

**MAUI PLANNING COMMISSION  
REGULAR MEETING  
JUNE 12, 2007**

**A. CALL TO ORDER**

The regular meeting of the Maui Planning Commission was called to order by Chairperson Johanna Amarin at 9:05 a.m., Tuesday, June 12, 2007, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

A quorum of the Commission was present. (See Record of Attendance.)

Ms. Amarin: At this time public testimony will be taken up on any agenda item in order to accommodate those individuals who cannot be present at the meeting when the agenda item is considered by the Maui Planning Commission. Public testimony will also be taken when the agenda item is taken up by the Maui Planning Commission. Maximum time will be for three minutes. Conclusion will be for 30 seconds. Do we have any individual in the audience that would want to come up to do public testimony on any agenda item at this time? Seeing none, public testimony is closed at this time.

**B. PUBLIC HEARING** (Action to be taken after each public hearing.)

1. **MS. MARY OMWAKE of the UNITY CHURCH OF MAUI requesting a County Special Use Permit in order to operate church offices, to hold small gatherings such as memorial services, classes, workshops, seminars, and meetings in a single family dwelling in the Residential District at 483 High Street, TMK: 3-5-009: 007, Wailuku, Island of Maui. (CUP 2005/0009) (L. Callentine)(Item will be rescheduled to the July 10, 2007 agenda due to improper notice by the applicant.)**

Ms. Colleen Suyama: The first public hearing was for the Unity Church of Maui, but due to a notice problem this matter has been canceled and will be rescheduled to the July 24<sup>th</sup> agenda of the planning commission.

The second matter is Mr. Bill Frampton of Papaanui, LLC requesting a Special Management Area Use Permit for the Papaanui Subdivision, a seven-lot residential subdivision in the R-3 Residential District at TMK 2-1-007:009, 060 (portion), 2-1-007: 094 (portion), and 2-1-008: 100 (portion), Makena, Honuaula, Island of Maui. Robyn Loudermilk from our office will make the presentation.

2. **MR. BILL FRAMPTON of PAPAANUI, LLC requesting a Special Management Area Use Permit for the Papaanui Subdivision, a Seven-Lot Residential Subdivision in the R-3 Residential District at TMK: 2-1-007:009, 060 (portion), 2-1-007: 094 (portion), and 2-1-008: 100 (portion), Makena, Honuaula, Island of Maui. (SM1 2004/0023) (R. Loudermilk)**

Ms. Robyn Loudermilk: Good morning commissioners. I'd like to provide you with a brief history of the application and then after that we'll have Frampton and Ward come and do a power point presentation to provide you with where the project is today.

Ms. Loudermilk then presented the background information from the Maui Planning Department's Report.

Mr. Bill Frampton: Good morning Commission Members. My name is Bill Frampton of Frampton and Ward and I'm one of the managing members of Papaanui LLC. We've prepared a power point presentation and if it's okay, we'd like to take a few minutes to go over that power point to help provide brief background, project overview and hopefully help answer a few questions afterwards if there are any.

Today joining me here is our project team. Our civil engineer is Stacy Otomo, he's here if we have any questions regarding engineering issues. Our attorney, Blaine Kobayashi, as well as my fellow managing members, John Santos and David Ward.

Our project as noted by Robyn is a seven-lot residential subdivision located in Makena adjacent to the Makena Landing. It's interesting to note that the name, Papaanui is referencing the 'ili that the property is located within as part of the ahupua'a. It's a smaller 'ili district and papaanui means flat top or high area, level area which the property is described as.

Again, it's located sort of – Wailea's to the north, Makena Resort project district is sort of encompassing the property on most sides. The air photos that we want show here will help identify its location as it relates to other surrounding uses. Out on the point are the residential existing developments. Abutting the property on the north side is a vacant parcel with actually one single family residence on it. Makena Keoneo'io Road actually traverses through a portion of the property and we'll get to that in a little while and here's Makena Alanui Road, Maui Prince located just down to the south of us. Keawalai Church is another landmark just located down the coast from us. The next slide photo shows the same basically surrounding land uses just from a different perspective looking up mauka if you will and again, it shows our surrounding land uses out here to the west. The Makena Landing and the parking lot are right down here in this area adjacent to us and we'll be showing you some of those proposed improvements as well.

The subject property as Robyn noted earlier consist of four TMKs, the main portion is 3.49 acres. Another portion located right here is this triangular shaped parcel is the portion of Makena Road. This adjoining or abutting parcel is part of – serves as an access for us and drainage basin. Old Ulupalakua Road also provides access to the mauka portion of our property and I would note here shown in this red dash line is where the existing Makena Keoneo'io Road or Old Makena Road comes through our property. And we will show you

how we've addressed that later in the presentation.

Our existing land use designations have been recently changed. When we were here the previous three times before this body the land use designations hadn't been changed yet. That was part of the requirement in order to come back to be before you today. So our State Land Use Designation is Urban, Single Family for Community Plan, County Zoning R-3, and Flood Zone is in Zone C. We're also of course, located in the SMA.

These next slides will show the community – State Land Use District again just to help show you what's surrounding us in terms of the State Land Use Designations. We were previously Ag, we are now Urban. Next slide shows community plan. We have been changed from multi-family, we came down to single-family to be consistent with our project and then the Zoning, we went from what was Apartment, A-2 Apartment possibly at one point, down to essentially R-3 Residential is what we're seeking for our project.

That will relate to the previous, Dave if you could go back one slide, okay, maybe not. We'll go to the next slide, sorry. Previously we did go to the Makena Homeowner's Association early on in our process and related to our existing zoning and after I show you what our project is, we'll talk about some of the alternatives that we considered for the project. It wasn't just always a single family lot, we looked at a couple different alternatives.

But our project profile it consists of seven lots ranging between 16,000 square feet to 23,000 square feet, on and off site drainage improvements, roadway improvements and eventually dedication to the county is what we're hopeful to do. County road, water and fire improvements, individual aerobic wastewater systems, additional parking which is new to previously what you had reviewed for the members who were here on board last time when you saw this project. This is a new condition doing improvements at Makena Landing. Project area again, the total area 3.93 acres and it's vacant and undeveloped right now.

This is our conceptual plan. It's similar to this board right here. It is the same board just with some – I highlighted a few of the improvements we wanted to note. We have a landscaped drainage basin which we're very sort of excited about. What we've done down here is an oversized landscaped drainage basin to help us exceed the required drainage improvement, volume flow, whatnot for the runoff.

Up above mauka we're going to improve the old Ulupalakua Road. We're going to do subsurface drainage systems for the upper three lots. The roadways down here where we talked about the roadway coming through our parcel we're going to consolidate this parcel and this portion of our lot of our land, consolidate it, improve it to county standards and dedicate it to the county. Right now currently the county doesn't own this area which is a little unique. Access rights still go over it we just thought it would be good to clean up and straighten this out once and for all so the county does own it after our project.

And down here will be access to Lot 6 and 7 coming around the drainage basin.

A little background, Robyn may have mentioned that we met with the Makena Homeowners Association and the key points there was we went back to them in 2004 right when we first had acquired the parcel and we were anxious to go meet with them and talk about some options for the project. The alternative plans assessment was interesting because had an architect team design a multi family condominium project as well as the single family subdivision. We did the multi family idea because the community plan had called for multi family, but after discussing it with the Makena Homeowners Association they obviously wanted to go to single family. We had no problem with that. The rural roadway, the Makena Homeowners stressed vehemently please do not improve that roadway to urban standards. Keep it rural in character and to preserve that feeling of Old Makena Road which we wanted to do. Drainage, they were concerned about wanted to make sure we address the drainage situation. The water currently comes down the road and goes right into the shoreline, right into the ocean and it will erode sections of that beach all year round because there's no drainage improvements in the area. And public beach parking.

Also consulted with government agencies early on in the process back in 2004, and then as Robyn noted in December of 2004, we came to the Planning Commission with our draft EA, in April 2005, the Commission issued the FONSI, and in July 2005, you heard the project and recommended approval and transmitted it to County Council. Also just note that in April of 2006, we received preliminary final.

Our County Council, I'd like to note that at the County Council hearings Robyn covered this briefly earlier, but the six conditions just to be aware of, the seven lots shall not be further resubdivided nor shall it be part of a CPR regime, Condominium Property Regime. That will not be allowed on the property. That was actually a recommendation from the Planning Commission that was transmitted to the Council and the Council kept that and we had no problem keeping that.

The next condition related to preserving the rural character of the road, pavement width of 22 feet, right of way of 32 feet, no curbs, gutters or sidewalks, no streetlights along the Old Makena Road. And the retaining walls along Makena-Keoneo'io Road, the Old Makena Road, as it abuts our property, an important component and we'll show you in a slide coming up is the retaining walls along that edge of the property shall not exceed four feet in height. And that was really important to us in terms of maintaining that rural character. That's not the case in some of the other areas. Around the point there's some much more higher walls. We don't think that's in keeping with the rural character. We had a little bit of challenge working with the County Code because the County Code required urban improvements which would have required a very substantial right of way, large right of way of 48 feet and would have required a retaining wall anywhere between 10 to 12 feet along the length of our property which would have really been disastrous we think for that rural

road setting. Anyways, we worked that out and we're pretty excited about that.

No gates on old Ulupalakua Road. And the 10 additional parking spaces will cover. No transient vacation rentals or bed and breakfast or commercial operations.

Briefly I'd like to cover project highlights or what we consider – we took into consideration recognizing that we know this project's in Makena, we're very sensitive to that. We're from here and we know the Makena region from the changes over the last several decades and things we wanted to do to help balance the project out or what we consider some benefits related to our environmental resources, the roadway improvements, some design restrictions, parking at Makena Landing and the workforce housing.

Under Environmental Resources, our goal here was to protect and preserve the shoreline environment, coastal ecosystems and water quality and to protect it from soil erosion, sediment production and non point source pollutions that happen when you do construction, it happens in the long term as well, runoffs from pesticides and used in landscaping whatnot. We're very aware of that and wanted to take measures to protect that.

Storm water runoff, existing is 6.4 cubic feet per second – after development, excuse me, our runoff will be 11.5. A net increase of 5.1 is the number we're working with. The drainage system to handle that runoff we've over designed so that we could exceed the government requirements. Dave if you go to the next slide, we'll show that lot numbers 1, 2 and 3 – the blue arrow represents the direction of flow if you will. Lots 1, 2 and 3 will be designed so that their runoff will flow to old Ulupalakua Road where we're going to have catch basin with filter inserts to help screen out pollutants and ultimately the runoff from 1, 2 and 3 will flow into a subsurface perforated pipe that will be located within lot number 1.

Lots 4, 5, 6 and 7, will be directed to flow into our landscaped drainage basin. This is something that we were pretty excited about that wasn't part of our application the first time we came to the planning commission. We were able to work out an agreement with Makena Aina Resort over here to utilize a portion of their property to allow for access but more importantly to allow us to do this sculptured drainage basin. We'll be using native plants within this basin, but water coming into that basin will be going through again, catch basin with inserts and the capacity for the drainage basin is about 35,000 cubic feet. Very substantial in size. Our required volume is 1,929. What we've done and worked out with Makena is out of the 35,000 cubic feet we've been allocated 5,000 cubic feet for our project which is more than double of what's required which we're again, wanted to exceed the requirements. The remaining allocated runoff will be allowed. Makena Resort will be allowed to come under our access driveway and only use up the remainder amount. They can't exceed that amount. But again, the catch basins with inserts is something we're hopeful and excited about. Also, what we'll be using is best management practices during

construction and after construction. Those are of course our – I'm sure you folks are familiar with retaining storm water, controlling runoff, reducing silt and debris through use of sediment traps, filter fabric, silt fences and whatnot.

And the last note related to our coastal ecosystems and shoreline environment is the use of individual aerobic wastewater treatment systems. Those are the kind of systems right now that are approved by DOH but they also exceed DOH's requirements. They're not necessarily required by Department of Health but we're going to require it for every lot on our property to again – the effluent that's produced they're very compact, they're efficient, the high quality effluent is what we're concerned about and it's R1 which is as high as you can get. Dave, if you go to the next slide, it will show an example of these drainage systems. The catch basin that we're proposing if you saw up on old Ulupalakua Road and the lower road will have several of these. The important part of this is this absorbent, these absorbent pouches that you drop inside these baskets if you will that are laid inside catch basins and they're really an improvement over just letting water flow right into them. You normally have a graded screen up top, but this is an additional measure that we think will help again with our coastal ecosystems and what we've all seen over the years.

Roadway improvements again, preserving the rural character of Old Makena Road. We were, it's called for in the Makena Community Plan, it's requested by the Homeowners Association and the planning commission, yourself, recommended it. So I think we're all pleased that we're able to again, stick with the right of way of 32 feet versus 48 feet and Councilmember Michelle Anderson when we were up at the Council was real instrumental in helping us being able to get this reduced right of way if you will. It was part of our condition of zoning because we were running in difficulties with the code. The code required 48 feet and again, if we had to do that, it would have resulted in very large retaining walls because of the topography of the subject property. So Member Anderson was very helpful in that and that she worked with us to help us get this.

Here's some photos just to show you what's going on down here. As I mentioned earlier, a portion of Old Makena Road come down through our property. Our property's identified in the red right here. Over here to your left, again, here's the entrance to Makena Landing Park and the existing old Makena-Keoneo'io Road.

This is taken a little bit further up the road, again, showing you that the road comes through our property and that we want to ultimately improve it and dedicate it to the county so that there's no question about access.

The next slide will show you facing the other direction, standing right near the entrance of the Makena Landing. This shows the area where our proposed access is for lots 6 and 7. The drainage basins will be located right here to the side and it's going to be neat to have those landscaped drainage basins with the native plants. It's going to be really – hopefully,

aesthetically pleasing and serve as a large setback. There'll be no homes right up against the roadway because their homes will have to be well on the other side of those basins.

And here's a section to help show you what we were talking about. The right of way that we were able to have approved for our project is 32 feet in width identified in this orange line. The pavement width we would go to 22 feet. The existing pavement is between – anywhere between 17 and 20 feet, pretty narrow, it does help I'll tell you slow the cars down some because of the narrowness but we do want to we think adding on shoulders on each side to get it to at least 22 feet is consistent with the rest of the area yet not too large. And here's the big part that we like just part of the being able to have 32 feet, the maximum height of any retaining wall abutting our roadway again will be no more than four feet. I added in here, you see this red line up here, that shows you approximately the height of the retaining walls that we would have had to construct had we had to have a much larger right of way. Our right of way would have come up maybe to here requiring if you look at the existing grade would have been much higher to have to work with and that again, really isn't in keeping. The Council had no problem with that but to get past the County Code we needed a condition of zoning to be able to do so and we were able to get that.

Design restrictions. We have a handout available if folks want to see some more proposed draft conceptual design standards, but within those draft standards what we're thinking about for the Makena region are the architectural character of plantation Polynesian design, maximum building heights, we'll show you on our next slide to preserve view planes.

Retaining wall, we talked about. Grading, really encouraging the balancing and cut of – with your cut and fill to balance that. Solar, landscaping using native plants, and lighting. Limiting excessive lighting is very important in the area related to the native birds and whatnot that fly down there.

Maximum building height. These three little figures here will show that on lots 1, 2 and 3, the homes will not be able to exceed 30 feet in height above existing grade, 30 feet is code obviously, but we're saying that existing grade is existing grade. Lot of folks like to come in, you can see different things can happen there with raising the grade. We're saying we'll stick with the existing grade to help preserve the view planes in that area. 4, 5, 6 and 7, have a different unique condition that we've attached and recorded onto our title. These four lots shall not be allowed to exceed 75 feet above mean sea level, the maximum height of the roof identified in red. Your average lot elevations are 60, 65 feet in these areas and that will help preserve the makai views from the properties above.

Next slide, Makena Landing. We are going to improve the Makena Landing adding 10 additional parking stalls including parking for handicapped and trying to limit, placing signs to limit commercial activity. Here's the area you've probably seen this, but this is the

significant point to consider, the existing access for the parking lot is right here. The existing access to the shoreline is right there. And you'll see cars are parked right on the shoreline. The water essentially is within a few feet of these folks tires. It's not a healthy situation for that shoreline. We're proposing to block off the existing access, relocate that driveway over to our property which we're allowed to do. Now we can help do that now that we own this section of that roadway.

And Dave if you could go to the next slide, this will show again, the proposed area for the relocated entry right about here. We would block off the existing one and turn this area into a landscaped area with picnic tables, a little trail, a nice green area. This is what we're talking about. Here's the relocated entry. Here's the existing entry shown in red dashed line, we'd like to remove that, tear it out, put in green space, add picnic tables, a little path to help you get from the parking lot over there, but essentially eight new stalls here shown with the blue dots, two handicapped stalls and just to give you a sense of where it is today, here's the existing stalls, the limit is with that red line. The driveway is a long necked driveway that goes all the way around to here. It had to do that previously because our property is right here so they didn't build into our property I guess the first time. We now don't have to worry about that, we'll be dedicating to the county but we're excited prior to final subdivision approval we have to complete this. So we're going to work with the county and the landowner and again, we're pretty pleased with what we came up with in terms of adding stalls but not coming in and just paving the area and adding a lot more pavement. We thought we came up with a nice benefit for that area down there.

Workforce Housing Policy. We were exempted technically from the Workforce Housing Policy because we had preliminary subdivision approval in April of 2006. However, we're very much concerned about the existing situation. We're very aware of it and sensitive to the needs for affordable housing. We would have been required to do I think four units to meet the 50% affordable housing requirement. We are proposing to do – we worked out a great, exciting agreement with Lokahi Pacific. We went and met with them. We had a really neat opportunity to do refurbish eight existing rental units and assist with seven new single family units, house and lot packages for a total 15 workforce housing units versus the four requirement we would have had, but it's being done through \$600,000 contribution to Lokahi. We've already donated to date to help them start the refurbishment process for the eight units. They needed to get going on it so because we're committed to do it through our zoning we started and already provided \$50,000 to them to date. The final amount has to be done before final subdivision approval. Again, that's recorded with an agreement with Lokahi and the County Council and we are pleased to do so.

And the last three slides are just to show you a few photos of what the refurbishment was like for the existing eight units. Here's before, an entryway, here's after, and it really starts to be neat what's happening down there. Here's a before slide in the kitchen area. Here's after they've come through and done the refurbishment. And the last slide we'll show is

before, a lot of windows with jealousies, after a different type of window. And the people I guess living, the tenants down there are really happy about the improvements. Lokahi is happy about it and we're happy about it that we're able to come up with an agreement with them.

And that will conclude our power point and we are available for any questions you may have.

Ms. Amorin: Commissioner Iaconetti.

Mr. Iaconetti: Are there restrictions as to the number of houses that can be built on each of those lots?

Mr. Frampton: There were. Previously we had proposed having no ohana units on the property. That question was brought up at County Council and the County Council felt that ohana units would be acceptable down there and ultimately they are allowed at this point. And the assessments we did, the traffic study we did and all the other drainage assessments took into account house plus ohana. It didn't just assume only seven units. But yes, ohana units would be allowed as it stands today.

Mr. Iaconetti: So the number of vehicles that could be parked on each of the lots would probably double from a single family unit.

Mr. Frampton: Yeah, that would be correct. For traffic, just to – parking on site would have to be required and provided for with the ohana unit. It would have to be worked out on that property. You can't just park on the street. The other thing to note is we did do a level of service traffic analysis that took into account the 14 units. It's actually technically it wasn't required. Usually if you have a hundred units or less, you don't do a traffic study according to the Federal standards. The County doesn't have a requirement but we did one anyways and the only net change after a – at peak hour would be about nine seconds is what they calculated of a change in terms of traffic at the intersection. But yeah, parking would have to be accounted for on the parcel.

Mr. Iaconetti: Thank you.

Mr. Frampton: No problem.

Ms. Amorin: Commissioner Pawsat did you have any questions?

Ms. Pawsat: Sure. So originally it was multi family, yeah?

Mr. Frampton: The zoning?

Ms. Pawsat: The zoning, yeah.

Mr. Frampton: Yeah.

Ms. Pawsat: And you consulted with the Makena Homeowners?

Mr. Frampton: Makena Homeowners Association, yeah.

Ms. Pawsat: And they wanted it single family. Is that the only people you consulted with or are they just persuasive?

Mr. Frampton: We consulted with Makena Homeowners Association. They were the first ones we went to. They're the ones most immediately affected. We met with Planning Department. We met with government agencies. Also, just amongst ourselves. And to be honest the three of us who are from here just didn't see multi family being probably the best option down in that area.

Ms. Pawsat: How come?

Mr. Frampton: Financially it would have been a very difficult task for us to take on. And the density, the increased number of units and traffic in that little area and you come out of the – Makena Landing if you look at the existing area and you come out of that beach you would have looked up and seen some substantial massing of buildings if you will, for multi families as I know you would be aware of. We just thought the single family was a little bit more in character in keeping with that Makena area. We do have a drawing if you'd like to see the sample of a multi family?

Ms. Pawsat: Sure. So you're saying the people who are using the beach might look up and find that an eyesore if it was multi family.

Mr. Frampton: Yeah, exactly.

Ms. Amorin: Bill, you need to use the mike.

Mr. Frampton: The multi family would have consisted at least through the architectural study we did was three buildings, two-stories I believe each, and a total of about 22 units was right around the density standards we thought that was appropriate for that property. There was less urban footprint if you will, building footprint of course, when you go multi family. It's more compact and you can fit in more units as I know you know.

Ms. Pawsat: Is there public access if it was multi family or is it just kind of, you know, fenced off like the other condo on the other side?

Mr. Frampton: The idea would have been under this scheme was going to be you would have one access to get up here. This would have remained open and we would have tried to work out something down there with drainage. We didn't have this agreement in place to do the drainage at the time and we weren't sure what the land ownership situation with Makena Aina Resort. It was difficult to know whether we were going to even get that agreement but they did work with us. We're very pleased. And again, three buildings, and this is conceptually what it was going to look like. And so we did give it – to answer your question, Commissioner Pawsat we did contemplate it pretty seriously. We went as far as having some boards drawn up but again, the homeowners association and us, the three of us personally, just didn't feel that we would be able to do that on that property.

Ms. Pawsat: So, and there's no – been never any public comments about any of this development at all?

Mr. Frampton: In terms of the two alternatives or just overall?

Ms. Pawsat: Just overall.

Mr. Frampton: Overall, we did have one letter, I think Robyn probably included it in your packet. There was one letter questioning the project from I think, I believe an immediately abutting neighbor across the street. That parcel's been up for sale for a while but I think he questioned our project. Related to issues that we thought we addressed, drainage, again we wanted to oversize and exceed the runoff. We know this area. We've all just – I mean, I'm sure many of us have seen the changes out in the water quality in that Makena Landing area. Very good friends with the Luuwai Family. We grew up diving out there and fishing. The Chang Family did testify, they're from the area in favor, in support of our request. They just were pleased I think Commissioner Pawsat that we came to us. It was 2004 back when we did come to them and we've continually met with them even up until last week. Dave was down there at the homeowners association meeting. We go each week to just keep apprized of what's happening in the area. We're very curious and we're wanting to know what's going on around us as well.

Ms. Pawsat: Yeah, yeah, you know, it's real nice you guys are from Maui and everything and you guys are affable guys and because you are from Maui as far as develop goes, yeah, you know, I want to be nice to you guys and – involve like local, you know, local work resources and things like that, but for me it just doesn't take away from the fact that this in general, it's kind of a lame project. I mean, you know, – and there's nothing you can do about it. It's like the whole area is doomed to be lame at this point it seems like. But the fact that there's this park across the street. You know, I use it and it's crammed you're saying. God, it's just so annoying. You know, people are – you show the picture of the person jammed up. Obviously the public wants to use it and instead of giving them more public space, you're like, oh well we'll give them eight more. I mean, it's kind of funny – I've

never seen someone get so excited about like drainage cloth and eight parking spots and stuff like that and I know that stuff is a challenge and how that can be exciting.

Mr. Frampton: It is.

Ms. Pawsat: And that you guys are trying to set good standards of development and all that, but even if you could just take – why can't you take a chunk out of there for public use. I mean, it's just so obnoxious, you know, and it's just so apparent, you know, too. You know, so – and the Makena Homeowners Association, yeah, I don't want to have them on my butt, but you know, they're just going to have to put a little public space in there, you know.

Mr. Frampton: Sure.

Ms. Pawsat: And you could live with it. Instead of just making – no one's going to want to use that. Just looking at this, I go down there. I don't want to swim down there any more after seeing that. I mean, are you going to block off that road too? I mean, you have that dotted line across that road, are you going to cut off that road.

Mr. Frampton: Maybe you could go back, yeah, maybe go back to that one slide. A couple things to point out Dave. If you could go to the parking lot plan, it's right near the end. Right there. Couple, just comments and I hear what you're saying and we appreciate that. That's why from day one when we did purchase the property from the local family it was very important to us, they were very curious as to what we were going to be doing. The roadway again, comes through our property. That's a pretty significant part of this project. That from the very get go, we thought it would be a great idea, we went and purchased this additional property, from – it was a remnant lot from Ulupalakua Ranch, we went and worked with them to purchase that so that we could combine that with our lot to create a roadway that's to county standards and make it safe, but also keep it rural. To get it to be rural was a very difficult challenge. It could be in the record and if you look back with that Councilmember Anderson did, it was very important to get through there.

The drainage –

Ms. Pawsat: What do you mean? What does that have to do with anything I said. I don't get it.

Mr. Frampton: Okay if we would have proposed project as is, the seven-lot residential subdivision, we have the underlining state urban designation, our zoning is also urban. We would have had to improve the road by code, we're required to improve it to urban standards. It would have had to be a 48-foot wide right of way. You also have to grade that right of way.

Ms. Pawsat: Well, code, you know, code – where's Jeff Hunt? There's so many ridiculous things in this code right now that we're enforcing that are contrary to what we're trying to do.

Mr. Frampton: Sure.

Ms. Pawsat: And you guys face it all the time. They've turned it into this bureaucratic mess over at the County and that is another problem.

Mr. Frampton: Absolutely. The code is something, Commissioner Pawsat we were very –

Ms. Pawsat: But you know, I mean so all your stuff you're saying, I mean, that makes me mad too and quite frankly, you know –

Mr. Frampton: To be honest Commissioner, that's why we felt it was an accomplishment because the code was very strictly going to be enforced. We went several times to the Public Works Department to try to get past this and their hands were tied. They said, law is law. That's why we thought when Councilmember Anderson did what she did with us, it was a really a neat turn out that we were able to preserve that roadway. This is going to come up on other portions of Old Makena Road that people need to be aware of.

Ms. Pawsat: So the idea is to preserve the roadway, is that the whole idea of this whole thing?

Mr. Frampton: Preserve the character. Yeah, preserve – not make it huge with urban curbs, gutter, sidewalk and the retaining wall, we would have had to do, 10 to 12 feet high would have been pretty obnoxious.

The drainage basin, again, that was something we worked out with the adjacent landowner. We originally had to come up. Our property boundary is right here. We had to come up this driveway from 10 feet of elevation and then get up to about 20 and I think you would know this that's a steep slope and it would have required a steep vertical wall right here to allow us to get that driveway to go up. Now, that again, when you come out of the beach and see a 15-foot retaining wall right there, it's not something – we were very concerned about. When we approached Makena Resort, again, we were the small guys trying to go to this large corporation. They were very good to us and they saw the benefit of lets have a larger green area down here. It's going to be really nicely landscaped. Our architect who helped design it was a really neat at grading terms of projects like this.

And then lastly, the parking lot improvements the only comment I wanted to note, and I don't know if this helps you understand it better, but the existing driveway if you see where

the existing parking lot is now, the driveway comes around our property. When they first built that, they had to come around us and have this long neck and the roads here and the access to your beach is right here, the runoff comes down that road and pours right into that shoreline and just carries everything away and brings lots of dirt and silt and oils from the road.

What we propose to do Commissioner Pawsat was to block off this area right here and now that we have an opportunity to turn this area it was going to be a remnant sort of irregular shaped parcel to begin with. We just sort of drew a line across here and said, why don't we make that the new entry way. It's going to help open up parking. A lot of people park along the roadway now because frankly I believe a lot of people didn't even see the parking back there when you're driving by.

We just hope this new accessway, we hope blocking off this right here, tearing out the hardscape of the asphalt and replacing that with green and picnic tables and a nice little trail will provide opportunity for people to hang out down there and enjoy the area. Right now there's no where for them to do that. There really isn't. And if you go down there, and you see the photos they're forced to drive their cars onto the beach and I just, personally I just don't think that's a nice situation to have cars right on the shoreline. We thought improving parking, there's no handicapped parking right now. We thought that would be a nice increase.

Again, I said before we were excited about it, we are. We're excited that we came up with something it's not required, it has not – to be honest there's no requirements from County Council, it's not part of our zoning, we did this out of good faith and just trying to be courteous for the area down there. That's my only comments to what your thoughts are.

Ms. Amorin: I have a couple of concerns. What is the length of that roadway that you want to keep the rural character, to preserve it? What is the length of that roadway?

Mr. Frampton: From down here to about there, guessing, 200 to 300 feet. Stacy is that about right? About 200 to 300 feet in length.

Ms. Amorin: We commissioners were in the area maybe a few weeks ago doing some site visits and I got lost and so I went through that area and I know the condenseness of the build out around Makena Landing. But I see a lot of the tourist and I see some of the locals on this fine morning taking advantage of the area. The existing parking, what is the capacity of the existing parking in that area?

Mr. Frampton: Existing parking stalls I believe were about 20, 20 stalls.

Ms. Amorin: So you will be adding 10 to make it 30?

Mr. Frampton: Yeah, about 50% more stalls.

Ms. Amarin: Can you add more?

Mr. Frampton: We could. We looked at that. Adding more stalls, it was a fine line. The Makena residents, the homeowners association has had a long policy with the Makena Resort, Prince that the more stalls – the number of stalls you add is important to consider because if you add too many stalls their thought was you over – provides an opportunity to over utilize that resource itself. How many people could really fit there. But at the same time, we believe and if you look 10, 20 years down the road, we need to add some more stalls. That's going to be a valuable resource in the years to come. We felt the number of stalls that we came up with versus the amount of green space right here, was trying to find that balance. We could have tried to squeeze in a few more stalls, and in fact, one of our options was to not relocate this driveway, leave it as is and just do a row of stalls, maximize as many as we could going through there. When we went with the Council and talked to the commissioner members, Councilmember, again, Michelle Anderson was very focused on this. She's had the park resource studies out. We had talked a pretty great length about this and the number at 10 seemed to be the right amount when we relocated the driveway, it seemed to just be appropriate. But question is could we fit more? Absolutely, probably –

Ms. Amarin: My concern is give and take. You're keeping the road to maintain that rural character by not widening it. So keeping it at 32 feet and the congestion in the area and more parking to that area to access the shoreline, you know, it may be a huge problem coming up and that is my concern.

...(inaudible - changing of tape)... Also, what is the speed, the miles per hour? I did not see any sign. What is it?

Mr. Frampton: 15 miles per hour.

Ms. Amarin: It is?

Mr. Frampton: It's 15 in the area.

Ms. Amarin: Are they posted adequately on that route?

Mr. Frampton: Yeah, we have a slide that shows this sign right here. We're going to work with the county as far as appropriate signage. If we need to do more signage, we will. The other point to this discussion that came up that might help add a little more information was the amount of street parking that's taking place right now and eating away at the sides of the roads and creating dirt and more dirt that runs off comes into the shoreline.

Councilmember Anderson felt the appropriate number of stalls again, at 10 was based upon the idea that when we improve this roadway we'll be taking away some of that street parking and trying to restrict it so that it's safer for vehicles traveling, provide a little more space for the pedestrians to walk along either side of the road if the cars aren't there and then those lost stalls we thought we'd put – try to fit and configure into the existing area.

Ms. Amarin: Thank you. You know that is a very popular area and I've lived in the area since 1973 actually and it's not only the locals who love the area, it's the people who come to Maui and so whatever you people can do to mitigate, improve, make it the paradise that it should be. Thank you. Anymore questions? Commissioner U'u.

Mr. U'u: I'd also like to comment on parking. I'm very familiar with that beach and a lot of the stalls are used for commercial use. I think you increase the number of stalls, you're just going to increase commercial use. So I disagree with adding even more than the 10 stalls. I took care of that beach for three years from 1986 to 89. All you had was kayakers, snorkelers, it wasn't a – you know, the beach is what, 20 feet wide and you going get a parking lot full, it's going to be excessively or overused by the commercial users. I mean, there's a limited space there and it kills the parking. I mean, if you could limit that I think we could actually have the real beach goers enjoy the beach and taking what Commissioner Pawsat said about, you know, even if you guys are from here or not from here, I don't care if you're from the mainland or wherever you from, I think you guys doing a good job on the project. I really feel that now we can pick and choose the jobs coming before us. I like the fact that you guys giving money to Lokahi Pacific. I mean, that overall is huge. And the drainage there, being that I worked there for three years, when we had that big rainfalls that would be the ugliest site to be in that area and that alone going to help out the beachgoers and sad to say, the commercial guys who snorkel out there, you know, and you going be taking care of some of the problems for all the drainage. I commend you on your efforts in that basin. I think it's well needed and much needed. And I think it's a good project guys. Good job.

Mr. Frampton: Thank you Commissioner U'u. One comment to your commercial related to the commercial activities, one of the conditions related to the zoning with the parking lot project was to put up signs restricting commercial activity and uses. I may have forgotten to mention that. But that was definitely a concern. It's also going to be taken up by the County Council I believe. Councilmember Anderson is hopeful to start looking at the regulation of commercial activity in that particular area also down the other far end near the bottom of the Honoiki Road. Ever since they closed the far area to the south, the reserve, from kayaking and whatnot this area has just exploded. The number of kayakers and people parking trailers and trucks right there on the shoreline has increased. That needs to be looked at. I agree. Thank you for those comments though.

Mr. U'u: And also, adding to that. I work the workers would come with their van, but a lot

of the people I would be mistaken as beach users was actually the people who work for the commercial. So you would be thinking oh he's a beach user but he actually works with the kayaking people who actually has separate – so they come with the van with the tourists and you know, all these other guys, the workers come with their cars and now your lot is full.

Mr. Frampton: From one use.

Mr. U'u: From one use. And when you multiply that by four commercial people, it magnifies and guys like me cannot go there.

Mr. Frampton: We were coordinating with the owners of those businesses to carpool their employees at least. Three or four cars per each use adds up real fast when you only have 20 stalls.

Ms. Amorin: Thank you. Commissioner Hedani.

Mr. Hedani: It's been a long road for you guys. I remember seeing the project back in 2005, 2006 when you folks came before the commission. I think it's evolving in the right direction. I think you folks have put a lot of effort into the project itself. I had a couple of questions on a couple of items.

You're going to put in subsurface drainage onto lot 1 for the flow coming off of the old Ulupalakua Road?

Mr. Frampton: That is correct.

Mr. Hedani: Is that something that's going to be impacted in the future or compacted into the future to the point where it's not functional and where does that drainage go if it gets filled up with silt and stuff.

Mr. Frampton: Good question. I'll have our – Stacy Otomo if it's okay to come up and explain what happens in the big picture but it will be located within lot 1 within an easement area that will be restricted and we placed it right along the boundary within an area that would be subject to sideyard setbacks in the first place. He thought that might be an appropriate location for it. If it's okay, we'll have our engineer come up and answer that question.

Ms. Amorin: Yes.

Mr. Frampton: Thank you.

Mr. Stacy Otomo: Good morning Madam Chair, Members of the Commission. To answer Commissioner Hedani's question the required volume for that particular area is about 1,700 square feet. That's what we're required to have storage for. We're providing approximately just under 2,500 cubic feet. So there is a surplus in there. The intent would be to have the pipes, the perforated pipes not of a small diameter but of a larger diameter where if it had to be maintained somebody could physically get in a manhole or the catch basin and actually get into the pipe and physically clean it and that will be maintained by the homeowners association.

Ms. Amarin: Stacy for the record, could you state your name?

Mr. Otomo: Sorry about that, Stacy Otomo from Otomo Engineering.

Mr. Hedani: Thank you.

Mr. U'u: One question.

Ms. Amarin: We have another question. Commissioner U'u for Stacy.

Mr. U'u: What is the average rainfall, annual rainfall in that area?

Mr. Otomo: I believe the 50-year rainfall in here is about 2.3 inches per hour, 2.3 inches.

Mr. U'u: Is it big enough? Is it capable of handling worst case scenario there?

Mr. Otomo: The perforated drainage system would be the increase for a 50-year, one-hour storm. Overflow actually would come down and flow along the roadway along the retaining walls into the major basin there, but it is oversized for the 50-year storm.

Mr. U'u: And currently there is no basin or catchment in place?

Mr. Otomo: No. Runoff currently comes down to about the area where the entrance of the parking lot is makai of the proposed basin and it basically goes right into the beach at that particular point.

Mr. U'u: Okay thank you.

Mr. Hedani: The other question –

Ms. Amarin: Commissioner Hedani.

Mr. Hedani: The other question that I had was on the large drainage basin that you folks

are building. Is that something that the homeowners association is going to be maintaining in perpetuity?

Mr. Otomo: Yes.

Mr. Hedani: Yes? Okay. The other question that I had was relative to on-street parking, is the intent to landscape it once it's widened from 17 feet to 22 feet, is the intent to landscape it so that you do not have on-street parking? And what would be the net loss of parking to on-street parking at that point? Is it awash with the 10 stalls that you gain in the parking lot?

Mr. Otomo: I think that's what we're generally looking at. To answer your first question, the road will be constructed to county standards meaning that there would be a swale constructed between the edge of pavement and the property line and the finish would be grass in there. So we definitely try to prohibit parking along the shoulder area.

Mr. Hedani: As far as the water with the drainage with the siltation going into the bay at that location is it going to be intercepted by drainage catch basins that would flow into the large drainage basin?

Mr. Otomo: That is correct. On the mauka side of the Makena-Keoneo'io Road part of the improvements would be catch basins in the shoulder that would pipe it to the detention basin.

Mr. Hedani: That would be on the makai side of the road?

Mr. Otomo: Mauka side.

Mr. Hedani: Mauka side. It's slanted toward the mauka side?

Mr. Otomo: There will be a crown in the middle of the road, so basically from the center line mauka would come into the detention basin.

Mr. Hedani: What about the makai side?

Mr. Otomo: Runoff basically goes across there right now, so we'd be taking away part of that existing runoff into the detention basin.

Mr. Hedani: So the mauka half would be picked up?

Mr. Otomo: That's correct.

Mr. Hedani: As far as, this is probably for Rory. As far as the landscaped area that's next to the parking lot, I like the idea of picnic tables and landscaping and making a more user-friendly public space, is it – the problem that I see with something like that is you put it in and then after five years it looks like junk. Is there an agreement to maintain that area in perpetuity or is it something that you just turn over to the county?

Mr. Frampton: Sorry for the laughing earlier. You called me my brother's name.

Mr. Hedani: Sorry.

Mr. Frampton: I've been called worse, it's okay. The parking area where we propose to do that – the picnic and whatnot, we need to work that out probably with the county and the landowner. That area currently is privately owned by Makena Resort. The long term goal is to dedicate I believe to the County Parks Department. We're more than willing to work with them in terms of the maintenance of those picnic table areas. In terms of the kind of material, is it going to be cement, is it going to be maybe recycled plastic, we need to come up with that kind of stuff unless the commission has any recommendations we'd be more than willing to take that into account.

And one last part to your previous question commissioner, is the runoff. We would cover as Stacy correctly said the mauka portion of that road. The makai portion, the goal was in our parking plan one of the other benefits I didn't mention was we would be able to now capture – we would design it so as to capture some of that runoff and bring it into the parking lot area and have some kind of subsurface system that currently again as Stacy noted that water comes right on down and as Commissioner U'u says it just charges right in the ocean. Our goal would be to work with the county again, and capture that runoff to – anything again, continually trying to take measures to help correct that overall area.

Mr. Hedani: Okay, let me rephrase the question here in a different way. Would the homeowners association be willing to cover in perpetuity the maintenance of the public area on the makai side of the road?

Mr. Frampton: The parking lot area? Yeah. The beach parking? The entire thing or that picnic area?

Mr. Hedani: The picnic area, I mean, the parking lot's already there. It's something that the county's –

Mr. Frampton: I'm sure the homeowners – we could look at – we'd be willing to absolutely work with the county in terms of the long term maintenance and see if they think it's appropriate and it works with them. Yes.

Mr. Hedani: So that becomes kind of like an adopt a park kind of a thing where the homeowners take care of everything.

Mr. Frampton: Yeah, absolutely and the homeowners association could help. They're going to be maintaining the landscape drainage basin, also the pipes up above, yeah sure, I think that's an appropriate request.

Mr. Hedani: Is there water available for that area? Irrigation water available for that area?

Mr. Frampton: Yes there are. We have seven water meters for each parcel. The question of will there be water when they turn on the meters down the road it will be handled at the time of building permit.

Mr. Hedani: Development is a tricky business.

Mr. Frampton: Yeah it is.

Mr. Hedani: Okay. Aerobic digestion packaged sewage treatment plants is something new. You're saying there's R1 water that comes off of that. Where does the R1 water go?

Mr. Frampton: Dave go ahead, you want to answer that part? My partner, Dave.

Mr. Dave Ward: He turns to me on this because I actually own one. I'm Dave Ward and I'm co-manager in this. The R1, it's actually an aerobic unit, compact unit and the effluent from that goes directly into a leaching area. But the difference is the effluent is a much higher quality effluent so that when it goes into that leaching area it's already been pretreated.

Mr. Hedani: So those would be retained on site within the lots themselves?

Mr. Ward: That is correct. Each individual lot will have that. Correct.

Mr. Hedani: That's all the questions that I have.

Ms. Amarin: Thank you Commissioner. Any other questions for the applicant or his team? Seeing none, thank you very much.

Mr. Frampton: Thank you commission members.

**a. Public Hearing**

Ms. Amarin: At this time, the commission will open for public testimony. Do we have

anyone in the audience that wishes to come forth to speak on this agenda item? Seeing none, public testimony is closed.

**b. Action**

Ms. Loudermilk presented the Recommendation.

Ms. Amarin: Thank you. Commissioners, what's your pleasure? Commissioner U'u.

Mr. U'u: I'd like to make a motion to approve.

Mr. Hedani: Second.

Ms. Amarin: We a motion to approve by Commissioner U'u, and seconded by Commissioner Hedani. We have any discussion on the project? Commissioner Hedani.

Mr. Hedani: Robyn, you know your condition that – condition no. 14 that lots 4, 5, 6 and 7 have a maximum building height not to exceed 75 feet above mean sea level, since our sea level's going to rise by 30 inches over the next hundred years does that mean the maximum building height will shrink by 30 inches over the next hundred years?

Ms. Loudermilk: Yes. As written.

Mr. Hedani: And that's something that the developer is okay with?

Ms. Loudermilk: Developers are okay with that. Thank you.

Mr. Hedani: Interesting. That's a good one.

Ms. Amarin: Any other discussion? Just my comments to the applicant. Thank you for your presentation. It's very positive and thank you for taking our considerations to heart especially with the parking and the maintenance per our Commissioner Hedani. I know this is for an SMA permit and we'll be seeing you down the road. So with that said, all those in favor.

**It was moved by Mr. U'u, seconded by Mr. Hedani, and**

**The Motion to Approve the Special Management Area Use Permit, Failed.  
(Assenting - B. U'u, W. Hedani, W. Iaconetti, J. Amarin)  
(Dissenting - J. Pawsat)  
(Excused - J. Starr, J. Guard, K. Hiranaga)**

Ms. Amarin: We have one opposed. The motion doesn't carry.

Mr. Hedani: Move to defer.

Ms. Amarin: We have a motion on the floor to defer by Commissioner Hedani.

Mr. U'u: Second.

Ms. Amarin: We have a second by Commissioner U'u. Any discussion? Commissioner Hedani.

Mr. Hedani: I think the project – I think the project is the best case scenario for the land as it's currently – even as it was originally zoned. I think it's probably an appropriate use. It's a less intensive use than the apartment zoning that was initially planned for the area. Unfortunately, you know, if we feel that there should be no development within the Makena area, we have to recognize that certain parcels of land have already received designation and as such, there's nothing much that you can do about that situation this side of purchasing the land if you have an unlimited supply of money and doing what you want to do with it through the condemnation process. I don't think the parcel is viable for condemnation. I don't think it's something that public money should be expended on for an alternate use. I don't think we can hold our breaths and say that nothing should happen on this site forever. And as such, I think that maybe we can take this up again when we have the full membership of the commission present that has been aware of the project since its inception.

Ms. Amarin: Thank you. Commissioner Pawsat.

Ms. Pawsat: I want to make this clear that this is in no way about being anti-development in Makena. It's about the fact that even just looking at the map there's the little private access thing, you know, nick off that corner, put the picnic tables over there, you know. I mean, if this is what happen, but that's all I have to say about it right now.

Ms. Amarin: Applicant, you want to address her concern?

Mr. Frampton: Yeah, I just don't know if I understand that question Commissioner Pawsat, the private access part. I'm not sure.

Ms. Pawsat: What's in that little landscape, where all the fancy landscaping on that corner with that hill right there?

Mr. Frampton: This area?

Ms. Pawsat: Yeah, what's all in there?

Mr. Frampton: Next to the fancy landscaping is – that's a private driveway access to lot 6 and 7. We propose that. We thought that was a much better scenario than bringing the driveway straight up here, up with that driveway I talked to you about before.

Ms. Pawsat: Well, it just seems with the other commissioners comments about this being a public use place not only for visitors and things like that. It make a little bit sense if part of that area became part of a public space for more people to use across the street from that park and that would be a very – it would ease a lot of the congestion just in the whole area actually. Or put some parking over there or something like that. Not having everyone drive, you know, in into that parking lot and coming out to that little area. It's just other mitigating things you could do and it's just the little things – I mean, you did little things, but they're so little. I mean, you know, I mean make them a little – you know, so–

Ms. Amorin: Your response.

Mr. Frampton: I'll make that a public driveway if you want but it comes to an end here. But we looked at that and the best case scenario especially coming from the Council that unanimously supported this that that's 35,000 cubic feet of a really nice green area. We thought that wasn't too little.

Ms. Pawsat: No, okay, well that is there. I mean, because that's where you guys have a – is there a wall around that or not? Where's the wall around it?

Mr. Frampton: Around what?

Ms. Pawsat: I can't tell where the boundaries are on this thing.

Mr. Frampton: Okay, the boundary for our property goes right through here.

Ms. Pawsat: So there is public space right there, right there in that corner.

Mr. Frampton: This is private. It's owned by Makena Resort. It's Makena Resort's land and we have a shared agreement to do a shared drainage basin right here and if we weren't able to utilize this area, again, that was one of our bigger accomplishments we thought previously what the commission looked at was the driveway – The first plan we showed you had a driveway coming up right here with about a 10 to 12-foot all and nothing in that area because we didn't own the land. We had no control over that whatsoever. When we came back after we looked at it and gotten a little bit more design analysis, we thought – someone suggested, a friend of ours said, what about coming in here in terms of the topography and the grade it's much softer. You start at 20, you end at 20, you follow the

contour. And then what about doing something here because we were worried they might put up a building there. We weren't sure what was going to happen there with Makena. They agreed with us to keep this as in perpetuity open space as a green drainage basin. So we worked out that agreement. If that portion was to be taken away, if we showed any other use other than what it is today, I think we'd lose that agreement and we'd have to go back to the original wall because it's been recorded on the land.

Ms. Pawsat: If I'm on the beach, can I walk across the street and sit atop the drainage basin?

Mr. Frampton: Yeah, if you wanted to.

Ms. Pawsat: Okay, that's all I'm asking. You know, is there a wall there or not, you know?

Mr. Frampton: There's no – there might be like a two or three-foot high dry stacked wall maybe just to pick up the existing wall coming down. But if you wanted to go into the drainage basin I think we wouldn't restrict you. I just – if we could understand better the reasons for not approving it would help us when we came back.

Ms. Pawsat: Would any of the homeowners stewards object to someone crawling over the two-foot wall and sitting atop the drainage basin?

Mr. Frampton: No. The County might from a public, health and safety if a 50-year storm came along, but if you wanted to hang out in there when it's dry, feel free.

Ms. Pawsat: So it's a basin?

Mr. Frampton: Yeah, there's two of them. There's one here and one here and it sort of does – it goes down, it comes back up. We were trying just to work, do something a little different. The standard drainage basins you see are these big holes in the ground with chainlink fence surrounding them on all sides and I'm sure you've seen these around the island. Again, we came up with something that was different than that, a little bit softer for the Makena area. I don't think there's any restrictions for people going into that. We have to maintain it, so people are going to have to go in there anyways. You're going to be down at about six feet at elevation level. You wouldn't really be able to see out of it, but people could go in there if they wanted to. It's just we thought, we never really called it public or private, we just showed it as part of the project. That's all. If that makes sense. I hope –

Ms. Pawsat: Yeah, I understand it.

Mr. Frampton: Okay.

Ms. Amarin: Commissioner Pawsat, does Bill Frampton's explanation suffice your concerns?

Ms. Pawsat: No, I just understand. I understand ...(inaudible)... concern.

Ms. Amarin: His explanation, does it make a difference on your voting?

Ms. Pawsat: It will be passed the next time everyone's here I'm sure, but no, it doesn't make a difference.

Ms. Amarin: Okay, with that said, thank you very much. So we have a motion on the floor, we have a second by Commissioner U'u.

**It was moved by Mr. Hedani, seconded by Mr. U'u, then**

**VOTED: To Defer the Matter.  
(Assenting - W. Hedani, B. U'u, W. Iaconetti, J. Pawsat, J. Amarin)  
(Excused - J. Starr, J. Guard, K. Hiranaga)**

Ms. Amarin: And as Chair, I will go with the motion to defer.

Ms. Loudermilk: Okay, thank you.

Ms. Amarin: Thank you.

Mr. Frampton: Can we ask what happens from here?

Ms. Suyama: Since it's deferred because we had to have a majority of all of the commission voting today to make quorum. At the next meeting hopefully with a fuller commission, you'll get a positive vote out of it, one way or the other.

Mr. Frampton: Or a unanimous vote of ...(inaudible - not speaking into a microphone)...

Ms. Suyama: Right, right. So we would schedule it for the June 26 meeting.

Mr. Frampton: Thank you very much.

Ms. Loudermilk: Thank you.

Ms. Amarin: Thank you. At this time the Chair will call for a recess. We'll reconvene at 10:30 a.m.

A recess was called at 10:18 a.m., and the meeting was reconvened at 10:32 a.m.

### **C. NEW BUSINESS**

- 1. MAUI LAND & PINEAPPLE, INC. requesting an Environmental Assessment Determination on the Final Environmental Assessment prepared in support of the Special Management Area Use Permit for the Kapalua Coastal Trail stretching some 3.5 miles from Lower Honoapiilani Road to Honolua Bay at Kapalua, Island of Maui. (EA 2006/0019) (SM1 2006/0026) (T. Abbott) (Draft EA reviewed on January 23, 2007)**

**The EA trigger is the use in part of State or County lands or funds and work within the Special Management Area. The Maui Planning Commission is the accepting authority for the EA.**

**The public hearing on the Special Management Area Use Permit will be scheduled for a future date after the Chapter 343 process has been completed.**

**The Commission may act to issue a Findings of No Significant Impact (FONSI) on the Final Environmental Assessment.**

Mr. Thorne Abbott: Commissioners, honored to be here today. You reviewed the draft EA, on January 9<sup>th</sup>, and the Planning Department summarized those comments and submitted those to the applicant on January 22, 2007 to respond to. The OEQC original publication date for the draft EA was last year November 23<sup>rd</sup> and the 30-day public comment period ended December 26, 2006. This is now the final EA in which the applicants responded to all the agency comments and public comments and the commission can either accept the final EA and issue a Findings of No Significant Impact, they can defer the final EA in the event you want more information or you can determine that the applicant should prepare an Environmental Impact Statement that describes not only any adverse impacts but also mitigating measures. Now the final EA already describes any environmental impacts and suggested mitigation measures for those. So with that, I'll turn it over to the applicant to describe the project and how they responded to comments and also inquiries of the commission and that's Tom Schnell and Yarrow Flower.

Mr. Tom Schnell: Good morning Commission Members. I'm Tom Schnell. I'm with PBR Hawaii and here to present the final Environmental Assessment for the Kapalua Coastal Trail. As Thorne mentioned, we were here in January to present the draft to you guys and we've responded to comments and ask your approval of a Finding of No Significant Impact,

the FONSI.

Well, lets go through the power point a little bit. If you're not familiar with the project it's the Kapalua Coastal Trail. Runs from roughly Kapalua Bay or the Bay Club in th Kapalua Resort to Honolua Bay. I think you can probably see it a little bit better here. But it actually begins at Lower Honoapiilani Road. It runs through this parking lot, comes across the Coconut Grove condominiums. It will come down through Hawea Point, across Oneola Beach and across through the Ritz-Carlton property coming through D.T. Fleming Beach Park, coming up on the ridge by Plantation Estates and then crossing Honoapiilani Highway to get down to the coastal area and finally ending up at Honolua Bay. It's 3.5 miles.

This is just the USGS map showing the trail. It doesn't show up very good on the power point. Lets go to the next slide. And again, I think your ...(inaudible)... of reference is here. Just an overview. It's 3.5 miles long. Go ahead Yarrow. Provides increased lateral public shoreline access. So there are a lot of public access points in the resort that lead like from the road straight down to the beach. But this will connect all of those access points to provide lateral access. It links five bays along the way. It links the existing shoreline access routes. Provides an alternative to driving especially within the resort. If you wanted to get from the Coconut Grove condominium and have dinner at the Ritz, you could actually walk instead of drive.

Portions are already in place or approved. There are some portions that are done in front of the Coconut Grove condominiums that's in place. This is the former Kapalua Bay Hotel and it's now Residences of Kapalua Bay. That's been approved as part of that project. The trail segment in front of the Ritz-Carlton is already approved. So we're linking some approved sections into one continuous route.

The EA triggers, why we did the EA use of land within the shoreline setback area, use of state or county lands. There are some portions where we're going to be going along the DOT right of way, along Honoapiilani Highway. So we did the EA for that. We are in the conservation, in and out of the conservation district. So we will also be going to the Department of Land and Natural Resources.

This is just a little closeup of the trail segments. I think we can skip this because it doesn't show very well. Same thing, this is the other side.

I wanted to show you some examples of the trail surfaces. This is the trail that's a paved portion going through the parking lot that's near the Bay Club and we're making room from the trail in the existing parking lot. No loss of parking in the lot. This is on Hawea Point. It's a natural surface trail. We're just marking the trail with boulders along the side and maybe doing some minor surface improvements but it's not going to be paved in this section. This is an example near Plantation Estates where we're bringing the trail through

some common area and in this case it's a crushed gravel surface. When we get closer to Honolulu Bay, to get the trail between the road and the ocean we're doing a couple of spaces where there's going to be cantilever boardwalks so we can provide continuous trail access and not have people on the highway.

For the EA we did several subconsultant studies, expert studies. We did an archaeological inventory survey and previously in the draft EA we had done an archaeological field inspection. Inventory survey is a higher level of survey that Historic Preservation ask for.

We did an flora and fauna survey. There's no endangered species.

There's a design development report that was done that basically show some of these surfaces slides that I just showed you and take it through a design stage.

For the final EA we did a crosswalk warrant study and this was requested by the Department of Transportation and it's similar to a traffic signal warrant study but basically where we're crossing Honoapiilani Highway, the DOT wanted to know if it's warranted to have crosswalks. It seems natural that yeah you're going to have a crosswalk but they have specific criteria to apply when they're going to have a crosswalk. So we did the crosswalk warrant study for them.

The public comment period was from November 23<sup>rd</sup> to December 26<sup>th</sup>. We received 16 comment letters. All the comments were addressed in the EA and actually on your version that you have we underlined and struck out the portions that show the changes.

This is not showing up very well, but I can go over this briefly. The major changes from the final – from the draft to the final, I didn't want to keep this – I don't want to get into line by line information but lets just start at – I can guide you through it. If you wanted to look at your EA it would be on page 9. And I clarified that the trail will pass by Kapalua Bay as opposed to Kapalua Beach. Dr. Iaconetti, you had a comment previously about the name of Kapalua Beach. It is correctly Flemings Beach and so we're not referring to the beach as Kapalua Beach, we're referring to it – actually the bay as Kapalua Bay but not Kapalua Beach.

The other thing was that on page 4 of the EA we included different groups that we consulted with and the additional groups that we consulted with besides the initial consultation was you guys the planning commission. Yarrow did a presentation to the Sierra Club. We did go to the Burial Council and I'll bring up those issues in a little while and the Kapalua Place Homeowners Association. So those are listed.

When we went to the Burial Council, the Burial Council was very concerned about the proposed routing of the trail in this area where the Honokohua burial grounds were.

Originally our goal was to keep the trail as coastal as possible. So our routing of the trail would have been on the makai side of the burial grounds between the burial grounds and the ocean. The Burial Council didn't like that alternative. They preferred it to go mauka of the burial grounds. So now the trail is routed on the mauka side of the burial grounds. Also on the point down here. We had a trail spur that went down to this point, the Burial Council was very concerned about that so we've eliminated that trail spur.

We had a question from you guys about ADA standards and we did consult with the communication and disability access board and we got some guidelines on what the ADA requirements are. Apparently the guidelines for a trail are much different than for a building or parking lot or something like that. Basically what you need to do, you need to provide reasonable accommodation for people to look at the trail and decide if they want to continue further. So at several points you have to provide ADA, I guess, standards so they can get to that point and decide I don't want to go on the trail or the trail's not a good surface for me to traverse or something like that. So we're willing to – you know, we're going to make those accommodations but the trail obviously is not going to be something where you could, everybody can access. A wheelchair probably cannot access all sections of the trail and that's okay, according to the ADA guidelines.

One concern we had with the Planning Department, actually Thorne brought this up and I think this was as a result of your site visit to the trail was we will have crosswalks in this section where the trail crosses Honoapiilani Highway. In one of the areas it's recommended by the warrant study to have flashing lights to warn motorists that there is a crosswalk coming up only on one of the three. What was also recommended is that maybe we could groove the pavement ahead of the crosswalk so that when the cars come they would have like an audible cue they'd slow down and we'll discuss that with DOT although DOT would have the final say on what happens to their highways.

There was one concern about fencing in this area that's already – there's a chainlink fence right here and one concern, a comment was maybe we could make that look a little better. Maybe have a green-coated chainlink fence or some sort of improvement to that and we put that in the EA and we'll look at that and we'll improve it if we can.

There were some comments from OEQC about recycled content for any of the constructed elements and we will use recycled contents for like the trail timbers or other things that will be needed to construct the trail.

We had a significant change in the EA. It's on page 15. We added a whole new section. We had a comment about who's going to be responsible for maintenance and the answer is the Kapalua Resort Association will be responsible for all trail maintenance but we have a maintenance plan where weekly and monthly events will happen to keep the trail in good shape.

One of the major issues that came up when we were drafting the final EA was this area here at Oneloa Beach. What we had proposed is that the trail would come across the dune and this is actually dune land although it's heavily vegetated. And there's the wide swath here. We consulted with SeaGrant Program and they recommended three alternatives or actually they recommended two alternatives. Our alternative was to go in the middle of the dune. They would like the trail moved up as close as possible to the property line. There's a wall right there. They said that that would stabilize the dune or they would like the trail to go along the beach or on the beach. In our viewpoint, going along the beach would not provide a continuous trail. It would break the trail because if you were walking from this point lets say to the Ritz or even further, it would be a difficult walk to walk across the beach and we'd also have to put up signs and say you know trail ends here, starts over here at the other side. So our preferred alternative would be still to run a little on the dune.

We had some other minor comments about drinking fountains and restroom facilities and there area existing fountains and restrooms along the way.

Finally, we've responded to all the comment letters. Those are the major concerns. And all comment letters and our responses are included in the back of the EA.

We feel that we've met the content requirements for a final EA. The processing requirements as far as adequate public notice and responding to comments have been met. The trail will not have a significant impact on the environment as per – there's 13 significance criteria defined by the EIS Rules. And we've explained in the EIS how the trail will not have a significant impact. Therefore we find a finding of no significant impact is reasonable and justified from the commission.

Next steps, I just wanted to let you know that we are up for a special management area permit and that's from the commission so we will be back to the commission for your approval and we can talk about, I think it would be appropriate at that time if you have any conditions to add to the approval that you can put them in the special management permit.

There's a thing called a shoreline setback structure activity determination and that's a administrative determination with the Planning Department.

We do need a conservation district use permit which is from the Department of Land and Natural Resources and we've actually prepared out CDUA application and we're going to submit it as soon as we get the final approval for the EA.

Conclusions. All EA requirements have been met. We seek your determination for a FONSI and just to let you know one more time, SMA approval is needed from the planning commission.

Ms. Amarin: Commissioner Iaconetti.

Mr. Iaconetti: May I ask a question?

Ms. Amarin: You have a question?

Mr. Iaconetti: Yeah. What is your time line expectation here? When do you expect this to be open to the public?

Mr. Schnell: If we got all of our approvals by the end of this year, within a year after that.

Mr. Iaconetti: The trail would be open to the public within a year after all of the approvals?

Mr. Schnell: We hope so, yes.

Mr. Iaconetti: I have one concern that I'd like a little clarification on. Is this trail in any way getting your foot in the door as to the development of the Honolua Bay area?

Mr. Schnell: No, it's a totally separate project. We are providing access to the bay via a staircase, a stone staircase is proposed to go down from the point here down into the bay to provide access. But there's no ulterior motive to get more people down there. No, not at all.

Mr. Iaconetti: Thank you.

Ms. Amarin: Commissioner Hedani.

Mr. Hedani: Tom, you know, the one concern that I had on the trail, we'll first of all let me start off by saying I think it's a great idea, the trail, lateral access is a great idea. One of the concerns that I have was crossing Honoapiilani Highway only because of the way the drivers on Maui drive. If you decide to cross Honoapiilani Highway, it's a hairy proposition. Were alternatives to crossing the highway, i.e., staying on the makai side of the highway considered and were they discounted for some reason?

Mr. Schnell: Well, there's a couple reasons. Actually, lets go back to this. There's one alternative here that we're still working on with DOT is that there's a culvert underneath the road, there's actually three culverts and they're 12 feet tall and we would like to use one of those culverts to go underneath the highway. So we're still working with DOT on that. So that would be a great alternative. But coming down this way, we could not go all the way on the makai side because there's a lot of private landowners there. So we don't have the rights to go across their property even if it's in the front of their property.

Mr. Hedani: Were any discussions with those private property owners undertaken?

Mr. Schnell: Not all of them but some of them Yarrow was saying. And actually, one, there's a private property owner here that owns this entire point. And when Maui Land and Pine negotiated this sale they had the foresight to include an easement in front of this property and this was several years ago.

Mr. Hedani: Okay, so if an alternative were to be considered on the makai side of the highway for that portions you could still approach the private property owners to see whether or not they would agree to something like that?

Mr. Schnell: I think we could – yeah, I guess – of course we could.

Mr. Hedani: Well, let me ask the question in reverse. Are there areas on the mauka side of the highway that are worthy of being seen for a coastal trail?

Mr. Schnell: That's a good way to put it. Actually the trail is very nice when you come up this way and you come up across - this is Plantation Estates here. This is actually up very high in elevation. So when you're up in this area although it's wooded and treed. You're actually up high looking down and it's a nice view from up there.

Mr. Hedani: So there are some positives to the alignment as you propose?

Mr. Schnell: There's some positives yeah. And this was actually very difficult to get the trail in this area. Here's the highway, and there's a guardrail and then there's not very much space in this area that's why we had the boardwalks in some areas. So it was hard to wedge the trail in here and when you're up here you're away from the highway a little bit and the cars are not going by so it's a nice experience.

Mr. Abbott: Tom, I believe there's also a connection to the arboretum plan for the future is that correct?

Mr. Schnell: Well, the arboretum is here, here's the trail that's going up here. It's a separate spur trail.

Mr. Abbott: So there are some mauka facilities you'd want to visit.

Mr. Hedani: Okay. I guess the other question that I had was you have weight activated sensors on the pedestrian crosswalks that you're proposing?

Mr. Schnell: That's being proposed, yes.

Mr. Hedani: So the weight of the pedestrian triggers the flashing lights or something?

Mr. Schnell: Yes, right. So the lights are not constantly flashing because there may not be trail users the entire time.

Mr. Hedani: As far as DOT is concerned would speed bumps before and after the crosswalk be out of the question?

Mr. Schnell: They've indicated to us that speed bumps are not an option on a highway. We would love to put speed bumps. Actually we wanted to put in a raised crosswalk. So you know you actually – the crosswalk is actually the speed bump but they said absolutely not.

Mr. Hedani: The cars survive, the people don't.

Mr. Schnell: DOT's goal is to move cars as fastly as possible from a to b.

Ms. Amarin: Any more questions Commissioners? Seeing none, thank you. At this time the Chair will open up for public testimony. Do we have any individuals in the audience that wishes to come forth on this agenda item? Seeing none, public testimony is closed. Staff.

Mr. Abbott: Thank you Madam Chair. To give you the department's report, we recommend the issuance of a FONSI. The applicant has addressed all the 13 criteria within the law and has addressed public comments. To recap, the triggers were use of county and state lands, use of shoreline area, use of conservation lands. There will be a 30-day challenge period. If you determine a FONSI is warranted they still have to come back to you for a special management area major use permit. They also have to get a shoreline setback approval determination from us, the department and they also have to get a conservation district use permit from DLNR. So you will be seeing some of these things again. However, the department would recommend the issuance of a FONSI in this case. Thank you.

Ms. Amarin: Thank you. Commissioners, do I get a motion? Commissioner Iaconetti.

Mr. Iaconetti: I'd like to move that we issue the FONSI. I'd also like to comment on the fact that I hope this thing get built while I'm still walking so that I can enjoy it. It looks like a great plan. I'm very much in favor of it.

Ms. Amarin: Thank you. Do we have a second on the floor?

Mr. Hedani: Second.

Ms. Amarin: We have a motion to approve by Dr. Iaconetti, second by Commissioner

Hedani. Any discussion on the project? Seeing none.

**It was moved by Mr. Iaconetti, seconded by Mr. Hedani, then**

**VOTED: To Issue a Finding of No Significant Impact (FONSI).  
(Assenting - W. Iaconetti, W. Hedani, B. U'u, J. Pawsat, J. Amarin)  
(Excused - K. Hiranaga, J. Guard, J. Starr)**

Ms. Amarin: The Chair votes yes. Motion carries. Congratulations.

#### **D. COMMUNICATIONS**

- 1. MS. KAREN SHINMOTO, Business Manager of BIG ISLAND SCRAP METAL, LLC requesting a Special Accessory Use Permit in order to operate a redemption center at 883 Lower Main Street, TMK: 3-9-036: 092, Wailuku, Island of Maui. (ACC 2006/0003) (R. Loudermilk)**

**The Commission may take action on this request.**

Ms. Robyn Loudermilk presented the Maui Planning Department's Report.

Ms. Amarin: Can we hear from the applicant?

Ms. Karen Shinmoto: Hi Madam Chair and Commissioners, I am Karen Shinmoto and I represent Big Island Scrap Metal and I wanted to just give you a background of our company so you won't think we're just newbies trying to do a redemption center.

Big Island Scrap Metal is made up of two partners Jim Nutter and Mike Allen. Jim Nutter has owned Island Recycling in Honolulu for 23 years now and he has another recycling center in Seattle. He has 30 years experience. He also worked for Reynolds after graduating from college in anthropology. Mike Allen has owned Atlas Recycling on the Big Island in Hilo and Kona for 25 years. So they're very – they're one of the two most – two of the most experienced men in recycling in the State of Hawaii.

Island Recycling and Atlas both specialize in recycling. They don't specialize in trash with recycling on the side. We are multi commodity recyclers and we deal in scrap metal as well as paper. Since the inception of the redemption program in 2005, we started doing the redemption which we were already collecting those items anyway, but now we have to pay, you know, five cents and get that back from the State. We have redemption center in Kalihi in Honolulu that is quite in a similar location as this proposed one. It's in a mixed industrial residential area we have operated there for 12 years at least and we have no complaints

from the residents. We have people living in the back of it and on the side of us.

We plan to operate on a small scale the recycling part of it like non-ferrous metals like copper and brass and cardboard from – we know that the metals here, people are having a hard time recycling it because they call us all the time in Honolulu. One guy even brings stuff over in a suitcase to us from Maui. So we understand the need that's on this island, you know, to handle metal, scrap metal.

So in addition to the redemption which is the main thing, we want to also do scrap metal on the side and we do have as she said, customers like Sears and Office Depot that already ship out of here to us. But if we can gather it all here we can ship it directly out of here to our end users on the mainland and maybe in Asia.

So I just wanted to let you know that we are experienced people and we know what we're doing and we just want to help service the community here in Wailuku. And our landlord will be right across the street from us at Standard Furniture. Also, we are experienced in getting all our permits like the NPDES that she mentioned and we do have solid waste permits for operation.

We have our main processing site in Kapolei, that's Island Recycling, and Mike Allen's site is in Hilo and we've been working together with Mike, Island Recycling and Atlas has been working together as partners for the past five years and we also have in that partnership, Big Island Scrap Metal recycles all the steel from the Hilo and Kona landfills and that's a really big project. We have a 10-year contract with that. And we have a ongoing contract with Hawaiian Telcom to collect their copper bearing material and anything else they want us to pick up from the whole state. So we have been coming to Maui and Kauai whenever they say we need this picked up, we go and get it. Island Recycling does about 7,000 tons of material per month and Atlas does about 500 tons per month total recycling. Island Recycling is the largest multi commodity recycling company in the State of Hawaii. And if you have any questions?

Ms. Amorin: Commissioners, any questions? Commissioner U'u.

Mr. U'u: Good morning. I wanted to know just for my curiosity, why is it shipped to the West Coast and China? Is there anything here like on Oahu?

Ms. Shinmoto: No, actually I should say we are mainly packaging, packing facilities and when we say processing, that means we compact the material so that we can get the most weight into one container. So that's basically what we do. We don't really recycle it per se, but we send it to companies in the mainland like smelters that will melt it and like for instance, glass they have a process where they make it into new glass, but we don't those facilities here in the state because our labor would be too high and you need a lot of fresh

water to do paper, to recycle the paper. And in Asia, they can do that much cheaper, like twenty-five cents an hour. That's why we have to ship it out and unfortunately because our shipping is so high we're at a little disadvantage because we're competing, you know, in a global market right now. And because we do a large volume, the two companies, we are able to get contract shipping rates which makes us able to pay people more because our expense is a little lower from other people who don't do a large volume and we developed good end users, relationships with end users on the mainland and in Asia. And Asia is where we ship low grade items like paper, no. 2 copper because they can recycle it at a much lower rate and pay us more, give us more return. But to ship it we have to condense into as a heavy a volume in a small bale if you know what a bale is. So everything we get from the market we have to rebale. We have a huge baler in Kapolei and that compacts, it's like a big compactor. But for this recycling center we're going to use a smaller baler similar, almost similar to like a store baler that you see at the supermarkets and we'll compact it and we won't get as much weight maybe into the containers but we'll just ship it directly from here on Matson to the mainland probably.

Ms. Amorin: Commissioner Hedani.

Mr. Hedani: Maybe I'm just naive and I don't understand the drawing that you provided. But you know, on your exhibit no. 2 it shows an existing driveway going onto the site and it says scale is one inch equals 20 feet. I'm picturing a 40-foot container connected to a semi truck, how do they get onto the site and off of the site without reversing into the facility? I mean, is there one-way in and one-way out or – it doesn't seem to be enough space for him to turn around in there which was my concern.

Ms. Shinmoto: There's just one driveway in.

Mr. Hedani: Is there enough space for a semi to turn around in there?

Ms. Shinmoto: Yeah, there's enough space. We checked it. He can maneuver it like that because what happens is when he comes in he can drop the container and then the truck can let loose and then turn around, you know, the tractor trailer. He doesn't have to really turn with the – I'll defer you to Jim.

Mr. Hedani: I just don't know how it operates. The only way I could figure it out is if he stops on Lower Main Street and backs the whole thing into the facility.

Mr. Jim Nutter: I'm Jim Nutter. I own Island Recycling and I'm half-owner in Big Island Scrap Metal and this is a joint effort for Big Island Scrap Metal. What we normally do on containers like that is we lock the rear brakes and you use it as a pivot point to turn it. So if you find a really good driver, normally they can do that and fortunately we have good drivers.

Mr. Hedani: Okay, so this is not a situation where they're going to be blocking Lower Main Street and backing into the site?

Mr. Nutter: I would hope not. The way the lot is set up we looked at it and we've judged that we can turn the container inside the lot. That's way the parking had to be set up the way it is on one side. And we would be bringing in the containers at off hours, off peak hours so the public wouldn't be there when we do that.

Ms. Amarin: Any? Commissioner Iaconetti.

Mr. Iaconetti: I have a little confusion about the hours of operation. Was it 8:00 a.m. until 4:00 p.m. Is that? Seven days a week. I wonder who determined that 10:00 p.m. is still day time?

Ms. Loudermilk: That's State Department of Health rules and regulations for their permitting process.

Mr. Iaconetti: Seems a little strange to me.

Ms. Loudermilk: So that's part of what they consider day time at least for the type of noise permit that may be required.

Mr. Iaconetti: That was going to be my next question. The operation you have in Kalihi, have you had any comments, complaints about noise during the operation?

Ms. Shinmoto: Not really. We haven't had any complaints. I don't remember any complaints about the noise because the noise it's not any more than a service station, you know, taking off the tires with the machines. It's kind of a humming, humming sound. It's not really that loud. And the glass bottles are dumped into a like a rubber barrel. So it's only basically the glass hitting the ...(inaudible)... And this is Mike Allen.

Mr. Mike Allen: I'm one of the other gang members. I'm Mike Allen. I have Atlas Recycling. My location in Hilo we operate right in front of Hawaii Community College. They're conducting classes right behind us all day long. We have never had a complaint about noise. We operate equipment that's a lot bigger than we anticipate operating here at this location. So we've never had any noise issues with the community college or any of our neighbors next door. We have the State Highway Department, they have their officer building right next door to us. Never had a complaint in 23 years. So the issue of the equipment making a lot of noise is probably overstated.

We're going to be using a lot smaller equipment at this location that we would at a processing plant such as that Jim runs on Oahu or I run on the Big Island. So this

particular location is going to be designed more as a buy back. But to ship our material we have to condense it to the best of our ability but that doesn't mean we have to have machines that have 60, 70 horsepower motors on it. The machines that we're going to be using probably have maybe 10 or 12 horsepower and they won't be running consistently all the time. You know, we anticipate if we take in a thousand pounds of cans a day the can densifier that we use can process two thousands pounds in an hour. So it's not equipment that's going to consistently running all day long. It will be, you know, off and on. And we can, you know, pick the times of day that we want to use that.

The hours that we picked 8:30 a.m. to 4:00 p.m., one of the reasons we did that is to alleviate any traffic from people going back and forth to work and to school. So we tried to operate outside those time frames.

Ms. Amarin: Commissioner Iaconetti.

Mr. Iaconetti: This is a little off the subject but as we all know there's been a lot of theft of copper wire on Oahu, you purchase copper from people that bring it into you, is that correct?

Mr. Allen: Yes we do.

Mr. Iaconetti: Are you required to keep a record of who is bringing the copper in and where it's going and what you're doing with it?

Mr. Allen: Very strict records. I'm just going to speak for myself, I know Jim does real good record keeping also. We take an ID. We photocopy that ID. We write down a license a number. We get signatures. So other than that there's not much more outside that that we can do. But we do take identifications, keep records on who brings the material in and what was brought in and those receipts that we take that are signed by the customer are kept on file. And let me take it a little farther, the problems that they have on Oahu and I'm going to speak for myself on this, we do not have those same problems on the Big Island and you probably won't have them here. Oahu is a lot different place than Maui and the Big Island. I think you're going to find that there's more problems with theft and that in those locations. We've never had a problem in the last year with theft of copper on the Big Island.

Mr. Iaconetti: Does the Police Department or any controlling agency come to you for the information that you do collect then?

Mr. Allen: Only if there's a theft. Only if there's a theft reported.

Mr. Iaconetti: Well, according to the news there's always a theft.

Mr. Allen: No, if there's a theft reported, they will come and then they will ask for your cooperation and you'll break out your records and give them whatever they need.

Mr. Iaconetti: And it stops there or do they?

Mr. Allen: Well that goes as far as what the Police Department wants to carry it. I mean, we've had instances – I'll give you for instance, about three months ago we had some of our little briquettes of aluminum cans stolen. Very easy to identify that. We went down to a – I just happen to be driving by one of my competitors and saw somebody selling – they weren't the briquettes but they had chipped them all away so that they were individually – you could tell that they were the briquettes. And so we called the Police Department, turned everything over to them. They haven't arrested anybody. We'd given the license number, the description, I know the guy and nothing has been done because all they have to do is say, you know what, I found it outside at the park. And if you don't actually catch them in the act, it's very hard to determine if they stole it or not. They can just say hey I found it. Somebody else stole it, left it there, I came by and found it. So what are you going to do?

Mr. Iaconetti: So we can anticipate on Maui that we're not going to have a lot of copper wire stolen from the highways, etc.?

Mr. Nutter: Well, I would hope not. I would hope not. I mean, I can't guarantee those things but I know on the Big Island we've had virtually no problems with theft at all. On Oahu we have a lot of problems with theft and it's well documented in the newspapers. There is a new law that's going to be put into effect that the governor supposed to sign and that will require pictures of everybody coming in and I'm not quite sure how they're going to do it. If they're going to, you know, have to hold the copper like this with a picture and mug shot. I don't know what they're going to do. But I think that will help on the theft problems.

Part of the theft problems that we have is that on Oahu is that the police do not work with the recycling companies. We do not know, they do not notify of any thefts that have been reported. We call them when we think something is stolen and they don't show up. And it has become a fairly good problem. One of the things why we don't like to buy stolen copper is because if it is found to be stolen we have to give it back to the rightful owner and we have to give it back and we can never collect the money back we paid for it. So as a business decision we never want to do it.

And so, it's not a huge problem. It's not a huge problem that people make it out to be in the sense that most of the stuff coming into us is legitimate, most of it comes from construction companies, from legitimate sources that generate that type of material. You know, recently we just bought a lot of material from one of the big demolition companies here on Maui and of course, this is all legitimate material. So to answer your question in

a long one, or very shortly I suppose, I think we don't have a problem the thefts as long as people like Mike and myself are running companies that are honest. That we make sure that the people come in have proper ids and we can actually say this product is valid material to date.

Mr. Iaconetti: Thank you.

Ms. Amarin: I have some questions and concerns. As much as I support recycling of materials, your location, you have a quarter acre of property and very busy street. There's other businesses in the area that could be somewhat similar but usually for recycling I see them located out of the way places and why did you choose that property for your operations? Is it going to be adequate, the 10,400 square footage and especially your 40-foot containers that you need to take out and you're trying to address I know the community's concerns about maybe taking it down to the barge at certain times. But that is a two-lane road right there and that traffic is enormous all day not just morning. There's somewhat peak times but it is such a busy street. Can you address your operations in a better detailed manner so I can understand 10,000 square feet for this type of operation with varied materials?

Mr. Nutter: Number one, let me give you an example of our Dillingham location. It's a much busier street than the Lower Main Street on Oahu. We have 4,950 square feet that we operate in. So it's half the size. We have 200 customers a day on Oahu that come into that because it's right in the prime area for recycling. We get people in and out within a matter of minutes because we have to. We have to do whatever is needed to get people in and out quickly and respond to waiting times for the public and we also have people that ensure, they will watch cars, make sure they're coming in parking correctly and that kind of stuff so we tie up anything on the outside. So we never have lines coming into the property. All of our operations where we pull out the materials that we purchase during the day is done usually at night or early, early morning so that we don't have those concerns either of blocking. Now this is in a 4,950 square foot lot. We're talking about a 10,000 something square foot lot here. I wish I had 10,000 square feet in Dillingham, would be nice.

The other thing is in order to be a viable recycling company we need to be in places that have high public access. People that visually can see the location. The state has mandated us as recycling companies to increase the rate of redemption in the islands. For us to do that, we have to be someplace that's visible. We need the public to see where we're at. If they have to go try to find a location that may be out of the way, they're not going to do it. You have to have public convenience. On Oahu we're doing things where we're putting in can counting machines and hopefully we can do that here also where we make it convenient to the public to bring this product in. And in order for us to do that we have to have a place that's viable.

Now we hope ...(inaudible)... as a foothold for Maui. This would be the start. It's a good location to start with. We've looked at coming over here for years and years but we've never been able to find land large enough to run our larger type of operations would be for bulk recycling of cardboard and newspaper and steel scrap and things like that. And what I think Mike and I are both hoping for that this will be the feeder operation. This is the start of us coming over and really doing something for this island because I think between us we have the ability to do that. You know we've done it on the other islands. We've resolved the problem of steel on the Big Island. We handled 80% of all the cardboard and waste paper on Oahu. We've done a lot and I think we can bring that expertise that we have into this island, but we need a good place to start. One that's going to be viable and this lot is basically perfect for us and I think we can do it.

Mr. Allen: And just to add on what Jim just said. The State Department of Health has mandated that through the HI5 redemption that the State needs 80% redemption on bottles, aluminum cans and plastic, and you can't do that if you're on the outskirts of the population bases. They want to see recycling happen as close to the people as it possibly can because that's the way you're going to get the redemption rates up to what the community expects. And you know, maybe that goes against the grain of what we traditionally thought about recycling, but as Jim and I can both attest in the 25 years that we've been in business, the closer we've been able to take recycling to the people, the more acceptable it's become to the general public because now they know where we're at. We're in convenient locations that they can travel to very easily and it's become a lot more – Recycling has become a lot more acceptable because of that and that's where we have to have is communities. People, in order to recycle, they have two things that they really look for. What they're going to get in return for it and how convenient is it for them to recycle? So those are the two aspects that we really have to deal with as the community in order to make recycling successful. And it has a big positive for all communities. You keep that stuff out of the landfill. People are motivated to do it to a certain extent, but if you can add a feasibility factor and a convenience factor to it, it grows by leaps and bounds and that's been the success of recycling and that's how it's going to move into the future.

Ms. Amorin: Thank you. Commissioner U'u.

Mr. U'u: ...(inaudible - changing of tape)... very important. I'm looking at it from, you know, is it an eyesore? Granted we need it. I have no pictures, we have no evidence in front of me that states it's a clean. You know, when I think of recycling centers I think of it as being not as clean. So maybe I need help in educating at the location because I don't want to hurt business owners who's already there. I know at times it can start fires. Some of them, maybe not yours. But I know they get housing right behind there and these are the concerns that we have to look at prior to you getting your approval. Granted you need it, granted we need it but there's certain things we have to look at to make everybody happy, not just you but your neighbors.

Mr. Allen: Sure.

Mr. U'u: there's a restaurant right across the road from there Yaki Niku. Were they informed? I know they had to be. They were informed Robyn?

Ms. Loudermilk: There is no notification requirement for this type of review.

Mr. U'u: That's the concerns we get when you come into this area because we the voice of the general public. Get apartments right behind you and it could be potentially a fire hazard. And you got restaurants and business owners that been there for years and I would hate to even though we need this and you say we need it right there, but we got to think about everybody. And that is the people in business right now, but I understand your point. But I think the neighbors should be informed. I mean, we got no evidence of the ones you doing on Big Island except by word of mouth, the ones you've been doing on Oahu and I don't want to compare Maui to Oahu because we don't want to be it like that. You know, we handle this much and well, you know, I've been to Oahu, they can have that island. But that's my concerns.

Ms. Loudermilk: The exhibit no. 2, regarding the layout. There is the existing fencing that does surround the property and we do have the existing landscaped area in the front part mainly grasses, no shrubs at this point in time.

Ms. Pawsat: So the landscape is a visual barrier to this?

Ms. Loudermilk: It can be. We can work on putting in additional landscaping, but I think what's also important is to continue work with the Department of Fire Prevention in terms of other types of mechanisms that they would like to see on site to provide additional fire suppression at this point in time. The – I think to address your concern Commissioner U'u you know, regarding the scale of the operation, and the hours of operation, the fact that it was occurring during the daylight hours made a big difference in the department in terms of impact to the surrounding property owners. But you are correct that there were no photos involved and I take responsibility for that. I should have provided the photos. I do not see this particular facility being enlarged. I see this facility being at this level of operation and if there's any need for larger facilities to accommodate that the operations would have to be relocated. I don't anticipate any significant increases. However, if there are, as well as change of material types in the operations that were presented I think it would be justified to should an approval be given to have the operators come back or have them come back or we say at this point in time you need to cease operations and relocate.

Ms. Amorin: Chair recognizes Commissioner Hedani followed by Commissioner U'u.

Mr. Hedani: Robyn has the Urban Design Review Committee taken a look at this project?

Ms. Loudermilk: No.

Mr. Hedani: Okay. Could we attach a condition? Do they have a problem if we attach a condition to it that says that they submit a plan to the Urban Design Review Committee so that they can rework the landscaping on the front portion of the lot?

Ms. Loudermilk: They have no problems with going before the Urban Design before opening.

Mr. Hedani: I agree with Commissioner U'u that the visual aspect of it is important. You can have signage that shows that the project is there and people know how to get to it, but I think screening of some of the things within the operation might be appropriate and that's something that the Urban Design Review Committee might have some recommendations on whether or not it's shrubs or canopy trees or whatever that would cover it from views from above because I know you have a neighbor that lives right on the top of the hill over there that overlooks the site.

Ms. Amorin: Commissioner U'u.

Mr. U'u: My concern wasn't just the sheer size of it, it was just the visual aspect. You know is there smells that comes with this? Now, I wouldn't know. Like you're shaking your head. I'll take your word for it, but I wouldn't know. I just don't want something to come here to hinder businesses in that area or worse yet, people who live there.

Ms. Loudermilk: Can I have one of the applicants address those concerns?

Mr. U'u: Sure.

Mr. Allen: Couple of things on your prior question. Jim and I were talking, when we submitted our plan and listed the items in that that we wanted to recycle at the facility we weren't locking all that into concrete. We had added on items that we thought the community would want to recycle and stuff. If you have a concern with fire and stuff, we'll eliminate paper and cardboard. The metals aren't going to burn. We'll eliminate the paper and cardboard. We won't do paper and cardboard at the property. Our philosophy has always been to be a full service recycling center for the community. Give the community everything that it possibly wants. But if there's concerns about fire, we'll eliminate those items that's not a problem for us.

As far as the visual aspects of it, there's I believe about a 10-foot buffer between the concrete slab and the highway itself. I think it's sandy dirt type area. We can put in shrubs there. We're planning on putting a better fence around the perimeter of the property. We're willing to put in slats or cover on that fence so you can't look into the facility, make

it look good. We want to do whatever is best for the community. Jim and I are a little bit different than most guys that run recycling facilities. We don't want to run junkyards. We want to run facilities that people are proud to come to. And part of that is making sure that the aesthetics of the facility look good to the general public. It gives off a different type of aura about your business and we want to conform to that type of thing. So if it's slats in the fence, if it's shrubbery, if it's eliminating paper recycling, we're willing to do that. We feel that this facility will have a major impact on recycling and in that area which is good for Maui County. It conforms to everything that the Bottle Bill asked for from the State and if we can make it aesthetically pleasing as possible for you folks, we're willing to do that.

Mr. Nutter: I just want to respond on the odor problem. There really isn't one. I mean, everybody here has beverage containers at home and I don't think you'll find that that's a very odorous. Copper, brass and that type of stuff doesn't have any odor at all. We're not a garbage company. We're a recycling company and that's what we do. So everything that comes into the lots will be processed and then shipped off almost immediately. So there won't be any stuff standing around or sitting around. Remember this is money to us. The more that sits around is kind of like Maui Metals, I mean they sat there and ran their stuff for years and years and piled it up higher and higher. We can't afford to. This stuff is worth money to us. We have to get it out right a way. It's just like any other company. We're a reverse company in a sense. We buy from the public and we sell to large commercial companies. So it's our inventory and we have to sell that inventory in order to make money. So we don't sit on it. It goes out all the time. I don't know if that answers you question.

Ms. Amorin: Commissioner U'u.

Mr. U'u: I think you hit it there too. The image I see when I think of a recycling center is the company you brought up and it's always been an eyesore and that's what we look – you know, not have some type of an idea of how it looks and maybe that's not the best idea to get in my head especially with your guys business.

Mr. Nutter: Thank you.

Ms. Amorin: Commissioners any more questions? Thank you. At this time I'd like to open it up for a public testimony. Do we have any individual in the audience that wishes to speak on this agenda item? Seeing none, public testimony is closed. Robyn.

Ms. Loudermilk presented the Recommendation.

Ms. Suyama: I believe they had asked for a condition.

Ms. Loudermilk: Do you want me to propose a condition now or do you want –

Ms. Suyama: I would think to propose a condition.

Ms. Loudermilk: Propose a condition that the applicant go before the Urban Design Review Board for their review and comments on landscaping and visual aspects of the project and that they be incorporated into the final design layout and that this be done prior to the issuance of the certificate of occupancy. So prior to opening. And I would further refine that or if there's other – that concludes the proposed condition.

Ms. Amarin: Commissioner Iaconetti.

Mr. Iaconetti: Should we not have a condition about not doing any of the compacting or having any cardboard on the property because of the fire element? Should we eliminate that?

Mr. U'u: I know they brought up they're still working with the Maui Fire Department if I'm not mistaken.

Ms. Loudermilk: Yeah.

Mr. U'u: I'll leave it up to their judgement for me anyway.

Ms. Amarin: Commissioner Hedani.

Mr. Hedani: Personally I'd like to see somebody recycling cardboard and paper because I think it's something, it bothers me that I throw my newspapers away because I don't know that there's any good facility on the island that actually processes the paper. If these guys can handle paper and cardboard appropriately I think it's something that's needed. But it needs to be done in a safe manner that everybody's comfortable with from my perspective.

I would also recommend that we change the word, "review and comment," to "approval" by Urban Design Review Committee on the landscaping plan.

Ms. Loudermilk: Sure.

Ms. Amarin: Any more comments commissioners? Seeing none, Robyn you want to finish up?

Ms. Loudermilk: I believe the recommendation would include a condition no. 1, that the applicant shall submit landscaping plan for review and approval to the Urban Design Review Board prior to the opening of the operation. Would that satisfy?

Mr. U'u: Yes.

Ms. Amarin: Thank you Robyn. Commissioners, your pleasure?

Mr. Hedani: Move to approve as amended.

Mr. U'u: Second.

Ms. Amarin: We have a motion on the floor to approve the project, seconded by Commissioner U'u. Any more discussion?

**It was moved by Mr. Hedani, seconded by Mr. U'u, then**

**VOTED: Find the Proposed Use to be Similar in Character of Rendering Sales of Commodities or Performance of Services to the Community and is in Conformance with the Intent of Title 19 of the Maui County Code. Adopt the Recommendation Report as, amended, as a Findings of Fact, Conclusion of Law, Decision and Order and Authorize the Planning Director to Transmit Said Findings of Fact, Conclusion of Law, Decision and Order on Behalf of the Planning Commission.  
(Assenting - W. Hedani, B. U'u, W. Iaconetti, J. Pawsat, J. Amarin)  
(Excused - K. Hiranaga, J. Guard, J. Starr)**

Ms. Amarin: The Chair votes in favor. Motion carried.

Ms. Loudermilk: Thank you very much.

Ms. Amarin: At this time, the Chair recognizes lunch. We'll take an hour break and we'll be back at – Okay, commissioners you want to stay for another 10 minutes? So be it. Deputy Director.

## **E. UNFINISHED BUSINESS**

- 1. WILLIAM E. and KATHLEEN A. CAMBRA requesting a State Land Use Commission Special Use Permit in order to operate the Shampoo-U & Spa Too business in the State Rural District at 1010 Kula Highway, TMK: 2-3-032: 003, Pukalani, Island of Maui. (SUP2 2005/0003) (A. Cua) (Public hearing conducted on January 24, 2006)**

Ms. Ann Cua presented the Maui Planning Department's Report and Recommendation.

Ms. Amarin: Commissioner Iaconetti.

Mr. Iaconetti: I move approval.

Mr. U'u: Second.

Ms. Amarin: Okay, do we have first anyone in the audience for public testimony on this agenda item. Seeing none, public testimony is closed. So we have a motion on the floor by Dr. Iaconetti, seconded by Commissioner U'u. Any discussion? Commissioner Hedani.

Mr. Hedani: Ann, isn't the downlighting providing a standard condition?

Ms. Cua: Not of State Special Permits. I know it's of SMA permits. I could add it in if you want, but they have – their lighting is of a typical cottage in that they use an existing cottage for their business, if you look on Exhibit 5 I think it is. That is where their business is held. I could add it if you'd like me to?

Mr. Hedani: Just to be consistent with everything else that we reviewed in the past I would recommend that we add an amendment adding a downlighting condition.

Ms. Cua: Okay, and that would be condition no. 10.

Ms. Amarin: Getting back to the motion, we have a motion as amended.

Mr. Hedani: If it's by consensus.

Ms. Amarin: Do we have a consensus for the amendment? Okay. We have a motion and seconded. Any more discussion?

Mr. Hedani: Ann, we always disapprove things when we're hungry and grumpy you know.

Mr. U'u: Speak for yourself.

**It was moved by Mr. Iaconetti, seconded by Mr. U'u, then**

**VOTED: To Accept the Recommendation of Approval of the State Land Use Commission Special Use Permit.  
(Assenting - W. Iaconetti, B. U'u, W. Hedani, J. Pawsat, J. Amarin)  
(Excused - K. Hiranaga, J. Guard, J. Starr)**

Ms. Amarin: Chair votes in favor. Motion carried. Congratulations.

Ms. Suyama: You want to go right through or you folks want to break for lunch?

Ms. Amarin: Well, commissioners it's up to you. We have just a little bit more time and we don't have to come back. Another 10 minutes?

Mr. Hedani: Sure.

Mr. Iaconetti: Oh yeah.

Ms. Amarin: We'll take a five-minute break. We'll be back at 12:05 p.m.

A recess was called at 12:00 p.m., and the meeting was reconvened at 12:05 p.m.

#### **F. MINUTES OF THE MARCH 27, 2007 and APRIL 24, 2007 MEETINGS**

**It was moved by Mr. Iaconetti, seconded by Mr. U'u, then**

**VOTED: To Approve the Minutes of the March 27, 2007 and April 24, 2007 Meetings  
(Assenting - W. Iaconetti, B. U'u, W. Hedani, J. Pawsat, J. Amarin)  
(Excused - K. Hiranaga, J. Guard, J. Starr)**

#### **G. DIRECTOR'S REPORT**

- 1. Planning Commission Projects/Issues - No projects or issues to discuss.**
- 2. Planning Department's Follow-Up Report on Matters raised by the Maui Planning Commission at the May 22, 2007 meeting. - No report**
- 3. EA/EIS Report**

Ms. Suyama: You have been distributed a EA Document, the Final EA document for the Maui Palms Hotel structure. Which is I think scheduled for the next planning commission meeting.

- 4. SMA Minor Permit Report**
- 5. SMA Exemptions Report**

Mr. Iaconetti: We don't always have the location of these areas that are on here. For instance right on I guess this is page 1, where is this grasscrete access road? Where is that located? Elleair Hawaii Inc. What part of the island?

Ms. Suyama: This one is, when I look at the TMK number, it's in Kahului.

Mr. U'u: It's the Maui Beach one?

Ms. Suyama: It's Maui Beach.

Mr. Iaconetti: It would be nice if you could put the location.

Ms. Suyama: Okay, I'll let them know. I'll let the person who generates the report know that.

Ms. Amarin: Any more questions, concerns, comments? Deputy Director.

Ms. Suyama: That's it for now.

**H. NEXT REGULAR MEETING DATE: June 26, 2007**

**I. ADJOURNMENT**

The meeting was adjourned at 12:08 p.m.

Respectfully submitted by,

CAROLYN J. TAKAYAMA-CORDEN  
Secretary to Boards and Commissions II

**RECORD OF ATTENDANCE**

Present

Johanna Amarin, Chairperson  
Wayne Hedani, Vice Chairperson  
Bruce U'u  
William Iaconetti  
Joan Pawsat

Excused

Kent Hiranaga  
John Guard  
Jonathan Starr

Others

Colleen Suyama, Planning Department  
James Giroux, Department of the Corporation Counsel  
Ralph Nagamine, Department of Public Works and Environmental Management