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**MAUI PLANNING COMMISSION  
PORTION OF REGULAR MINUTES  
ITEM B.2  
MAY 11, 2021**

Mr. Tackett: Thank you so much. Director, I believe our next order of business please?

Ms. McLean: Yes, Chair. This is a recessed matter and so, no testimony needs to be taken on this. This is a request from Yukino Uchiyama of Munekiyo Hiraga on behalf of Wailea Resort SF-S Partners LP for an Environmental Assessment determination on the Final EA prepared for the Proposed Wailea Resort SF-S Residential Project on approximately 23.1 acres of land located at Kapili Street in Wailea, at TMK: 2-2-008: 145, and Tara Furukawa is the project planner.

**B. UNFINISHED BUSINESS**

2. **MS. YUKINO UCHIYAMA OF MUNEKIYO HIRAGA on behalf of WAILEA RESORT SF-S PARTNERS LP requesting an Environmental Assessment determination on the Final Environmental Assessment prepared for the Proposed Wailea Resort SF-S Residential Project on approximately 23.1 acres of land located at Kapili Street, Wailea, Maui, Hawaii: TMK: (2) 2-2-008:145 (SM1 2020/0007) (PD2 2020/0001) (EA 2020/0002) (T. Furukawa) (The Commission commented on the Draft Environmental Assessment at its September 8, 2020 meeting.)(The matter was recessed from the April 27, 2021 meeting.)**

The Chapter 343 trigger is the use of County land. The Commission is the accepting authority of the Final EA.

The Applicant also filed for a Special Management Area Use Permit and Planned Development Step II approval. The public hearing on those applications will be scheduled after the Chapter 343, HRS process has been completed.

The Commission may accept the Final EA and issue a Finding of No Significant Impact (FONSI), or take some other action.

**AS THE MATTER WAS RECESSED FROM THE APRIL 27, 2021 AGENDA NO PUBLIC TESTIMONY WILL BE TAKEN WHEN IT IS RECONVENED.**

Links to the Final Environmental Assessment:

**Volume I**

<https://www.mauicounty.gov/DocumentCenter/View/126273/Proposed-Wailea-Resort-SF-S-Residential-Project-Volume-I-March2021>

**Volume II**

1 [https://www.mauicounty.gov/DocumentCenter/View/126274/Proposed-Wailea-Resort-SF-](https://www.mauicounty.gov/DocumentCenter/View/126274/Proposed-Wailea-Resort-SF-S-Residential-Project-Volume-II-March2021)  
2 [S-Residential-Project-Volume-II-March2021](https://www.mauicounty.gov/DocumentCenter/View/126274/Proposed-Wailea-Resort-SF-S-Residential-Project-Volume-II-March2021)  
3

4 Ms. McLean: The applicant did provide follow up information and as requested by the  
5 Commission, I would ask for Tara to first come on and give a brief overview of the project again,  
6 and then I see Mr. Goode representing the applicant is also on, he can go through the  
7 supplemental information that was submitted. And reminding the Commission that what's in front  
8 of you today is the applicant's Final EA, and the action before the Commission is whether to  
9 accept that Final EA and issue a Finding of No Significant Impact or to ask that the document be  
10 supplemented or to determine that an Environmental Impact Statement is needed instead. Tara  
11 is there anything or can you please give a brief update overview of the project and then the  
12 applicant can go through the follow up information that they provided. I see Mr. Hopper.  
13

14 Mr. Tackett: Thank you, Director. Mr. Hopper, what you got?  
15

16 Mr. Hopper: Thanks Chair. Just a reminder to swear in everybody here. I think we should be  
17 treating this proceeding as a contested case, so I think you could swear in planners and other  
18 witnesses.  
19

20 Mr. Tackett: Thank you, Mr. Hopper, will do. I believe Tara you're first so if you could please  
21 promise to tell the truth and then you're good to go.  
22

23 Ms. Tara Furukawa: Yes, I will. So, the Wailea Resort SF-S Partners is proposing to construct a  
24 57-lot single-family condominium project, amenity center and related infrastructure improvements  
25 on approximately 23.1 acres.  
26

27 Mr. Tackett: Tara?  
28

29 Ms. Furukawa: Yes.  
30

31 Mr. Tackett: I believe you have to promise to tell the truth and then you can go.  
32

33 Ms. Furukawa: Oh yeah, I did. I said.  
34

35 Mr. Tackett: Sorry.  
36

37 Ms. Furukawa: I guess you guys didn't hear.  
38

39 Mr. Tackett: I didn't hear it, okay.  
40

41 Ms. Furukawa: Okay, so the proposed new development will be gated and accessible off of Kapili  
42 Street where there will be two emergency egresses, emergency access will also be available off  
43 of Wailea Alanui Drive.  
44

45 So, the last meeting on April 27<sup>th</sup> Commissioners raised questions so the consultant and applicant  
46 had worked on preparing the additional information which was sent to you since the last meeting,

1 and they're seeking your acceptance of the Final Environmental Assessment and issuance of a  
2 Finding of No Significant Impact for the project. The Draft EA was filed with the State Office of  
3 Environmental Quality Control on July 23, 2020. The Draft EA was presented to the Maui  
4 Planning Commission on September 8, 2020 and the Final EA was drafted upon receipt of  
5 feedback from the Maui Planning Commission, the Urban Design Review Board, other agencies  
6 and the community.

7  
8 If you accept the Final EA it will be transmitted to OEQC. There would be a 30-day legal challenge  
9 period. If undisputed, the Department will return to you with a Special Management Area Use  
10 Permit and project district...oh sorry, Planned Development Step 2 applications. If you think  
11 additional information should be incorporated into the Final EA you can defer, you can defer it so  
12 that more information can be added and it can be returned to you again for your acceptance at a  
13 later date. Another option is that you can determine that the project poses significant impacts and  
14 requires an Environmental Impact Statement. So today, the consultants, Yukino Uchiyama and  
15 Mark Roy are here from Munekiyo Hiraga and the applicant, represented by David Goode is also  
16 present and they can answer any questions you have.

17  
18 Ms. Yukino Uchiyama: Thank you, Tara. Hi, good morning Chair and Commissioners. My name  
19 Yukino Uchiyama of Munekiyo Hiraga. May I share my screen to show the presentation?

20  
21 Mr. Tackett: Yes, and please promise to tell the truth.

22  
23 Ms. Yukino: Yes, I do.

24  
25 Mr. Tackett: Yeah, please proceed.

26  
27 Ms. Yukino: Thank you. And David Goode from the applicant representative will present the  
28 information. Thank you.

29  
30 Mr. David Goode: Thank you, Chair and Members. I promise to tell the truth. I'm David Goode.  
31 I'm with Ledcor Development, we're the development manager of Wailea Resort SF-S Partners  
32 LP. We'll be doing a short presentation today. We're gonna highlight some of the topics that  
33 were discussed at your last meeting. Kind of a refresher for the members and an overview for  
34 Commissioner Pali who was unable to attend. Next slide please.

35  
36 Again, as Tara mentioned, we are requesting respectfully your review of the Final EA and  
37 issuance of a Finding of No Significant Impact also known as a FONSI determination. Next slide  
38 please.

39  
40 We have our full project team here and so if you have questions, we should be able to answer  
41 them. From the applicant's side we have Paul Woodward, Eric Gerlach and Casey Lamb. Our  
42 architect, we have Reid Matsumura and Steve Yuen. Landscape architect from PBR Hawaii is  
43 Micah McMillan. Our civil engineer, Darren Unemori from Warren Unemori Engineering. Traffic  
44 Consultant from ATA is Tyler Fujiwara. Our biological consultant, Bob Hobdy. Archaeologist from  
45 SCS, we have Mike Dega, and Hugh Starr from Aukuu Consulting who is our historian. Our  
46 cultural consultant is Aina Archaeology and we have Tanya Lee Greig, and our cultural planner,

1 Moolelo Group, we have Kainoa Horcajo, and the planning consultants as you know are Mark  
2 Roy and Yukino Uchiyama from Munekiyo Hiraga and we also have Kekoa Keiley here from Chun  
3 Kerr.

4  
5 Again, as background the Draft EA, we came before you in September of last year. We've revised  
6 it as a Final EA by addressing comments we received from you folks, various agencies and the  
7 public. We were here two weeks ago and we went in depth on the project details and the matter  
8 was recessed to today essentially to give Commissioners Hipolito and Pali to have the time to  
9 review the record and have the ability to vote. You folks requested a report which we have  
10 provided primarily about cultural consultation, but other important aspects as well. Next slide.

11  
12 Shows a refresher as to where we're talking about is in the north end of Wailea Resort not far  
13 from the fire station. Kapili Street is on the mauka side of the property. Piilani Highway is a couple  
14 of hundred yards further mauka. Wailea Alanui is on the makai side, and below Wailea Alanui is  
15 the Papali Wailea condominiums. To the north is Kilohana Park property is owned by the County,  
16 and to the South is Wailea Kialoa and existing single-family subdivision. Next slide please.

17  
18 So, since the Draft EA, we've made a lot of revisions to make it a better project. This is part of  
19 the process. First of all, the AIS has now been accepted by SHPD. We did additional research  
20 that determined the rock wall on the property is an old ranching wall. If you read the report, they  
21 noted that it's not close to the Moku boundary, that it's the original grants in that area which follow  
22 Ahupuaa lines, don't mention walls, but there's fence post molds embedded into the ends of the  
23 wall and other aspects such as soil type, et cetera that led to a conclusion that it's a ranching wall.  
24 We've added cultural gardens along the main entry and makai entry that allowed for gathering  
25 and educational opportunities. We've added a sidewalk from...along Wailea Alanui from our  
26 makai entry over to Kilohana Drive. We've added bike lanes along Kilohana Drive and on both  
27 sides of Kapili for its entire length from Kilohana Drive to Okolani Drive to open up the mobility  
28 out of the project. Next slide please.

29  
30 Additionally, we've been working with Maui Department of Transportation, who does our bus  
31 service. While they don't have current plans for bus stops in the area, they like the idea of us  
32 building the sidewalk in such a way that they can easily at a bus stop. So, we'll be coordinating  
33 with them on that. That was a request actually from the Planning Commission. Also, request  
34 from the Planning Commission was an additional view study from Piilani Highway. We've done  
35 that. It's in your packet and you'll see that there are no impacts to view from the highway. And  
36 we've added PV solar panels, which was a request of the Commission to all the residents and the  
37 amenity center. We have prohibited short-term rentals which was a concern of some  
38 commissioners, I believe, and also quite a few from the public. They'll be prohibited in the  
39 condominium's declaration and based on our last meeting two weeks ago, there was concerns  
40 about ohana and we'll specifically prohibit them as well in the declaration. Next slide, please.

41  
42 So, to follow up from the meeting on the 27<sup>th</sup> was a request from Commissioner Lindsey, we  
43 provide a report on the cultural consultation, and we'll talk briefly about that. We've added a  
44 discussion EIS segmentation which is a concern from some testifiers and some commission  
45 members. We have a little write up on the Piilani Highway improvements and its conformance  
46 with the community plan. We will report on workforce housing, which was a concern basically, I

1 think most commissioners, and we have the claim of property interest, which was voiced by a  
2 former permitholder at the meeting, and we supplied a lot of paperwork on that. Next slide, please.

3  
4 So, related to ongoing cultural consultation, I think what you'll notice is that since late 2019,  
5 approximately 50 individuals and groups have been asked to consult at any one of a number of  
6 different stages including our, excuse me, including our ongoing consultation stages. Now, you  
7 also learn that not everybody was able to participate, although they were asked, but quite a few  
8 did, and we're also open to more that want to participate and share their manao. And at least  
9 eight individuals are participating in ongoing consultations, many of whom are well known cultural  
10 practitioners with genealogical and generational ties to the area. Next slide, please.

11  
12 As relates to the highway, this, this property and the other remaining properties within Wailea  
13 Resort have a fair share agreement with the State Department of Transportation that's embodied  
14 in this Memorandum of Agreement, also known as the MOA. And quite simply, there will be  
15 improvements to Piilani Highway around the Kilohana intersection when the threshold of 150 units  
16 are being completed within the agreement. So, with this project, we're adding 57 towards that  
17 150 and we anticipate by the time this project is completed, the total count's gonna be 132 of that  
18 150-unit threshold. So, we're actually getting very close to the end of this agreement. The impacts  
19 related to Piilani Highway have been analyzed through a Final EA that was done by State DOT.  
20 These improvements are not exactly cheap. It'll cost at least six million dollars and that is 100  
21 percent privately paid for. The proposed improvements to Piilani Highway are consistent with the  
22 community plan language. You heard discussions about this from some of the testifiers and the  
23 key word that needs to be focused on, in my opinion, is concurrency. That is the word that's used  
24 in the community plan and that improvements are done concurrently with development, which is  
25 exactly what MOA does. All right, next slide.

26  
27 And the EIS segmentation analysis, this is something that was at the forefront of our minds. A  
28 couple of years ago, we discussed with the Planning Department, it was apparent to all of us that  
29 segmentation is not occurring. But subsequent to that, we have written letters which are basically  
30 legal opinions, which outlines the reasons why it's not occurring. We provided that to you. We'd  
31 also provide a similar letter, which is in your packet in January of this year to the Planning  
32 Department that we understand has been reviewed by Corp. Counsel, and given all this, the  
33 Planning Department has recommended issuance of a FONSI. Next slide.

34  
35 So, workforce housing Ledcor Development LP, which is again, we're the development manager  
36 for the proposed projects and other future projects in Wailea. We are committed to providing  
37 workforce housing where it's feasible. This particular property was purchased from A&B, and it  
38 came with credits for already completed units. So, that was part of the purchase. However, to  
39 further our commitment to workforce housing, we have sponsored to bring to fruition a 28-unit  
40 infill workforce housing project in Central Kihei with ...(inaudible)... Builders. We're just beginning  
41 the entitlement process and it possibly could be before the Planning Commission by the end of  
42 the year. It's a process and it doesn't happen overnight. We're committed to assisting to make it  
43 happen. Next slide.

44  
45 And finally, the claim of property interest, and quite frankly the first bullet point says it all, we would  
46 not have bought the property if it was tied up in some kind of litigation that would affect the

1 eventual ownership. The Hawaii courts including our Supreme Court has decided that  
2 One Wailea has no property interest, but they do have the right to get their deposit back plus  
3 interest and that claim actually is with A&B not us. The amount of interest is still being contested  
4 by One Wailea, and so as requested by you folks, and I think maybe the Director, they're  
5 interested in seeing a title report, and we've actually provided something better, a title policy that's  
6 based on a title report that shows there's no exceptions for this litigation which was known to the  
7 insurer. And we advised Corp. Counsel back in November of last year about this potential claim  
8 as relates to One Wailea writing the Planning Department. Okay, next slide.

9  
10 So, in summary, the findings of the Final EA, and then paired with the analysis of the State  
11 significant criteria, the rules for EAs, the proposed project is not expected to result in significant  
12 adverse effects on environment. So therefore, respectfully request the issuance of a FONSI by  
13 the Commission. Next slide.

14  
15 So, as Tara mentioned, next step if you folks issue the FONSI, we'll publish in OEQC notice.  
16 There'll be a scheduling of a hearing for the SMA Permit and the Planned Development, Step 2  
17 applications in three to four months, and finally we have the Planned Development Step 3  
18 approval process and related construction permits. So, we still have a number of steps to  
19 complete. Last slide.

20  
21 Thank you. Mahalo all the members. We're available for questions and good answers as we  
22 have the expertise available today. That concludes my presentation. Thank you.

23  
24 Mr. Tackett: Thank you, Mr. Goode. Director, I believe we go to a question period now, is that  
25 correct?

26  
27 Ms. McLean: Yes. Chair. If Tara has anything to add, she could add it now, but I think, I think  
28 the presentation was quite thorough. So, yes, it would be questions for the applicant or for the  
29 Department.

30  
31 Mr. Tackett: Tara, did you have anything to add?

32  
33 Ms. Furukawa: No, not at this time.

34  
35 Mr. Tackett: Okay, thank you. Commissioners, I believe we'll start with Kawika, and then I have  
36 P Dee, and then I believe I have Kellie. Quick one, quick one for Mr. Hopper. I don't need to  
37 swear commissioners or do I need to swear my commissioners?

38  
39 Mr. Hopper: No, Mr. Chair, the commissioners aren't really providing any witness testimony in  
40 this case. It's gonna be added to record. They're gonna be asking questions of the witnesses  
41 and can certainly state their position but it's not considered witness testimony for the record which  
42 is why you would need to swear someone in, so no, you would not need to.

43  
44 Mr. Tackett: Got it. Thank you, Mr. Hopper. Go ahead, Kawika.

1 Mr. Freitas: I just needed some clarification, Chair. I understood that at the last meeting we were  
2 in commission discussion and during our commission discussion there was responses by the  
3 applicant. Can you clarify where we are in this meeting? Are we still at questioning applicant and  
4 Department or that was done?

5  
6 Mr. Tackett: I'll go ahead and let the Director address that.

7  
8 Ms. McLean: Thank you, Chair. Commissioner Freitas is correct that at the last meeting it was  
9 commissioner discussion. However, it, it was, it appeared to the Department that some of the  
10 discussion and some of the responses that were given didn't have complete information. And so,  
11 the applicant provided that and we thought it was appropriate for that to be presented to the  
12 commission. But Commissioner Freitas is correct, if there aren't any questions or clarifications  
13 needed of the applicant based on the follow up information, then you can resume commission  
14 discussion.

15  
16 Mr. Freitas: I'm still confused because now we get more information. It's more info into the Final  
17 EA that wasn't submitted in the original Final EA presentation. Yet they can add whatever they  
18 want, and we have public testimony that cannot ask questions now on these things that were just  
19 brought up. For example, the guy that has the ownership claim or title issues, now, just by their  
20 response that is just done. We just got to take whatever they're saying. So, I don't feel that it is  
21 fair. This is why I had thought we should have gotten this thing settled the last time. Now we're  
22 going to open a whole can of worms and I really don't know where we're at. I just want to, I have  
23 a very long statement that I want to make, but I just wanted that clarification first and then I will,  
24 I'll do my statement after the other commissioners speak. Thank you.

25  
26 Ms. McLean: If I could. Commissioner Freitas, the options in front of the commission if you feel  
27 that that additional information that was provided today should be part of the document, you could  
28 ask for the Final EA to be amended and supplemented, and then it would come back to you again  
29 and testimony could be taken at that time or as Tara explained, if you feel an EA document in  
30 general is sufficient, you know, if they supplement it and you think that's sufficient for you to say  
31 this project is not going to have significant impacts then you could issue that statement and accept  
32 that Final EA. If you don't think that even with the information presented today, that all of the  
33 potential impacts have been addressed, you could vote to say an EIS is needed because an EIS  
34 acknowledges that there could be impacts and further assesses those impacts. So, before you  
35 today, you could accept the Final EA as presented today or you could take one of those other two  
36 actions as well to, to supplement the Final EA with additional information or to jump ahead to a  
37 EIS.

38  
39 Mr. Freitas: Okay, a quick example is that in the final, it talks about the cultural and the AIS and  
40 it states in the final that two out of the three concerns have been addressed and accepted. The  
41 third is still waiting more research. But what Mr. Goode just shared, and that's regarding that wall  
42 now he says that's all been resolved and approved by SHPD, and so now I'm confused, now we  
43 go with what he said. So, now that's all the cultural, all the cultural questions and, and things that  
44 people who testify you're saying it's all good now, all the those that wanted...that had pointed out  
45 that there are possible and there are, and yet his team that did the inspections says there, there  
46 now, that's nothing, and that's all good. So, I just want to know where, where we stand because

1 this extended part in allowing all of this added presentation muddles...muddies things. I think  
2 we're trying to clear it, but it's chipping away at all of the things that we are bringing up, which  
3 should be done in a EIS. And we're going to drag this on again today, sorry. Ashley, I'm sorry  
4 Ms. Lindsey, sorry you're not feeling well, but I have a lot of concern, so I'll let the others speak,  
5 thank you.

6  
7 Mr. Tackett: Sorry, who is, who is our next commissioner question? P Dee, go ahead P Dee.

8  
9 Ms. La Costa: Thank you, Chair. These questions are for Mr. Goode, and thank you for the  
10 supplemental information. It would help answer my questions about title and also about workforce  
11 housing. But I'd like to go back to I don't know if you want to bring it up, Page 12, that workforce  
12 housing and the representations that you made.

13  
14 Mr. Goode: So, that's on today's presentation?

15  
16 Ms. La Costa: Yes, sir.

17  
18 Mr. Goode: Okay, Yuki has control of that. You need it up, you need it up on the screen?

19  
20 Ms. La Costa: Yes, please.

21  
22 Mr. Goode: Okay.

23  
24 Ms. La Costa: It be Page 12, please.

25  
26 Mr. Goode: There you go.

27  
28 Ms. La Costa: Thank you so much. Just get rid of my pictures here. When you talked about the  
29 28-unit infill workforce housing project in the supplemental information that you provided to us,  
30 you said that we hope to use these units as illustrated with our next project after Wailea SF-5.  
31 So, would you please clarify, are these 28 units going to move forward or are you getting prime  
32 preliminary entitlements so that if you do get this approved and you come before us with the next  
33 project, that then those 28 units will be built? Please clarify for me. Thank you.

34  
35 Mr. Goode: Okay, thank you, Commissioner La Costa. Let's see if I can get this in a way that  
36 makes sense. So, I think as I mentioned, the property before you SF-S came with workforce  
37 housing credits, ...(inaudible)... already built units. So, that was provided by A&B. However, we  
38 know that we need workforce housing and we know we have the ability to help produce that. So,  
39 we've you know sponsored this project. It has begun its entitlement process, but we don't know  
40 when exactly it will be built, right. So, it's difficult to say we're going to use it specifically for a  
41 project. Therefore, we said we hope to use it in conjunction with our next project. So that way  
42 we least have the time to complete these entitlements and get it built in conjunction with that next  
43 project. Does that answer your question?

44  
45 Ms. La Costa: So, I do understand...Yeah, I do understand that, thank you very much. But, but  
46 this says, we hope to use it with our next project after this one. So, your anticipation is that this



1 one will be approved and then those 28 units will be your 25 percent of your next project to comply  
2 with 2.96?

3  
4 Mr. Goode: Right, it might be all of the 25 percent, it might be part of the 25 percent. You know,  
5 the trick is, is trying to find good projects that, that can work. So, we found this one. We partnered  
6 with ...(inaudible)...and you know, we helped, helped pushing it along, but that's our intent is to  
7 use it with the next projects that would need additional workforce housing units to comply with the  
8 25 percent.

9  
10 Ms. La Costa: Okay, so it's a supplemental kind of thing. Okay, thank you very much. I have  
11 one more question please. So much of the testimony last time was about traffic, especially the  
12 folks from Maui Meadows. Can the 150-unit trigger that we have seen be amended in any way  
13 by you folks? In other words, you don't wait till you get one 150 units with this project that triggers  
14 the expansion of the highway?

15  
16 Mr. Goode: Ms. La Costa, so no, no the amendment...the MOA can't be amended. It is triggered  
17 based on an actual need. So, if the need is not there, then we don't have the nexus to say to go  
18 do it. But we know the nexus will be there at a certain time. We're getting very close to that time  
19 with this project, and so, our intent is to fulfill that when it's at the 150<sup>th</sup> unit.

20  
21 Ms. La Costa: So, who if I might ask is the author of the MOA, who controls it, and you said there  
22 is no way to have it amended is that what I'm understanding? Sorry, I'm a little confused on  
23 whether or not it can be amended because I heard a lot of testimony about traffic and I think that  
24 the need is current. I don't think it's waiting another so ever, however many years for another  
25 project to come on.

26  
27 Mr. Goode: Well, the agreement is controlled by the State Department of Transportation and it's  
28 based on a traffic study. And so, the study author is here today, Tyler Fujiwara, who could explain,  
29 but I think if you looked at it in detail, you'd also see that the MOA is also has anticipated that a  
30 large commercial project in Wailea would be completed and that has not been done. So actually  
31 by...if it went in to get amended, we could actually maybe push it out even further. So, I think the  
32 150 is good. We need to have proceeds through these projects in order to have the ability to pay  
33 for it. The purchase of SF-S was based on the agreement, which said it would not be triggered by  
34 SF-S. The purchase price for SF-S is embodied in that agreement, essentially. And so, without  
35 that nexus to say that it's required, we just wouldn't have, we don't have the ability to build it early  
36 if that's what you're getting to. But we do have the ability to build it on a 150<sup>th</sup> unit as described  
37 in the MOA.

38  
39 Ms. La Costa: I appreciate your information. Thank you.

40  
41 Mr. Goode: You're welcome.

42  
43 Ms. La Costa: No further questions, Chair.

44  
45 Mr. Tackett: Thank you, P Dee. Kellie, I believe you're next.

1 Ms. Pali: Thank you, Chair. I'm gonna ask a couple of questions of the applicant, if that's okay,  
2 Chair, and then I'm going to have a couple of questions for the Director or Corp. Counsel,  
3 whoever's or the planner. Yeah, hi Mr. Goode, thanks for, thanks for hanging in there. I spent a  
4 lot of time looking at the video and watching it, and I think I ate like six times during the process.  
5 And I think, and I'm trying to put myself in each of the testifiers shoes and then all obviously look  
6 at you, and let me, let me start off with a question. I don't want to...I think we're all done with  
7 hearing people's preaching. Let's just go straight to some questions. A lot of the concerns I listed  
8 from the testifiers to me as a commissioner, because I am a little geeky with my rules, I found that  
9 much of it was out of your control. So, the question to you is, when you applied for this application  
10 and when you were told that in your particular case, your application allowed this kind of report  
11 an EA, did you feel like you met all of the current State and County regulations? And before you  
12 answer the question, I'm hearing that other people have opinions and very valid opinions of why  
13 you should have met more expectations. And I get it, I work in Kihei and I'm constantly going you  
14 know, into Kihei. My niece lives in Maui Meadows. I got to go pick the avocado and the mango  
15 and the jabong, and so, I'm constantly going through there. It is starting to get heavier in traffic,  
16 especially on the way out. So, they're all valid concerns, but it seems to me that there might be  
17 a misunderstanding of how much control you have over that. Are you meeting the expectations?  
18 Are some of these things beyond what is expected from our local government? And can you just  
19 answer that question and give us a little insight on that first.

20  
21 Mr. Goode: Thank you, Commissioner Pali, that's a, that's a big question or questions. You know,  
22 we have a 23-acre site that's allowed to have 57 homes. I mean, there's plenty of projects, you  
23 know, workforce housing projects that are way more homes than that. So, we know we have  
24 some control certainly over the site. We have some control, you know, related to our neighboring  
25 streets and things like that. We don't have a lot of control over...like we have no control over  
26 things, the responsibility to say state or federal or state, federal or county government. So, we try  
27 to do the best we can with where, where we have the most control and you know, Wailea Resort  
28 is a mature resort it's 90 percent built, right. A&B had it first, then the Japanese had it, and then  
29 A&B got it back. They're unwinding out of it. We have ownership of some of it and leased on the  
30 rest, and we know we have a responsibility to do what's required of the law and then do the best  
31 as a corporate citizen. So, that gives us some play. It doesn't give us the ability to fix everything  
32 for everybody. And so, that's where we strive to do our best. we listen, we try to incorporate all  
33 the comments as best we can. We're not going to satisfy everyone as much as we love to, but  
34 we try to deliver the best product we can for what's been permitted on this land. It's a single-  
35 family development. It's single-family in the community plan, it's in the Urban Growth Boundaries,  
36 it's in the –

37  
38 Ms. Pali: Well, let me jump in. Sorry to interrupt. Let me just ask some specific questions. So, I  
39 heard people that felt they should have been consulted. When you go and apply for this  
40 application is there an expectation or a requirement of the application to consult certain people or  
41 do they just say consult people and you can choose people. Can you just, you know, a couple  
42 sentence just sorta answer that question so I know, like what the expectation is 'cause I think a  
43 lot of people had some good points and I feel like it would be unfair to impose them on this  
44 applicant per se but there might be ways that we can take them to the people creating the laws  
45 and the rules, and say, hey, we had this application come forward, there was some really good  
46 things that, that should have been expected. How do we get them into the rules, so that moving

1 forward it's an expectation everyone has to follow? But is it super fair to create an expectation  
2 that was never expected of you to begin with and then how do you circle back from that where it's  
3 fair for both our people and land owners? So, can you just answer that real quick?  
4

5 Mr. Goode: Yeah, I think as far as, you know, initial consultation, starting with early consultation  
6 letter for the Draft EA, and maybe Mark Roy can speak to this better, but you know, they work  
7 closely with the Planning Department to identify all the agencies, community associations, other  
8 groups that would be part of that process. They were consistently been part of that process. For  
9 instance, when I was with Public Works, we would get you know, three, four or five of these a  
10 month. And so, our operation at Public Works was set up to be able to handle these on a regular  
11 basis. So, individuals may feel like, well, how come I'm not on the list or association perhaps,  
12 why am I not on the list or how do I get on the list? I think that's maybe a question for maybe the  
13 Planning Department, but that's we've gotta—  
14

15 Ms. Pali: But the short answer, the short answer is no, Dave, that you weren't required to contact  
16 certain people or was the short answer, yes, I had to...I was required to, to contact certain people.  
17 Is it yes or no, sorry.  
18

19 Mr. Goode: I'm sorry, we are required by the Planning Department to contact certain people or  
20 mostly agencies and associations.  
21

22 Ms. Pali: Okay, got it. Okay, so you had a list that you were given and you, you had to contact  
23 those people and you have clearly record of that? Yes or no?  
24

25 Mr. Goode: Yes.  
26

27 Ms. Pali: Okay, okay, good, okay. I'm trying to make this short, guys. So, let's go to the  
28 agreement real quick. You have this agreement that says, ...after so much, then you have to build  
29 the highway. And right now, based off your agreement, it's a yes or no. You're following that  
30 agreement. It was something that was done previously. It sounds like the agreement took into  
31 consideration again, county, state, traffic, blah, blah, blah, formulas. And they did it, the  
32 government did it, they established this thing, and you're just following that per the agreement,  
33 yes or no?  
34

35 Mr. Goode: Yes.  
36

37 Ms. Pali: Thank you. So, I'm just trying to, I think sometimes as commissioners, I am guilty of  
38 seeing that there's a problem, but then wondering who the responsible party is to solve that  
39 problem. And I think we all are guilty, including myself, of thinking it's the applicant's responsibility  
40 to solve a problem. And I'm learning almost three years later on commission that we have valid  
41 points that come up in things like this, but it sounds like we need to relook at policy, which we're  
42 going to get to do today in the Charter, right commissioners today, we're going to talk about  
43 amendments to the Charter and this is where we can effect real change and put it into the laws  
44 so that as the decision making process is here with applications, that the applicant has met these  
45 expected requirements. So, thank you for now, Dave Goode.  
46

1 My next question is to Mr. Hopper or the Director, and it's very, I'm going to read it so I don't mess  
2 up. I kind of jibbering on a little piece of paper, can I get Corp. Counsel on the line here? Michael  
3 Hopper, you there, Mr. Hopper?

4  
5 Mr. Hopper: Yes.

6  
7 Ms. Pali: If, if I as a commissioner, have uncovered that there is a, a need somewhere in this  
8 process and now we have an application. But the application I see has met the criteria, let's say,  
9 let's say for fun, the low expectation criteria just for fun, not to offend anybody, the low expectation  
10 of meeting the application process. And, but I think that there is this need and I would like it to be  
11 met but the law currently does not require it in the application. Is that a reason for me to deny the  
12 application because there's an expectation I now am imposing that's not required. And so, I need  
13 to know my realm as a commissioner in regards to that.

14  
15 Mr. Hopper: Well, I think you're...that's pretty general. What I can offer is with the Office of  
16 Environmental Quality Control, which is the state agency that sets forth the how you would go  
17 about making your decision today, how they, how they would phrase the requirements. Let me  
18 find the applicable rule for what you're doing today. Basically, what you're doing—

19  
20 Ms. Pali: Okay, while you're looking...did you find it already? While you're looking let me give  
21 you two specifics to help you. There's this agreement that says they don't have to build the  
22 highway until they meet a certain number of units built. Let's say I don't agree with that  
23 expectation. I think they should build it now, could I...could that be the basis of denial? Another  
24 example, affordable housing they're using partly credits and then they're also already committed  
25 to funding a future project. Now, I'm not saying this is my position. This is just a very generic. But  
26 let's say I don't like what they've chosen, even though that's allowed to them as an expectation,  
27 would that be a grounds for denial, just those two as an example?

28  
29 Mr. Hopper: Well, here's your, here's your criteria, it's in rule 11-200.1-22 of the Office of  
30 Environmental Quality Control Rules. It says, after preparing or causing to be prepared a final  
31 EA, reviewing any public and agency comments and applying the significance criteria in  
32 Section 11-200.1-13, the proposing agency or the approving agency, you're the approving agency  
33 shall issue a notice of a finding of no significant impact or EISPN, which is an Environmental  
34 Impact Statement Preparation Notice in accordance with the rules. So, you're going to review  
35 what's called the significance criteria in the, in their rules. The analysis was done by the applicant,  
36 it's on Page 153 of your environmental, final EA document. That goes over all of the factors that  
37 you would use to determine whether or not this project may have a significant environmental  
38 impact or if you believe it...you can make a finding of no significant impact, and that's your  
39 decision today. Your decision is to either find based on this final environmental assessment that  
40 you can make a finding of no significant impact based on these criteria which start with basically  
41 saying, a project may have a significant environmental impact if any of these factors are not met.  
42 So, you would need to require, you would need to go over these criteria and find that they have  
43 met these criteria. If you find that based on the information that they provided that they do not  
44 meet that criteria and the project may have a significant environmental impact, then you would,  
45 you would vote to determine that they need to go and prepare an environmental impact statement.

1 And based on the, the documents that you talked about, the...you...could you go over the two  
2 that you had mentioned again?

3  
4 Again, this is these are the criteria. Like you talked about the highway. the highway issue is I  
5 think at this stage, what they're doing is stating here is what mitigation we are going to do. If you  
6 find that with that mitigation in place, that this is going to have a significant environmental impact,  
7 then you could use that as a, as part of the basis, along with your other analysis, that they would  
8 need to go and prepare an environmental impact statement because the proposed mitigation that  
9 they are, they are discussing is not adequate, and the project, even with their proposed mitigation,  
10 may have an adverse environmental or ecological...I don't know if it's ecological, that's the SMA  
11 criteria may have an adverse environmental effect. That's in 1-13.

12  
13 Ms. Pali: So, so let me give you just one last question. The last struggle I have as a  
14 commissioner, and I've said this before in other cases, is I have these fancy reports with  
15 professional people in their field that have to conclude...It is very evident to me that this applicant  
16 has followed all the rules and actually gone beyond their scope in trying to put this together, and  
17 then I do hear from people on the ground, people that live across the street or in the area or just,  
18 you know, tied to the land, and they just don't agree, and they have a different perspective. What  
19 is your suggestion because you our legal counsel, right? How would, what would your response  
20 be to, to then measuring the weight of these people who we encourage to come and give us  
21 testimony on how they feel about things and, and issues that may arise, and then looking at these  
22 reports that are, you know, validated and signed off and even with SHPD report, which I guess  
23 that's in the rules, if we ask questions, they're allowed to respond to questions. You know, how  
24 do we weigh that? I think that's a struggle that we all carry. And that's my last question. I don't  
25 want to prolong it.

26  
27 Mr. Hopper: You're essentially the—Commissioner Edlao has his hand up. I don't know if the  
28 Chair...

29  
30 Ms. Pali: If you don't mind, you could just finish answering my question and then I'm sure the  
31 Chair will let Ed just in when I'm done, thank you.

32  
33 Mr. Hopper: Chair, are you okay with me addressing the commissioner's question first. I just  
34 want to check with him because it's ...(inaudible)...

35  
36 Mr. Tackett: Yeah, absolutely. Please, please continue and then we'll get to Jerry right after.

37  
38 Mr. Hopper: Okay, thank you Chair. I, in this case, as in other cases, whether you're granting a  
39 permit or in this case, making a determination on an EA, you are essentially the fact finder, just  
40 like a jury would in a court case, you would weigh the evidence and make a determination based  
41 on your review of the criteria. I would go over Pages 153 thru 161, read what their argument, the  
42 applicant's discussion on why the criteria are met and see if you agree. If you do not agree that  
43 the criteria are met, then could require an Environmental Impact Statement. I will also say, that  
44 this Environmental Assessment is a environmental disclosure document. It's supposed to go over  
45 the potential impacts for the project. It does not approve the project, though. You would still need  
46 to review a Special Management Area permit even if this is adopted. And you could deny that

1 permit based on the project not meeting that criteria potentially. So, it's possible to approve an  
2 EA and deny the project.

3  
4 The EA's...the objective of the EA is to disclose potential environmental impacts, state how they're  
5 being mitigated and, and show that an EIS is not required because A, the criteria were met to  
6 show that the project will not have a significant environmental impact. So, I think the best advice  
7 I can give is to read those, read those criteria, as you're being tasked with by the Office of  
8 Environmental Quality Control, apply that criteria to the information you're given. If you believe  
9 that with the mitigation measures in place, that the project would still have a significant  
10 environmental impact, then then you could order that an Environmental Impact Statement be  
11 prepared based on the significance criteria. But I think it's those criteria that you would really be  
12 looking at and weighing, including, you know, the information that you've been given through the  
13 meeting and with the, the applicant has, has provided to you.

14  
15 Ms. Pali: Thank you, Mr. Hopper. Thank you, Chair, for that time.

16  
17 Mr. Tackett: Thank you, Kelly. Jerry, I believe you were next.

18  
19 Mr. Edlao: Too late. I mean, I thought maybe this discussion should be an executive session  
20 because it's pertaining to commissioner's immunities, privileges, liabilities, but it's already done  
21 so, it's okay.

22  
23 Mr. Tackett: No, it's never too late. If that's, if that's your stand, then, then we can absolutely go  
24 down that road. I just got to let each commissioner go through their process and as individuals.  
25 So, if that's, if that's the road you want to go down to, we can, we can for sure go down that road.

26  
27 Mr. Edlao: No, not me. I was just concerned because of the questions going on.

28  
29 Mr. Tackett: Okay, thank you, Jerry. Commissioners, do we have any other questions? I see, I  
30 see Dale has a question. Go ahead, Dale.

31  
32 Mr. Thompson: For the applicant, Dave Goode you're on?

33  
34 Mr. Goode: I'm here.

35  
36 Mr. Thompson: Yeah, and this was addressing one that was asked by one of the testifiers and I  
37 looked up my law class, but I want to confirm you and I went by the property the other day, but  
38 does this property have firewood, house timber, ...(inaudible)...cord, thatch or ti leaf?

39  
40 Mr. Goode: You mean, already on it? I mean, firewood or fireweed?

41  
42 Mr. Thompson: Firewood. And the reason I ask that is that's the stipulations in HRS 7-1 from the  
43 Kuleana Act that was for...that people could trespass or not trespass, they could go through the  
44 land to do that. I did go to the property, I didn't find any evidence of that, but like I said one of the  
45 testifiers had made note of the 1850 Kuleana Act. But I just want you to confirm that was what I  
46 saw in my eyes was the same. There wasn't house timber.

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Mr. Goode: Right, I believe that's the case.

Mr. Thompson: Okay, thank you. Sorry everybody. But I had to ask.

Mr. Tackett: Thank you, Dale. Mr. Goode, thank you. Commissioners, anybody else have questions at this time? Okay, hearing no questions. Director, would the correct process to be Department of recommendation followed by, by motions?

Ms. McLean: Excuse me Chair. I don't, let's see...I don't believe the, let's see the Department did recommending...did recommend accepting the Final EA and issuing a FONSI. But again, as a couple of commissioners have asked, the other alternatives are to defer the Final EA and ask for additional information or to determine that the proper...that the project could pose significant impacts and that you want an EIS prepared. So those are the three options for the commission.

Mr. Tackett: Okay, so, so no need for a second Department recommendation. We can go straight to motions and speaking to the motions, correct?

Ms. McLean: Correct.

Mr. Tackett: All right, Commissioners, at this point, I'm going to entertain motions. I believe Kawika had his hand up first. Go ahead, Kawika.

Mr. Freitas: Looks like Mr. Hopper might have something about the process. Mr. Hopper?

Mr. Tackett: Sure. Go ahead, Mr. Hopper.

Mr. Hopper: Chair, I think we had discussed Commissioner Pali earlier, but Commissioner Pali and Commissioner Hipolito, we would just, I think, want them to confirm that they went back and, I think, to Commissioner Hipolito only had missed small portion of the record. But to just, both of them confirm that they've reviewed the entire record and are prepared to deliberate and vote on this item.

Mr. Tackett: Understood. Commissioner Hipolito, Commissioner Pali, have you guys both reviewed the, the record and are comfortable in giving a decision on this matter? Mr. Hipolito.

Mr. Hipolito: Chair, I've reviewed all of the documents and information. I am prepared to deliberate and vote on this matter.

Mr. Tackett: Thank you.

Ms. Pali: Yes, Chair. I, too have read it, actually I didn't read, I had watched video and then read written testimony from the original meeting, so I am prepared to vote as well.

Mr. Tackett: Thank you very much. And thank you, Mr. Hopper. Go ahead, Commissioner Freitas, you're on.

1  
2 Mr. Freitas: Thank you, Chair. At this time, I just was hoping that we could have commission  
3 discussion, and this is where I had asked earlier that I was going to hold my, my comments to this  
4 point so that I'm not interrupted by applicant. When I look at this, this kind of leans toward what  
5 Miss, Commissioner Pali had said, where did all of this come from with all the opposition  
6 testimonies that we had? And when I looked at it, I go back to the very beginning of the application  
7 and notice that, yes, there were a lot of agencies that are they are required to get feedback on,  
8 but also neighborhoods, organizations were also allowed to ask questions and a bunch of them  
9 shared certain, whether it's a wish list or how the property should be developed, including our own  
10 Planning Department Director. Some of the things shared was to have it a mix of affordable and  
11 market housing. They went for the luxury home. One of it was asked, it is discouraged to do a  
12 gate, they put up the gate. There's discussion about the traffic, and I not even go there with the  
13 traffic. But all of these things are in here that talks about how people thought this is the best  
14 development and luxury is not one of them. And yet they continue to just put in the application  
15 doing what they want. It's all about the money. Because they have it, they're going to do whatever  
16 they want. Now, it comes to this process that we're doing and we get the EA Draft, and in the EA  
17 Draft, certain criteria of significant impact was brought up with very, very shallow. I mean, basic  
18 doesn't even answer the question kind of response. And I, and if I have to, I can read what some  
19 of them are. And one of them was just the water. When I asked about water and its impact, I'm  
20 not asking about where the water is coming from. I'm asking about how is it impact taking water  
21 from another area to be put into Kihei when the other area need the water. So, where is the study  
22 on that? It's not in here. We are in a situation where there's want and need and essentials. This  
23 project is a want.

24  
25 Mr. Tackett: Kawika, Kawika—

26  
27 Mr. Freitas: Yes?

28  
29 Mr. Tackett: Just a second, if...so, this is the motion and to speak to the motion.

30  
31 Mr. Freitas: There's no motion. This is discussion, commission discussion.

32  
33 Mr. Tackett: I believe we were in, we were in the motion, and I believe you...I thought you were  
34 going to make a motion and speak to it, in my opinion. That's what, that's what I thought.

35  
36 Mr. Freitas: Well, I can.

37  
38 Mr. Tackett: Yeah, so are you going to make a motion and, and then speak to it? Because  
39 generally you would make your motion first and then you would speak to it that's, that's all I'm  
40 saying.

41  
42 Mr. Freitas: Yes, I would like to make a motion to require an EIS.

43  
44 Mr. Tackett: Okay, and then, and then if you could just continue, continue speaking to your motion  
45 would be great.

46



1 Mr. Freitas: Okay, I am so sorry about that.

2

3 Ms. McLean: Chair, there should be, there should be a second to the motion first.

4

5 Mr. Tackett: Oh yeah, and I gotta get a second. Do I have a second? And I have a second from  
6 Ashley. So, go ahead, please continue Kawika.

7

8 Mr. Freitas: So again, regarding the water issue, it only talked about how they're gonna get water,  
9 but not what its impact was. And I also, when I got interrupted, was talking about what is needed  
10 and what is wants, and this project is a want, and not an essential and a need that this island  
11 needs. There are criteria for this what is a significant impact. And I feel that that water is at the  
12 top of the list. It was when we talked about the EA Draft, it was not addressed in this final. Water  
13 management over a thousand years by our Hawaiian ancestors. The word for law is kanawai  
14 because the laws in the very beginning was about water, and it was important to have that  
15 balance, and it is unbalanced right now.

16

17 I also wanted to share about the, the significant cultural sites on this property that has...we've  
18 been going back and forth back, back and forth about. I believe that a EIS and further study is  
19 required, and that there is an impact to our Hawaiian culturalists that have come before us  
20 numerous times on this property.

21

22 There is a statement that there's no significant impact on traffic. In this book, it talks about current  
23 and forecast LOS, level of service in the intersection of Piilani and Kilohana, the current to the  
24 future 2024, shows an increase in the level of service, which is like A, B, C, D, E, F, and it, it  
25 actually increases. The intersection down by Wailea Alanui and Okolani, there's also an increase.  
26 There's a minor one up by Piilani and Okolani, but those are significant increase that is impactful,  
27 and it's in this report.

28

29 Now, what I'm trying to say is this the developer and its applicant keeps putting out things like  
30 there's no there's, no impact. It's right in, it's right in here. There is. Voting no to a EIS is a slap  
31 in the face to our Hawaiian culturalist who have been fighting for what is right. Whether it, whether  
32 whoever said no, no, no, it's all good, it's a slap in their face. Voting no to this, money is first. We  
33 don't care about the local residents. That's where, that's where the no to this motion will be.  
34 Thank you, Chair.

35

36 Mr. Tackett: Thank you. Thank you, Kawika. Would anybody else like to speak to this motion?  
37 Kellie followed by P Dee. Go ahead, Kellie.

38

39 Ms. Pali: Thank you. I will be voting against this motion. And as much as I respect Mr. Freitas  
40 and many of my own family, I highly disagree that voting yes, would mean that I'm for the people  
41 and voting no, means I'm against. That certainly can be any person, single person's opinion, but  
42 I believe it can be and/or or both, and there's a lot more going on than reducing this entire thing  
43 to a single item. And so, I will not be supporting this because I highly disagree.

44

45 Mr. Tackett: Thank you, Kellie. P Dee, would you also like to speak to the motion?

46

1 Ms. La Costa: Yes, Chair, thank you. I concur with Commissioner Pali. The last meeting, I made  
2 a motion to accept the commission's or the Department's recommendation. They will come before  
3 us as Mr. Hopper echoed two or three more times. They have done their homework. I am not  
4 voting against anyone. I've lived here 31 years, and I might be haole on the outside, but I'm  
5 Hawaiian on the inside. So, voting no on this does not mean that I disagree or disrespect the  
6 culture in any way, shape or form. And so, I strongly disagree with Commissioner Freitas' on that  
7 topic.

8  
9 They have, they have met all the criteria, as Commissioner Pali asked them earlier. So, we need  
10 to look at the rules versus if I tell you, you have to wear blue shoes, you have to wear blue shoes,  
11 and if you decide to wear pink, then you better get the rules changed. So, I think that's for me  
12 what's happening here. But I will not be voting in favor of a full EIS. Thank you.

13  
14 Mr. Tackett: Thank you, P Dee. Commissioners, would anybody else like to speak to the motion?  
15 Commissioner Lindsey, please, please go ahead.

16  
17 Ms. Lindsey: I kind of...I seconded Mr. Freitas' motion. I, my brain is kinda foggy because I'm  
18 sick, but my...I do see the significant water impact like what Commissioner Freitas was saying  
19 and spoke to a couple of cultural specialists on the area who Wailea Resort didn't get to speak to  
20 personally because they know them and I think is there significant cultural impacts that for some  
21 reason they couldn't get the information about that was overlooked. And also, issues with the  
22 Hawaiian bat that has come up that hasn't been spoken about since I've been here at this meeting  
23 with these guys. That's all I have to say.

24  
25 Mr. Tackett: Thank you, Commissioner Lindsey. Commissioners, any, anyone else care to speak  
26 to the motion before we call for a vote? All right, we have a motion on the floor and all those in  
27 favor of the, the motion on the floor please raise your hand. All those opposed? Thank you.  
28 Director, do you have an accurate count?

29  
30 Ms. McLean: Yes, Chair. That's two in favor, Commissioners Freitas and Lindsey and five  
31 against, Commissioners Hipolito, Edlao, Thompson, La Costa and Pali.

32  
33 *(Motion was made at approximately 00:58:32 of Chapter 2 of the audio recording.)*

34  
35 **It was moved by Mr. Freitas, seconded by Ms. Lindsey, and**

36  
37 *(Vote was taken at approximately 01:06:02 of Chapter 2 of the audio recording.)*

38  
39 **The Motion for a Environmental Impact Statement to be Prepared, FAILED.**  
40 **(Assenting – K. Freitas, A. Lindsey)**  
41 **(Dissenting – P D. La Costa, K. Pali, J. Edlao, M. Hipolito, D. Thompson)**

42  
43 Mr. Tackett: Thank you, Director. So, that motion fails. Do, do we have another motion? P Dee,  
44 go ahead.

45

1 Ms. La Costa: Thank you, Chair. I make a motion to approve the recommendations of staff and  
2 the Planning Department to accept the EA, and not...and issue a FONSI.

3  
4 Mr. Tackett: Okay, we a motion. Do we have a second for our motion? We have a second with  
5 Kellie. Sorry, she was just a little bit faster than you, Mel. So, we got a motion and a second.  
6 P Dee, would you care to speak your motion?

7  
8 Ms. La Costa: Briefly, Chair, thank you. We have heard, and seen, and had opinions about  
9 everything here. Just as a clarification, the Hoary bat was discussed in the documents and, and  
10 the last meeting, and there was no Hoary bat found, so that might help Commissioner Lindsey.  
11 But there's been a lot of work done, a lot of consideration, and what people do with their property  
12 is actually their kuleana not up to us to tell them what to do. Just like you wouldn't want someone  
13 telling you, you have to have a different color house because they felt that you should. So, I will  
14 be voting in favor of this motion.

15  
16 Mr. Tackett: Thank you, P Dee. Kellie, I believe Kellie also wanted to speak to the motion, and  
17 then I believe Ashley has her hand raised after you. So, go ahead, Kellie.

18  
19 Ms. Pali: Yeah, thank you. I think that, I know that our...in the future, the culture seems to be  
20 going towards, as we talked about the resolution, more quality versus quantity and I know that's  
21 going to be put into legalities to support us here at commission to be able to look at these projects  
22 a lot, lot closer, which I think is a good thing. But I think that the way this project land owner has  
23 gone forward with doing all the extra steps and even within a few weeks or months period,  
24 changing to add, to enhance. The fact that they took off short term vacation rental from this  
25 project was a huge one for me. I was super grateful that they did that. And I thought that that was  
26 just...because that's going to impact their value. The part-timer, when I was hearing testimony  
27 on the ghost town, those kinds of people love to make money off of our island while they're not  
28 here for vacation rental. Now, do vacation rental people help us pay taxes and, and infrastructure  
29 and roads, certainly, but we have already seen that we've got enough of those accommodations,  
30 so we don't necessarily have to increase that. So, for me, that was a good one, a good move for  
31 this particular project.

32  
33 I also wanted to comment on the actual report. This was the first report that I could actually read.  
34 The comments in there, I love the red toned ink against the questions on the black ink, so my  
35 eyes could go straight to the answers. So, I didn't have to guess where the answers started and  
36 where it ended. I think...am I having network solutions, network problems? Am I here? Okay.

37  
38 And, I also really appreciated Append...Exhibit A. Exhibit A with a grid and it talked about the  
39 existing conditions and then in the next box, like what they're going to do, and that really helped  
40 me figure it out side by side, the changes and the mitigation, and that was super helpful instead  
41 of seeing the existing in one section and then four chapters later, you know, seeing what they're  
42 going to do and then having to physically put it together. So, very well job...good job, well done  
43 on the report for us to read. Is it perfect? No. Is it acceptable? Does it meet the standards?  
44 From what I can see with the direction of planning, is it good to move forward? I'm very  
45 comfortable with that. And there are still concerns that were brought up at this meeting that I feel

1 we can tease out as they come back to...for the next steps, because at least two more steps with  
2 us and we can work with them on that. So, for that reason, I second the motion.

3  
4 Mr. Tackett: Thank you, Kellie. Ashley, it's your turn. And then followed by Kawika.

5  
6 Ms. Lindsey: Just to clarify the bat comment, I spoke to somebody whose boots on the ground  
7 who obviously wasn't part of this, and they said there are bats there and they're a trusted source  
8 with knowledge in that field. Just putting it out there for other people to understand that. And I  
9 will still be siding, I will be voting against this motion because I the...I, I see the effort that these  
10 guys are putting in, I see that they're trying to fix traffic concerns. They put all of our concerns  
11 into this. They are addressing a lot of the community concerns. And I, I think they're just falling  
12 a little bit short of all of the concerns, specifically the cultural concerns and the cultural resource  
13 concerns. And I understand that it is hard to get that information, which is part of the reason why  
14 it's not there and that I'm speaking to maybe the community members or people who can change  
15 it so that the information can be there without being used against us potentially or us, meaning  
16 cultural practitioners and native Hawaiians or with trust, because I think that would be the issue  
17 with why they don't have the information there is because they don't trust the people they're giving  
18 the information to, which is why I still will be...which I will be saying not voting with this. Thank  
19 you.

20  
21 Mr. Tackett: Thank you, Commissioner Lindsey. I believe Commissioner Freitas also would like  
22 to speak to the motion.

23  
24 Mr. Freitas: Thank you, Chair. Thank you, Commissioner Lindsey. I want to add to what you're  
25 saying. And even just, just before we started this, the previous motion, Commissioner Thompson  
26 asked a great question about what was growing on the property and the applicant couldn't answer.  
27 And this is the kind of reason why I feel an EIS is required because they just have not done  
28 enough for the impact. And maybe what the problem is significant means different things to  
29 different people. And how significant could be different to plenty and little bit people just going to  
30 let things slide. And that's what I'm thinking is happening here. It's so sad.

31  
32 One of the criteria, too, is I read in here was does it affect the population. Well, people are moving.  
33 People can't afford. The economic part of this, this development is raising the price of houses.  
34 People cannot afford. So, there's all of those things that have an impact, a negative impact. And  
35 to sit here and hear a motion of a FONSI, I, I think I'm looking through this through a different lens  
36 than the majority of the commissioners here. So, everybody has their opinion, and I know where  
37 the vote is going to go, but I stand against this motion. Thank you.

38  
39 Mr. Freitas: Thank you, Kawika. Commissioners, anybody else want to speak to the motion? I  
40 believe I can see all of you at this point. I don't see anyone...if I'm missing anyone, please speak  
41 to the motion now. If not, then I'll call for a vote. Okay, hearing none, I'm going to call for a vote  
42 for our motion on the floor. All those in favor, please raise your hand? Thank you. All those  
43 opposed, please raise your hand. Okay, and then I believe anyone who hasn't raised their hand  
44 up until this point will, will remain an abstention is that correct? Ashley, are you abstaining?  
45

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1 Ms. Lindsey: I'm getting a delay on this. I am voting against what is at hand. I can't see your  
2 hands. You're all moving in slow motion. Sorry for interrupting Chair.  
3  
4 Mr. Tackett: Hold on, I got Mr. Hopper. Go ahead Mr. Hopper.  
5  
6 Mr. Hopper: Chair, given that I think you may want to have a roll-call vote like last time just to  
7 make sure if there's a delay. I think that might be recommended.  
8  
9 Mr. Tackett: Sounds good. Director, could you proceed with a roll-call vote for us, please?  
10  
11 Ms. McLean: Yes, Chair. The motion on the floor is to accept the Final EA. Commissioner Edlao.  
12  
13 Mr. Edlao: Yes.  
14  
15 Ms. McLean: Commissioner Freitas.  
16  
17 Mr. Freitas: No.  
18  
19 Ms. McLean: Commissioner Hipolito.  
20  
21 Mr. Hipolito: Yes.  
22  
23 Ms. McLean: Commissioner Lindsey.  
24  
25 Ms. Lindsey: No.  
26  
27 Ms. McLean: Commissioner Pali.  
28  
29 Ms. Pali: Yes.  
30  
31 Ms. McLean: Commissioner Thompson.  
32  
33 Mr. Thompson: Affirmative.  
34  
35 Ms. McLean: Vice-Chair La Costa.  
36  
37 Ms. La Costa: Aye.  
38  
39 Ms. McLean: And Chair Tackett.  
40  
41 Mr. Tackett: Yes.  
42  
43 Ms. McLean: That's six ayes and two noes. So, the motion passes.  
44  
45 Mr. Tackett: Thank you, Director.  
46

1 **It was moved by Ms. La Costa, seconded by Ms. Pali, then**  
2

3 **VOTED: To Accept the Final Environmental Assessment and Issue a Finding**  
4 **of No Significant Impact (FONSI)**  
5 **(Assenting – P D. La Costa, K. Pali, J. Edlao, M. Hipolito,**  
6 **D. Thompson, C. Tackett)**  
7 **(Dissenting – K. Freitas, A. Lindsey)**  
8

9  
10 Respectfully Submitted by,  
11

12  
13 CAROLYN TAKAYAMA-CORDEN  
14 Secretary to Boards and Commissions II  
15