there's...I've given the neighbors my
3790 phone number saying you call Lew first, you call me next and I will take care it. And if there's
3791 problems with extending the conditions I expect this Commission to call me on the carpet and
3792 say you put all your creditability on the line on behalf of the Abrams and look what happened.
3793 So I'm telling you, I'm asking you, I'm pleading with you, and I'm telling you from my heart
3794 'cause I tell the truth that I will personally make sure the Abrams live within the conditions and I
3795 will...because this is, this is who they are. These are two people who have the most integrity,
3796 the most kindest heart who have given to so many people, it's unbelievable what they have
3797 done and I just never met two people who as giving and kind and generous, selflessly that these
3798 people. So I'm just...so the guarantee is I will make sure that it takes...that the conditions are
3799 fulfilled and God forbid, you know something happens to me, he's still a good man, he's gonna
3800 take care of it. That's my personal representation.

3801

3802 Ms. La Costa: And my last question is, are each and every building on the property that are to
3803 be permitted do they have current permits?

3804

3805 Ms. Furukawa: Yes.

3806

3807 Ms. La Costa: Okay.

3808

3809 Ms. Furukawa: Yeah. But I just wanted to add to what he was saying also if he is approved,
3810 he'll have to submit a compliance report that's typically one of the conditions. So he can do so
3811 you know upon request for renewal or something like that if it's a year from now where they'll
3812 have to show us compliance with each condition.

3813

3814 Mr. Carnicelli: Right, okay. That's actually great. Another piece of this that's...the Director just
3815 brought up that you know, is kinda there's these moving parts is, if we say yes and the permit
3816 doesn't start until the Certificate of Occupancy is granted that might be August next year. So
3817 we're sitting there going like, okay well you know in 2020 there's only 2020 there's only two
3818 Saturdays...maybe in 2020 'cause then all of a sudden you know permit say for two years it's
3819 gonna be in 21 and 22 so suddenly the Saturdays and things like that it's just...and I hate to
3820 make this even more complicated but it's just if we're trying to really get our hands around it I
3821 almost like what Commissioner Robinson brought up where we're saying okay, the holiday thing
3822 we've got them named, but we say okay, what if it's 50 Saturdays not 52. You know it's not like
3823 every single Saturday we want all want a break, you know but it's like okay, you get two. In
3824 2020 you know it's gonna coincide perfectly with you celebrations, in 2021 you might have to
3825 give us a full moon, you might have to give up, you know the equinox I don't know, but just...

3826

3827 Mr. Robinson: ...(inaudible)...sacrifice a Sunday.

3828

3829 Mr. Carnicelli: Oh, I see what you're saying, or sacrifice a Sunday. So one...

3830

3831 Mr. Robinson: ...(inaudible-not speaking into a mic)...

3832

3833 Mr. Carnicelli: ...Fifty...

3834

3835 Mr. Robinson: ...(inaudible-not speaking into a mic)...more important.

3836

3837 Mr. Carnicelli: One...like you get a –

3838

3839 Mr. Robinson: There's fifty weekends with one day where there's nothing going on.

3840

3841 Dr. Abrams: Yeah, just do—

3842

3843 Mr. Robinson: ...(inaudible-not speaking into a mic)...

3844

3845 Mr. Carnicelli: Yeah, we're getting deep into the weeds here. Okay, so here's what I want to do
3846 is I'm actually kinda just...we've sort of laid this stuff out on the table but as your Chair I'm kinda
3847 I don't know where to go next. It's like okay, do we just make a motion...oh we go to
3848 Corporation Counsel there we go, perfect.

3849

3850 Mr. Galazin: Thank you Chair. Tara, I have a question for you regarding the original staff report
3851 if you could look at Page 13. So for clarification of the Members in terms of what the applicant
3852 has requested as a schedule and what the Commissioners have been discussing in roundtable
3853 of fashion. When you look at Number 4 in the Infrastructure and Public Facilities and Services
3854 analysis which talks about the roadways, curbs, gutters and sidewalks saying there'll be no
3855 adverse impacts associated with the proposed request referring to the vehicles going in and out,
3856 how was that calculated was it on an average number of trips per day because if so what you're
3857 talking about is 20 times a year where you've got potentially a hundred vehicles and then three
3858 times per week when you've got potentially 40 vehicles or...I'm just...I'm not sure for the
3859 Commissioners how the original calculus was done and if you can explain that and then further
3860 if that would change based on the representations made by the applicant. Thank you Chair.

3861
3862 Ms. Furukawa: I think was just stating the existing conditions and saying that there should be
3863 no adverse impacts because the Department of Transportation was asked to comment and they
3864 didn't have any comment other than that they should apply for a sign permit if it's within the
3865 State right of way. So...

3866
3867 Mr. Carnicelli: Thank you. Yeah, you know what I actually have to use the facilities. That's the
3868 perfect reason to pause. Recess for five minutes, we'll be back at 3:00.

3869
3870 A recess was called at 2:55 p.m., and the meeting was reconvened at 3:00 p.m.

3871
3872 Mr. Carnicelli: ...Commission of August 13, 2019 is back in session. So Commissioners this is
3873 going to be the intent of the Chair is to go ahead and is to give fair shake to the applicant, let's
3874 go ahead and walk through the conditions, let's talk about them one by one, let's see what we
3875 can do is be okay with the conditions to be able to mitigate all of our concerns and the concerns
3876 of the community. If that is the case, and you know we can get to a place where we're all okay
3877 with it and we can grant a permit then that's great if not then we will go from there and then we
3878 will have to go to the actual conditions with which the State Special Use Permit is and be able to
3879 come up with the reasons why to deny this permit and give Corporation Counsel enough to write
3880 up findings of fact and conclusions of law. So at this point, let's go ahead and just go through
3881 these conditions, chew on them a little bit and see if we can come to a place to—

3882
3883 Mr. Tackett: Excuse me—

3884
3885 Mr. Carnicelli: --grant these guys a permit.

3886
3887 Mr. Tackett: Excuse me Chair I still have two more questions if that's okay.

3888
3889 Mr. Carnicelli: Commissioner Tackett please ask your questions.

3890
3891 Mr. Tackett: So Mr. Abrams it's been bothering me so I know that you've stood there and you
3892 represent that you're a man of your word and I'm going to trust you to be a man of your word.
3893 What I've seen today is that that building that you've said that you've done multiple things on
3894 that property what I'm gonna ask you right now is have you used that building solely for

3895 processing as it was permitted for or have you been doing other things in that building that it
3896 was not permitted for?

3897
3898 Dr. Abrams: We have used it for our agricultural processing and we have also hosted some
3899 community celebrations there that I didn't understand would be you know specifically precluded
3900 nor, you know—

3901
3902 Mr. Tackett: What types of celebrations are we talking about?

3903
3904 Dr. Abrams: Like full moon gatherings where we have...and we use the downstairs for a
3905 potluck area and we are using produce from our farm and local farms so partly in a sense that is
3906 agricultural and that we're sharing the produce that we're growing and that's bringing the
3907 community together, then we go upstairs and gather in a circle and meditate and do some
3908 singing and like that that isn't strictly agricultural in nature.

3909
3910 Mr. Tackett: Okay. So that was something that I would like to just know so I appreciate the
3911 answer to that.

3912
3913 Dr. Abrams: Okay.

3914
3915 Mr. Tackett: And then my second question is to Corp. Counsel. Some of these things that are
3916 represented are at times that aren't normal for everybody for music to be happening, to start up
3917 at 1:30 a.m. and sunrise and different religious things that not everybody shares that religion is
3918 that something that...I mean are we bound by the 10 o'clock or the 9 o'clock or are we able to
3919 give people with these types of requests things that are outside that boundary like yes you can
3920 start music up at 1:30 and keep going to...is that something that we can decide in here as a
3921 group to give to somebody?

3922
3923 Mr. Galazin: Chair?

3924
3925 Mr. Carnicelli: Corporation Counsel.

3926
3927 Mr. Galazin: Thank you Chair. In answer to your question Commissioner Tackett, time frames
3928 on something like music on a special use are really within your purview. You can condition
3929 anything to allow particular sounds that would not normally be within a certain zone. You still
3930 have to understand there's going to be other like State Law restrictions that you can't grant
3931 permission to somebody to break another law.

3932
3933 Mr. Tackett: That's what I'm asking, yeah.

3934
3935 Mr. Galazin: Yeah, so you wouldn't have the power to grant somebody to play, to make sounds
3936 of a hundred decibels at three in the morning even if your permit said you can go ahead and do
3937 that it would still be a violation of the State Department of Health regulations. But you certainly
3938 can restrict it as you know condition noise as you feel appropriate to mitigate you know a
3939 particular concern. Does that answer your question?

3940

3941 Mr. Tackett: Yeah, that's all I have. I'm okay with the process now.

3942

3943 Mr. Carnicelli: Commissioner La Costa.

3944

3945 Ms. La Costa: Thank you Chair. Dr. Abrams I do have a question for you is 51 percent of the
3946 land being used for agriculture?

3947

3948 Dr. Abrams: Yes we passed that implemented farm plan in order to get our SMA approved.

3949

3950 Ms. La Costa: Okay, I'm looking at when was this picture taken please?

3951

3952 Dr. Abrams: Quite recently.

3953

3954 Ms. La Costa: Okay, because I see an awful lot of brown, looks like my yard at Launiupoko but
3955 I don't see a whole lot of, I don't see whole of farm type shrubbery.

3956

3957 Dr. Abrams: I could point out to you where the orchards are and some of it is pasture land. We
3958 have tortoises and we have had sheep as well. So not all of it is planted in row crops but we do
3959 have about 75 coconut trees in that one grove. Let's see if I can...

3960

3961 Ms. La Costa: The reason I'm asking is that we had an interesting discussion with a prior case
3962 about the use and the 51 percent, the allocation and is it actually being used for ag or is it just
3963 designated ag and not being actively used.

3964

3965 Dr. Abrams: Right. Well it varies. Sometimes we let some fields go fallow and cover crops and
3966 there's not a lot going on. I can show you in this particular picture this is sort of a—

3967

3968 Mr. Carnicelli: Lew you gotta stay at the mic.

3969

3970 Dr. Abrams: Okay. This is our...we do have...

3971

3972 Ms. La Costa: We don't need that...(inaudible-not speaking into the mic)...

3973

3974 Dr. Abrams: Okay, yeah there are definitely some areas where there's some dry grass. It's not
3975 completely groomed and planted in every way but we do have an active agricultural operation
3976 between the greenhouse, the aquaculture pond, our herb gardens, our bamboo, flowers, fruit
3977 trees, we do have this farm plan that you can see how it's broken down. I'd be glad to pass you
3978 that.

3979

3980 Ms. La Costa: I have that. Thank you. That's what brought my question to you.

3981

3982 Dr. Abrams: Right.

3983

3984 Ms. La Costa: And it shows pasture at 30 percent. What is grazing in the pasture?

3985

3986 Dr. Abrams: We have tortoises that sometimes come out and we've had sheep. Right now we
3987 have no sheep on the land but we still have our pen and we actually gave our sheep to Fedde
3988 next door when it got sick 'cause he was better at caring for them.

3989
3990 Ms. La Costa: Okay, so you're not grazing anything. So that 30 percent isn't being used
3991 currently for ag grazing purposes?

3992
3993 Dr. Abrams: Say again? It's reserved for grazing. We hope to get...we're aspiring to get an
3994 alpaca in there at some point and we have had a horse too in the past. So we've had grazing
3995 animals. Right now, we have ducks that are wandering around as well that are basically eating
3996 grass so I guess you could call that they're grazing. We have ducks, chickens, tortoises, fish,
3997 love birds, those are the animals that we have currently. We've had a horse before, sheep
3998 before. We're avoiding goats 'cause if they get out they can eat your fruit trees in a day and
3999 destroy years of work.

4000
4001 Mr. Carnicelli: Thanks Lew. Corporation Counsel.

4002
4003 Mr. Galazin: Thank you Chair and hopefully the Department will correct me if I'm wrong but
4004 Commissioner La Costa in answer to your, you know line of questioning it appears that you
4005 know they do have an implemented farm plan that the vast majority of this parcel's being used
4006 for farming activities and as far as I understand you know if they have the pasture and it's not
4007 currently occupied it doesn't mean it's not being used for pasture. Thank you.

4008
4009 Ms. La Costa: I just...(inaudible-not speaking into the mic)...ag questions that I've been asking.

4010
4011 Mr. Carnicelli: Commissioner Robinson.

4012
4013 Mr. Robinson: Is that pasture fenced?

4014
4015 Dr. Abrams: Yeah, the whole area has a fence around the perimeter and we have a smaller
4016 fenced pasture where we would keep our sheep when we weren't putting them out to eat grass
4017 in other places.

4018
4019 Mr. Carnicelli: Thank you, so does anybody else...

4020
4021 Ms. La Costa: I'm sorry, I just have one last question.

4022
4023 Mr. Carnicelli: Commissioner La Costa.

4024
4025 Ms. La Costa: Sorry Chair. But in order to vote I need to have this information. You mentioned
4026 that your bookstore is only open for church members.

4027
4028 Dr. Abrams: We don't have a bookstore yet. We are aspiring to have a bookstore or gift shop
4029 once we get regular people coming to church.

4030

4031 Ms. La Costa: Okay, so you were talking about the gallery then something that was only open
4032 to church members?

4033
4034 Dr. Abrams: Yeah, we plan to locate that gift store downstairs in the church building.
4035

4036 Ms. La Costa: Okay, and it will only be open to church members not to the people who come
4037 for their eco tours?
4038

4039 Dr. Abrams: I don't know. If people were interested in some of the spiritual literature we have
4040 there or alter objects like incense burners that my wife might make on the potter's wheel, books,
4041 you know we'd like to be able to anyone who came there to our place to be able to check out
4042 what we have to offer.
4043

4044 Ms. La Costa: Thank you.
4045

4046 Mr. Carnicelli: Thanks. So Lew I just, I need to, is to me this isn't an ag question, this is a
4047 parking question 'cause I'm having a hard time congruing this map with the current pictures,
4048 right you said that you drone footage and then you know, our map—
4049

4050 Dr. Abrams: Yes.
4051

4052 Mr. Carnicelli: --where the parking is, right, and so I mean especially if we're going to allow a
4053 holiday celebration of a hundred people let's just call that I don't know 65 cars this doesn't have
4054 any parking, right and so I'm just...and I'm trying to match this up—
4055

4056 Dr. Abrams: Well, it—
4057

4058 Mr. Carnicelli: --with let's say...like here's this is a—
4059

4060 Dr. Abrams: There's a perimeter road around that portion of the property where there's ample
4061 parking along side of the road and –
4062

4063 Mr. Carnicelli: No, no, no, I'm talking about here's...this is the representation of parking right
4064 here, right. This is where you say your parking is and I'm trying to find it in the current pictures
4065 and the farm plan.
4066

4067 Dr. Abrams: I need to look at the picture. There's near the church building there's ample room
4068 for 50 or 60 cars on either side of the road that approaches that temple building and goes
4069 around the turn to the far north, northern most...most northwestern section and we have a
4070 dedicated parking lot there that can take about 30 cars and then along the edge of the road
4071 approaching the temple building from the ponds to the church building there's room for probably
4072 another 75 cars right there.
4073

4074 Mr. Carnicelli: Okay, okay, thank you. Does anybody else have any questions before we go to
4075 the conditions? Okay, let's go ahead and do that then so...
4076

4077 Dr. Abrams: We have one statement to add perhaps. Do you want to say something?

4078

4079 Mr. Carnicelli: You got two hours man, it's just like okay, one quick one please.

4080

4081 Mr. Ickovitz: So I just want, I just want to...Les Ickovitz, attorney. At the last session, June 25
4082 when we went through this I just wanted to again make sure that the three commissioners who
4083 voted against stating it wouldn't be fair to impose a church upon their neighbors because they
4084 were there first I believe Commissioner Tackett said that, I believe Commissioner Pali said that.

4085

4086 Ms. La Costa: I didn't say that.

4087

4088 Mr. Ickovitz: And you said, you said something it's not about what's—wait, I listened to it five
4089 times and I wrote a transcript of it.

4090

4091 Ms. La Costa: ...(inaudible)...

4092

4093 Mr. Carnicelli: Okay—

4094

4095 Mr. Ickovitz: Wait, wait, wait.

4096

4097 Mr. Carnicelli: No, hang on, hang on, no.

4098

4099 Mr. Ickovitz: ...(inaudible)...

4100

4101 Mr. Carnicelli: No.

4102

4103 Mr. Ickovitz: Wait, I'm not finished.

4104

4105 Mr. Carnicelli: No, no, no, no, you said...it's okay. We're in recess.

4106

4107 A recess was called at 3:16 p.m., and the meeting was reconvened at 3:18 p.m.

4108

4109 Mr. Carnicelli: ...Commission of August 13, 2019 is back in session. So Commissioners let's
4110 go ahead and go to conditions and I'm just gonna go from the original recommendation okay.
4111 The first one is the valid until. I believe that the last time we said one year from the Certificate of
4112 Occupancy is that what we said last time Director?

4113

4114 Ms. McLean: Yes, Chair that's my understanding. So the Land Use Commission Special
4115 Permit would be valid for one year beginning on the date of issuance for the first Certificate of
4116 Occupancy for any structure use for church and religious activities.

4117

4118 Mr. Carnicelli: How do we feel about that? You want to leave it as it was? You want to go to
4119 two years?

4120

4121 Ms. La Costa: One year.

4122

4123 Mr. Carnicelli: We okay with one year? Is anybody okay with two years? Going once, going
4124 twice.

4125
4126 Mr. Robinson: Chair.

4127
4128 Mr. Carnicelli: Commissioner Robinson.

4129
4130 Mr. Robinson: I think anything's adequate. I think, I think if the applicant understands that with
4131 the one-year and then reapplying they can also reapply to maybe amend some conditions as
4132 well and instead of them having to do it at a three-year period that holds them back that one-
4133 year is kind of a...actually might actually help them. I think if they understood that and they
4134 realize that as long as they follow the rules they get their permit you know renewed and then
4135 also get an opportunity you know come back to us to ask, say I've done this, I've done that, can
4136 I get...ease up on some conditions that we might pass in the future so I think one-year is good.

4137
4138 Mr. Carnicelli: And Tara you talked about a compliance report, correct?

4139
4140 Ms. Furukawa: Yes.

4141
4142 Mr. Carnicelli: Is that automatically submitted? Is a compliance report submitted before
4143 renewals?

4144
4145 Ms. Furukawa: Yeah, typically. So it's Number 8 right now in the recommendations.

4146
4147 Mr. Carnicelli: Yeah but it doesn't...that's only for this current...it's not for the renewal though
4148 isn't it? Is that also for the renewal or can we put that as also for the renewal?

4149
4150 Ms. Furukawa: Yeah it says, the compliance report shall be submitted to the Department with
4151 the request for time extension.

4152
4153 Mr. Carnicelli: Oh okay. Right, right, right. Okay. Do you have that Director? Is that...yeah,
4154 I'm gonna have you be the scribe.

4155
4156 Ms. McLean: Yes. Yes.

4157
4158 Mr. Carnicelli: Okay. Recommendation Number 2, cannot be transferred. We're okay with
4159 Condition 2 as is, yeah? Condition 3 we did not change either. So we'll leave Condition 3. We
4160 go to Condition 4. Director, I'm gonna let you read what we had before. Is that, is that what she
4161 written. Is that Condition 4 from before? Yeah?

4162
4163 Ms. McLean: From before I believe the condition was that no church and religious activities
4164 shall occur before 8:00 a.m. or after 9:00 p.m., allowing reasonable time for members to arrive,
4165 setup, and disburse before and after events. Any amplification of sound or music at any event
4166 shall not exceed any standards established by the State Department of Health for the
4167 Agricultural District. And I believe there were also comments wanting to clarify that amplification
4168 shall occur inside. That there would be no amplification of sound or music outside.

4169
4170 Mr. Carnicelli: Right. So I guess in that condition we did the time from 8:00 a.m. to 9:00 p.m.
4171 They're asking till 10:00 with shutting down amplified at 9:30.

4172
4173 Ms. Furukawa: Yes.

4174
4175 Mr. Carnicelli: Are we...Commissioners, you want to leave it at what had before? You want to
4176 move it to 10:00 with a 9:30? Please speak into the mic. Thank you. Commissioner La Costa.

4177
4178 Ms. La Costa: I prefer to leave it as it is and again, by the time everything settles down it takes
4179 half-hour, forty-five minutes for people to leave so I think that will meet the 10 o'clock if we leave
4180 it at 9:00.

4181
4182 Mr. Carnicelli: Okay, anybody else would like to speak to that? Okay, sounds good. I guess,
4183 do we have to...we were also gonna write in there...oh, and then also add, and no amplified
4184 sound outside or outdoors. Is without objections we'll go ahead and add that as part of
4185 Condition 4. Seeing no objections we're gonna go ahead and add that to Condition 4.

4186
4187 Okay, so then Condition 5 is basically related to events. What we had before was kinda like
4188 less than 25 people and more than 25 people. I don't know how you want to write this Director
4189 but basically to say are we okay with three normal services of no more than 40 people per week
4190 and holiday celebrations as provided by the applicant of no more than a hundred people is what
4191 the applicant's proposing. He did indicate that Wednesday morning and Friday afternoon were
4192 two say solid you know times that he wanted. Do you wanna say, okay you get Wednesday
4193 mornings, Friday afternoons and then one floater per week plus the holidays? Do you wanna
4194 do...say what?

4195
4196 Ms. Pali: ...(inaudible-not speaking into the mic)...

4197
4198 Mr. Carnicelli: Speak in the mic please.

4199
4200 Ms. Pali: Yeah, I think my goal is just that the neighbors just get an off day and—

4201
4202 Mr. Carnicelli: Some predictability?

4203
4204 Ms. Pali: Yeah. Just because we're asking them...we all have to give, everyone has to give a
4205 little and Dr. Abrams seems really reasonable and flexible and he's expressed his desire to be
4206 flexible and he's given us past evidence of your flexibility and so with that same nature if the
4207 neighbors have something that they can just sort of schedule their lives around so I like that, I
4208 like that recommendation.

4209
4210 Mr. Carnicelli: Okay. Okay, so we'll...so what we'll do is then is if you could Director write it in a
4211 way with which it says that the applicant's allowed a regular service of no more than 40 people
4212 Wednesday mornings, Friday evenings and one other time, day...one other time per week,
4213 additionally holiday celebrations of no more than a hundred people as per the schedule handed
4214 to the Commission. Commissioner Robinson.

4215
4216 Mr. Robinson: Chair there was testimony that on Sundays they would be an optimum day for
4217 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
4218 to pick the days. And then as far as the years go because the years will change for next year
4219 we should put the number events instead of the events that was presented to us because it
4220 depends on when they get the occupancy that might change.

4221
4222 Mr. Carnicelli: Agreed and not to speak for the applicant but the other part too that I know was
4223 is in a lot of the testimony and in the presentation was you know a lot of their celebrations are
4224 birthday parties you know like a kupuna is turning 90 or it's, you know it's a random thing, but
4225 actually Lew if you would go ahead and come up and address what we're talking about. So as
4226 far as saying okay, Wednesday, Friday night and Sunday evening or Wednesday morning,
4227 Friday night and a floater day are you okay...I guess I'm gonna ask you this, are you okay with
4228 Wednesday morning, Friday night and Sunday evening because you said you go to the
4229 Temple...you know you go to the Temple of Peace in the mornings--

4230
4231 Dr. Abrams: Right.

4232
4233 Mr. Carnicelli: --but yet you want to be able to bring the families and the keikis to, you know,
4234 celebrate on Sunday afternoons.

4235
4236 Dr. Abrams: Yeah, I'd rather have it be a flexible floater day you know, and the weekend is the
4237 time that we'd like the flexibility on. I work late on Mondays, Tuesdays and Thursdays and I
4238 don't back from Lahaina till about 8 o'clock and so it would be...you know that's why we're
4239 choosing the Wednesday, Friday and then having the weekend is important for our friends who
4240 have kids and you know want to be able to come on either day. But Saturdays we could say we
4241 would not schedule as a regular day but we would like the flexibility if there's some you know
4242 guest teacher coming or whatever and that's the day they can offer meditation retreat or
4243 something or meditation instruction. We'd like to keep the weekends flexible and that way...so
4244 the way you originally proposed it Wednesday mornings and Friday evenings plus one other
4245 flexible day that would be acceptable.

4246
4247 Mr. Carnicelli: Okay. Any objections to that...oh, hang on a second. Okay so how about if
4248 we...because I think the tenor of the Commission is we want to be able to give people a day off
4249 is what if we just said okay, there's no more than "x" Saturdays, say no more than six
4250 Saturdays. So you have the flexibility, alright, I don't know say eight Saturdays or something to
4251 that effect. Where we say like okay, you know regularly scheduled, but you know not to exceed
4252 more than eight in a calendar year.

4253
4254 Dr. Abrams: Yeah, I think that would be great. We can do that definitely.

4255
4256 Mr. Carnicelli: Okay.

4257
4258 Dr. Abrams: And we would still defend that Monday day off, right where we wouldn't schedule.
4259

4260 Mr. Carnicelli: Oh, thank you for re-reminding me of that. I appreciate that. So I'm gonna kinda
4261 let Michele's hand stop cramping as she's scribbling here. Are you getting...kind of?

4262
4263 Ms. McLean: You guys are all over the place.

4264
4265 Mr. Carnicelli: Okay, so let's go back to this then. So is basically it's regular services
4266 Wednesday morning, Friday night, and one other day per week period.

4267
4268 Mr. Robinson: But no more than 40.

4269
4270 Ms. McLean: With no more than 40 participants.

4271
4272 Mr. Carnicelli: With no more than 40 people, correct. That's regular events with yeah, no more
4273 than 40 people. The flexible day cannot be...cannot coincide on more than eight Saturdays per
4274 year.

4275
4276 Mr. Robinson: I thought I heard six.

4277
4278 Ms. Pali: Yeah.

4279
4280 Mr. Carnicelli: Six. Six Saturdays be year.

4281
4282 Dr. Abrams: Can we hear a dozen? It would be a little better.

4283
4284 Mr. Robinson: You got Sundays.

4285
4286 Dr. Abrams: Yeah, Sundays are possible. It's just for...you know we're busy from 9:00 a.m. –

4287
4288 Mr. Carnicelli: Here's the other part of this though is at the end of this this is what I'm gonna do
4289 is I'm also going to recommend that if you want to renew this permit we may be able to...you
4290 can come back to us rather than say getting it just a renewal with all the same conditions on it,
4291 you know that you could come back and say, hey listen can we...can we do this, can we do this
4292 all over again because it's so much fun. No, but I'm saying, but let's just say okay you know the
4293 neighbors didn't...they found out that the sky isn't falling and that you know, the world doesn't
4294 end and it's like, okay, you know this is what you guys are saying that it is not what they think
4295 it's going to be and you come back and then suddenly it's just like okay, maybe it is, I don't
4296 know, whatever that it could be expanded upon. So I'm just saying is right now we're trying to
4297 get you...let's get you going.

4298
4299 Dr. Abrams: Yes. I'm totally open to it.

4300
4301 Mr. Carnicelli: And then maybe we can go forward from there. So additionally Director we've
4302 got holiday events as per submitted, the holidays not necessarily the actual dates but right, the
4303 holidays, should we just name them, full moons—

4304
4305 Mr. Tackett: Are the holiday events is the finish time the same as the rest of the events?

4306
4307 Mr. Carnicelli: Yes, with...except for New Year's Eve.
4308
4309 Mr. Tackett: It's 9 o'clock no matter what except for New Year's Eve.
4310
4311 Mr. Carnicelli: Except for New Year's Eve, right. So let's go, it's full moons.
4312
4313 Dr. Abrams: Yeah.
4314
4315 Ms. McLean: Yeah, you don't have—
4316
4317 Mr. Carnicelli: I don't have to listen to this.
4318
4319 Dr. Abrams: Christmas Eve, Christmas Eve would be hard to end that early. There's a tradition
4320 of kind of—
4321
4322 Mr. Carnicelli: Hang on Lew, all of...let's get through these things here first.
4323
4324 Dr. Abrams: Okay.
4325
4326 Mr. Carnicelli: Okay.
4327
4328 Ms. McLean: Chair, here's what I have so far. Church and religious activities shall not occur on
4329 days other than Wednesday morning, Friday evenings, and one additional day each week
4330 provided that no more than six per year occur on a Saturday with no more than 40 participants.
4331 Church and religious activities may occur on the holidays listed on the schedule provided by the
4332 applicant with no more than 100 participants or the maximum occupancy established by the Fire
4333 Department for the church building whichever is lower.
4334
4335 Mr. Robinson: Yes.
4336
4337 Mr. Carnicelli: Good, excellent.
4338
4339 Ms. McLean: We would need to tweak Condition 4 if you wanted to allow different times for
4340 different events because it's 8:00 a.m. to 9:00 p.m. So maybe you go back to that.
4341
4342 Mr. Carnicelli: I guess yeah, 'cause is we're gonna have to stick New Year's Eve in here
4343 somewhere. Did we do as part of...we're on Condition 5. Okay, so here's what we have on the
4344 condition from last time, in addition to New Year's Eve's attendance...So maybe what we do is
4345 then go back to Condition 4, you're right Director and say, you know, church and religious
4346 activities shall occur between the hours of you know, dah, dah, dah, dah, dah, except for
4347 New Year's Eve.
4348
4349 Ms. La Costa: I have a question Chair for clarification.
4350

4351 Mr. Carnicelli: Hang on, let's just...is except for New Year's Eve, you wanna put...does that
4352 make—

4353
4354 Ms. McLean: You would want to establish the time if you want...if there is going to be a
4355 different time then the Commission should say what the time would be allowed for New Year's
4356 Eve.

4357
4358 Mr. Carnicelli: Okay.

4359
4360 Mr. Robinson: Do we have the power to add more time? It's like we talked about earlier like—

4361
4362 Mr. Carnicelli: Talk into, talk into the mic, talk into the mic.

4363
4364 Mr. Robinson: Commissioner Tackett brought up the point is do we even have the power to
4365 extend it?

4366
4367 Mr. Carnicelli: Corporation Counsel.

4368
4369 Mr. Galazin: Yeah, thank you. Commissioner Robinson what we're talking about now is just
4370 when they have the service until. So if you want to talk about amplified music you know I think
4371 there's a difference there between saying all amplified music gotta be shut off by 9:00, you know
4372 a church service on a particular event day could go until midnight because that's just...you
4373 know, any church could potentially have a midnight mass for example, so...the noise you
4374 couldn't do but the hours of operation you could be flexible.

4375
4376 Mr. Robinson: So how would you recommend terminology for New Year's Eve?

4377
4378 Mr. Galazin: I don't—

4379
4380 Mr. Robinson: ...(inaudible)...what we want to do, but we don't know how to do it.

4381
4382 Mr. Galazin: I believe what you could do is just not put specific restrictions on New Year's Eve
4383 other than number of participants. Say that New Year's Eve celebration is exempt from the
4384 meeting time requirements or...

4385
4386 Mr. Robinson: 9 o'clock rule.

4387
4388 Mr. Carnicelli: Okay.

4389
4390 Mr. Galazin: And if the applicant really felt that you know, a specific holiday merited I think you
4391 heard him say Christmas Eve but if there's something else that warranted that.

4392
4393 Mr. Carnicelli: Is it really hot in here or is it just this seat.

4394
4395 Mr. Tackett: It's been hot for a while.

4396

4397 Mr. Carnicelli: Question. Commissioner La Costa.

4398

4399 Ms. La Costa: Thank you Chair. So I just need clarification. It's been proven on the record that
4400 I'm not good at math. So what it appears now is we have Wednesday morning, Friday evening
4401 and a floater day of some kind, right?

4402

4403 Mr. Carnicelli: Per week.

4404

4405 Ms. La Costa: Per week. So that's three days. Then if we take Monday out there's four of the
4406 seven days, what happens on the other three days are they open for parties and everything?
4407 So is there activity going on all the time albeit perhaps not religious activity. Again, I'm just
4408 going back thinking about the neighbors and what's happening.

4409

4410 Mr. Carnicelli: Corporation Counsel.

4411

4412 Mr. Galazin: Thank you. Commissioner La Costa. That would be...the Special Permit is just
4413 for this particular church use. Any time that they're not undertaking that use they're going to be
4414 using their parcel for whatever they're already permitted to do, you know mainly the agriculture.
4415 I believe they have farm tours, you know, that's all in the staff report. So they would normally
4416 would use their property for whatever they want to. They're here because for those particular
4417 times that's what they need a special permission for.

4418

4419 Mr. Robinson: It's hard to do farm tours at night.

4420

4421 Ms. La Costa: I'm not talking about farm tours.

4422

4423 Mr. Robinson: No, no, but that's what I'm saying so with us limiting the 40...I know what you're
4424 trying to say that they can have tours and stuff in the day time, but at night time it's going to be
4425 harder to justify if it's outside if it's outside of these three days. You know, it's ag right.

4426

4427 Ms. La Costa: Yeah.

4428

4429 Dr. Abrams: Typically our tours have been 4:00 to 6:00 p.m. and then we do...when we had our
4430 food truck and commercial kitchen together doing a potluck, not a potluck, a dinner for the tour
4431 that went from 6:00 to 7:30 or something like that.

4432

4433 Mr. Robinson: Not a permit commercial kitchen though right?

4434

4435 Dr. Abrams: No we had a food truck and a—

4436

4437 Mr. Robinson: Okay, let's not go back down there.

4438

4439 Dr. Abrams: We're not asking for a commercial kitchen.

4440

4441 Mr. Robinson: Let's not go back down there.

4442

4443 Mr. Carnicelli: Inaudible, inaudible, inaudible. Is we're at the portion now that you only get to
4444 talk if you're asked a question.

4445
4446 Dr. Abrams: Okay, I will...

4447
4448 Mr. Carnicelli: I'm gonna...is while Michele's still scribbling on Condition 5, Condition 6, 7, 8 and
4449 9 we had no changes to. Are we still—

4450
4451 Ms. McLean: Chair would just add that on Condition 7 to verification of compliance with State
4452 Department of Health requirements shall be provided to the Planning Department with the
4453 compliance report.

4454
4455 Mr. Carnicelli: If no objections we'll go ahead and add that to Condition 7. Seeing no objections
4456 we'll go ahead and add that to Condition 7 then. So 8 and 9 was done. So then we added a
4457 Condition 10, a Certificate of Occupancy shall be required for all church related structures prior
4458 to the initiation of operation. Everybody okay with that? Seeing no objections...

4459
4460 Ms. McLean: Chair if I could?

4461
4462 Mr. Carnicelli: Okay.

4463
4464 Ms. McLean: That verification shall be provided to the Planning Department prior to use and
4465 shall be maintained during the duration of the permit.

4466
4467 Mr. Carnicelli: Okay. No objections? Seeing no objections...did we also include...is in there
4468 that the permit...or no, we put the permit starts...that was in Condition 1, right. Yeah, that was
4469 in Condition 1.

4470
4471 Ms. Pali: Prior to use or prior to issuance?

4472
4473 Ms. McLean: That the Certificate of...on Condition 10 requires the Certificate of Occupancy and
4474 that that shall be obtained prior to the initiation of operation and provide verification to the
4475 Planning Department before operating.

4476
4477 Ms. Pali: So the issuance of the permit you would need that resolved prior to issuance of the
4478 permit?

4479
4480 Ms. McLean: We need the Certificate of Occupancy...the first Certificate of Occupancy starts
4481 the one year.

4482
4483 Ms. Pali: Okay.

4484
4485 Ms. McLean: And needs to be given to the Planning Department before they begin and then
4486 they can begin once they get it.

4487

4488 Mr. Carnicelli: Thank you. So Condition 11 reads, a minimum of 72 hours' notice shall be given
4489 to neighbors for events greater than 25 attendees via website maintained by the applicant which
4490 is available to the public and readily accessible. Do we want to...Director.

4491
4492 Ms. McLean: Chair, I believe that number, 25 should be changed to 40 since that's the number
4493 that you're using in Condition 5.

4494
4495 Mr. Robinson: Is more than?

4496
4497 Mr. Carnicelli: Yeah.

4498
4499 Mr. Robinson: No, so 40 don't have to be.

4500
4501 Ms. McLean: Greater than 40.

4502
4503 Mr. Carnicelli: So the regular meeting are 40 and below and so they don't have to publicly
4504 notice just the regular services, but these, these here have to be on the website.

4505
4506 Mr. Robinson: Okay.

4507
4508 Mr. Carnicelli: These meaning the special events schedule will be posted on the website.

4509
4510 Ms. McLean: And I would suggest that the website be operational and verified by the Planning
4511 Department before the use commences and is maintained during the duration of the permit.

4512
4513 Mr. Carnicelli: Without objections we'll include that. Sounds good. Thank you. And then
4514 Condition 12 was no events shall occur on Monday except for special astrological significance is
4515 that...that was...how about, no events shall occur...or what did we call the regular services?

4516
4517 Mr. Robinson: If it fell on one of the 24 days.

4518
4519 Ms. Pali: Saturday and Monday.

4520
4521 Mr. Carnicelli: I mean, no, 'cause I think we actually put that in five though didn't we? Didn't we
4522 add that in five?

4523
4524 Ms. McLean: On five you were going to add...

4525
4526 Mr. Carnicelli: Here, let's listen to five. Let's listen to five.

4527
4528 Ms. McLean: I'll read five again from what you said last time. Church and religious activities
4529 shall not occur on days other than Wednesday mornings, Friday evenings and one additional
4530 day each week provided that none occur on a Monday and no more than six per year occur on a
4531 Saturday with no more than 40 participates. Church and religious activities may occur on the
4532 holidays listed on the schedule provided by the applicant at the August 13, 2019 meeting with
4533 no more than 100 participants or the maximum occupancy established by the Fire Department

4534 for the church building whichever is lower. So Condition 12 may not be needed because
4535 Condition 5 already spelled out the days.

4536
4537 Mr. Carnicelli: I would agree.

4538
4539 Unidentified Speaker: I would agree.

4540
4541 Ms. McLean: And then the only other issue I would raise is on Condition 4, the time for
4542 New Years, I didn't catch what the Commission decided on that.

4543
4544 Mr. Carnicelli: Right, New Years and I mean, I personally would be okay with Christmas Eve as
4545 well, I don't know if the Commission would also be okay with Christmas Eve.

4546
4547 Mr. Robinson: No limit by this Commission.

4548
4549 Mr. Carnicelli: Say again?

4550
4551 Mr. Robinson: We're doing no limit by this Commission. It would fall onto County and their
4552 regulations.

4553
4554 Mr. Carnicelli: Right. Say New Year's Eve and Christmas Eve are—

4555
4556 Mr. Robinson: No restrictions.

4557
4558 Mr. Carnicelli: No restrictions other than whatever is the law, County and/or State Law. Let the
4559 record show that Corporation Counsel nodded in approval.

4560
4561 Ms. McLean: And so the intent is for there to not be a time restriction for Christmas Eve and
4562 New Year's Eve is that correct? Is that the Commission's—

4563
4564 Mr. Robinson: From this Commission because we don't feel we have the power to go past
4565 10 o'clock for County rules, you know, County Laws and stuff.

4566
4567 Ms. McLean: Okay.

4568
4569 Mr. Robinson: So, ...(inaudible)...actually that's not our jurisdiction.

4570
4571 Ms. McLean: Okay.

4572
4573 Mr. Robinson: We're pulling...(inaudible)...

4574
4575 Dr. Abrams: Thank you. That would work good.

4576
4577 Mr. Carnicelli: Okay, now we get the question for Lew.

4578
4579 Dr. Abrams: Yes.

4580
4581 Mr. Carnicelli: You heard all of that. And if you want the Director to read it all back, would this
4582 be acceptable for you?

4583
4584 Dr. Abrams: Yeah, it's seems quite reasonable. The one question I have is about on
4585 New Year's Eve the number as long as we're conforming with the law which would be defined
4586 by the occupancy of the building then that applies so that would be fine. I was hoping not to be
4587 limited to a hundred on New Year's Eve.

4588
4589 Mr. Carnicelli: Yeah, is you're limited to the occupancy of the building—

4590
4591 Dr. Abrams: Yes.

4592
4593 Mr. Carnicelli: Or 100...or...yeah, even if it's less. 'Cause let's say if the occupancy of the
4594 building is 72 then you don't get 100 you only get 72.

4595
4596 Dr. Abrams: Of course, we'd abide by the occupancy. On that one day a year I'd like to be able
4597 to go over a hundred assuming the occupancy allows it.

4598
4599 Mr. Carnicelli: Assuming the occupancy is over a hundred.

4600
4601 Dr. Abrams: Yes.

4602
4603 Mr. Carnicelli: That is our intention, yes.

4604
4605 Mr. Robinson: That's not how our permit reads.

4606
4607 Ms. McLean: It's not how it's—

4608
4609 Unidentified Speaker: No, it is.

4610
4611 Mr. Robinson: No it doesn't. Whichever is lower, whichever is lower.

4612
4613 Dr. Abrams: But if we—

4614
4615 Mr. Carnicelli: Go ahead.

4616
4617 Mr. Galazin: Thank you Chair. As I understood the discussion I think we were gonna say that
4618 or you folks were gonna say on New Year's Eve and Christmas Eve that all the restrictions that
4619 you're talking about wouldn't apply, only general rules of applicability which would mean that
4620 your restriction on a hundred or Certificate of Occupancy whichever is less would not apply to
4621 those two days, only the occupancy because that is something of general applicability. Likewise
4622 noise restrictions wouldn't be applied, just whatever the law is applicable for that. So those two
4623 days would basically be exempt, exempt days under the terms of this.

4624
4625 Mr. Carnicelli: Exempt under the terms of the Special Use Permit.

4626
4627 Mr. Galazin: Exempt from the requirements that the other days are subject to, yes.
4628
4629 Ms. McLean: I, I—
4630
4631 Mr. Carnicelli: You want to take a quick recess and write this with David?
4632
4633 Ms. McLean: No. I think that rather than trying to cram that into Condition 4 and Condition 5,
4634 we just add a Condition 12 that says—
4635
4636 Mr. Robinson: Those two days.
4637
4638 Ms. McLean: For those two days this is what applies regardless of what the other conditions
4639 stated.
4640
4641 Mr. Carnicelli: Does that work?
4642
4643 Ms. McLean: That's just cleaner.
4644
4645 Mr. Carnicelli: And you're good with that too?
4646
4647 Dr. Abrams: Yeah.
4648
4649 Mr. Carnicelli: So going back to the one year.
4650
4651 Dr. Abrams: Yes.
4652
4653 Mr. Carnicelli: I actually think that that works in your favor because this is pretty restrictive, you
4654 know, admittedly you know, there's like it's saying okay, only this so in a year you get to revisit it
4655 if you so choose. If you say like listen you know what we're just gonna kick the can and we
4656 want to renew it then cool. So just saying that.
4657
4658 Dr. Abrams: I hear that.
4659
4660 Mr. Carnicelli: Okay. So I guess what we'll do is when the Director's done writing, we'll
4661 have...do you want to read it all into the record as it is and then we can make a motion and
4662 vote.
4663
4664 Ms. McLean: Just a minute or two recess Chair.
4665
4666 Mr. Carnicelli: Okay, recess at the call of the Chair.
4667
4668 A recess was called at 3:46 p.m., and the meeting was reconvened at 3:48 p.m.
4669

4670 Mr. Carnicelli: ...2019 is back in session. So at this point in time what we're gonna do is have
4671 the Director read into the record what we think the conditions are and hopefully move forward.
4672 Director.

4673
4674 Ms. McLean: Thank you Chair. Condition 1 will read that the Land Use Commission Special
4675 Permit shall be valid for one year beginning on the date of issuance for the first Certificate of
4676 Occupancy for any structure use for church and religious activities. And the condition will
4677 continue reading as it's stated in the staff report subject to extension, et cetera, et cetera.

4678
4679 Mr. Carnicelli: Got it.

4680
4681 Ms. McLean: Number 2, no changes. That's the...that the permit shall not be transferred
4682 without prior written approval. Number 3, no changes. That's the insurance and indemnification
4683 condition.

4684
4685 Condition Number 4 will read, that no church and religious activities shall occur before 8:00 a.m.
4686 or after 9:00 p.m., allowing reasonable time for members to arrive, setup and disburse before
4687 and after events. Any amplification of sound or music at an event shall occur inside and shall
4688 not exceed any standards established by the State Department of Health for the Agricultural
4689 District.

4690
4691 Condition Number 5 will read, church and religious activities shall not occur on days other than
4692 Wednesday mornings, Friday evenings and one additional day each week provided that none
4693 occur on a Monday and no more than six per year occur on a Saturday with no more than
4694 40 participants. Church and religious activities may occur on the holidays listed on the schedule
4695 provided by the applicant at the August 13, 2019 meeting with no more than 100 participants or
4696 the maximum occupancy established by the Fire Department for the church building whichever
4697 is lower.

4698
4699 Condition Number 6, no changes. That's subject to periodic inspections. Condition Number 7,
4700 is full compliance with applicable regulations. We added that verification of compliance with
4701 Department of Health requirements shall be provided to the Department with the compliance
4702 report. Condition 8, no changes. That's the requirement to submit a compliance report.
4703 Condition 9, no changes. That's that the applicant shall application develop the property in
4704 substantial compliance with the representations made.

4705
4706 Condition Number 10 is new. A Certificate of Occupancy shall be required for all church related
4707 structures prior to the initiation of operation. Verification shall be provided to the Planning
4708 Department prior to use and shall be maintained during the duration of the permit and included
4709 with the compliance report.

4710
4711 A new Condition 11. A minimum of 72-hour notice shall be given to neighbors for events
4712 greater than 40 attendees via a website maintained by the applicant which is available to the
4713 public and readily accessible. The website shall be operational and verified by the Planning
4714 Department before operations are initiated and shall be maintained during the duration of the
4715 permit.

4716
4717 And then a new Condition 12. Notwithstanding the prior conditions, church and religious
4718 activities on Christmas Eve and New Year's Eve shall be limited in time by County and State
4719 regulations of general applicability and the number of participants shall be limited by the
4720 maximum occupancy established by the Fire Department for the church building.

4721
4722 Dr. Abrams: Yeah, that sounds great.

4723
4724 Mr. Carnicelli: Okay. The Chair will entertain a motion to approve as read into the record by the
4725 Director.

4726
4727 Mr. Thompson: Move to make a motion to approve it with those conditions.

4728
4729 Mr. Carnicelli: So moved by Commissioner Thompson. Do I have a second?

4730
4731 Mr. Castro: Second.

4732
4733 Mr. Carnicelli: Seconded by Commissioner Castro. Discussion on the motion? Seeing none,
4734 Director you don't have to read the whole thing again. I guess what we'll just say is those in
4735 favor of the motion to approve as read into the record by the Director please raise your hand.
4736 That is one, two, three, four. Those opposed? One. And we have one abstaining which
4737 actually is an affirmative. So that is five to one. You have your permit. Congratulations.

4738
4739 **It was moved by Mr. Thompson, seconded by Mr. Castro, then**

4740
4741 **VOTED: To Approve the State Land Use Commission Special Permit as**
4742 **Recommended by the Department with Amended Conditions as**
4743 **Discussed by the Commission.**

4744
4745 **(Assenting – D. Thompson, S. Castro, K. Robinson, C. Tackett,**
4746 **K. Pali - Abstained)**

4747 **(Dissenting – P. D. La Costa)**
4748 **(Excused – T. Gomes)**

4749
4750 Mr. Carnicelli: Corporation Counsel.

4751
4752 Mr. Galazin: Thank you Chair. So I can let the Director talk about what happens next in terms
4753 of this body's approval pursuant to the letter received from the Land Use Commission. The
4754 Department as staff to Commission will forward on this body's vote and recommendation along
4755 with a report to the Land Use Commission within the next 60 days I believe at which point the
4756 Land Use Commission will decide whether, what they want to do with it. So, that's all that you
4757 folks have to do with it for this point. So congratulations to you too.

4758
4759 Mr. Carnicelli: Okay, I guess we actually have more on the agenda.

4760
4761 Mr. Ickovitz: I just want to thank everybody.

- 4762
4763 Mr. Carnicelli: Thank you.
4764
4765 Mr. Ickovitz: From the bottom of my heart.
4766
4767 Mr. Carnicelli: Welcome to Maui.
4768
4769 Mr. Ickovitz: Thank you very, very much.
4770
4771 Mr. Carnicelli: New resident.
4772
4773 Mr. Ickovitz: You really worked hard on this and I really feel like you gave it a fair hearing and
4774 thank you very much. You won't regret this decision and please, please come to attend one of
4775 these events because you'll be moved like everybody else does. It's really that meaningful.
4776
4777 Mr. Carnicelli: We'll be there after you get your Certificate of Occupancy.
4778
4779 Mr. Ickovitz: You're not invited until then.
4780
4781 Mr. Carnicelli: Okay.
4782
4783 Ms. Pali: Good answer.
4784
4785 Dr. Abrams: Thank you everyone. I really appreciate you giving us this chance and we're
4786 gonna follow the rules.
4787
4788 Mr. Carnicelli: Good job. I know it wasn't easy but—
4789
4790 Dr. Abrams: A long...(inaudible)...
4791
4792 Mr. Carnicelli: Yeah, thank you very much for your hard work and everyone's support that was
4793 here as well. Director.
4794
4795 **D. DIRECTOR'S REPORT**
4796
4797 **1. SMA Minor Permit Report**
4798
4799 **This is for notification and review purposes. No action is anticipated.**
4800
4801 **2. SMA Exemptions Report**
4802
4803 **This is for notification and review purposes. No action is anticipated.**
4804
4805 Ms. McLean: Okay, Commissioners under Director's Report the SMA Minor Report and
4806 SMA Exemptions Report. Do you have any questions on any of those items?
4807
4808 Ms. Pali: Absolutely not.

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Mr. Robinson: So move.

3. Discussion of Future Maui Planning Commission Agendas

a. August 27, 2019 agenda items

Ms. McLean: And then lastly as the Chair referenced earlier there is the memo for the next meeting. It sounds like under...we may also have Unfinished Business, the STRH application that was deferred earlier today. Any questions on future agendas?

Mr. Robinson: SUP application.

Ms. McLean: Yes, yes. Thank you Commissioner Robinson. Any questions on future agendas? Okay, thank you Chair.

Mr. Carnicelli: All right, seeing none—

Ms. Pali: Sorry one—

Mr. Carnicelli: Commissioner Pali.

Ms. Pali: Yeah, if we can just get that one notice with the just the recommended language of just adding an opportunity to where they can email on the next agenda.

Mr. Carnicelli: Oh as far as public hearing—

Mr. Robinson: Notice.

Mr. Carnicelli: Public hearing stuff.

Ms. Pali: Task force. Yeah, so if we can just put that on the next agenda.

Mr. Carnicelli: Oh your stuff with P. Denise?

Ms. McLean: If we can—

Ms. Pali: Oh, too busy. Okay, or the next, the next available agenda how about that?

Ms. McLean: Yes, yes.

Ms. Pali: Okay, thank you.

Mr. Carnicelli: We're adjourned.

E. NEXT REGULAR MEETING DATE: August 27, 2019

4856 **F. ADJOURNMENT**

4857

4858 The meeting was adjourned at 3:55 p.m.

4859

4860

Respectfully Submitted by,

4861

4862

4863

CAROLYN TAKAYAMA-CORDEN

4864

Secretary to Boards and Commissions II

4865

4866

4867 **RECORD OF ATTENDANCE**

4868 **Present**

4869 Lawrence Carnicelli, Chair

4870 Stephen Castro

4871 P Denise La Costa

4872 Kellie Pali

4873 Keaka Robinson

4874 Christian Tackett, Vice Chair

4875 Dale Thompson

4876

4877 **Excused**

4878 Tina Gomes

4879

4880 **Others**

4881 Michele McLean, Director, Department of Planning

4882 Michael Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel

4883 David Galazin, Deputy Corporation Counsel, Department of the Corporation Counsel
(11:00-3:50 p.m.)

4885 Stephen Welling, Deputy Director, Department of Public Works (9:00 a.m.-11:00 a.m.)

4886