

**MAUI PLANNING COMMISSION  
REGULAR MEETING  
FEBRUARY 27, 2007**

**A. CALL TO ORDER**

The regular meeting of the Maui Planning Commission was called to order by Chairman Wayne Hedani at 9:02 a.m., Tuesday, February 27, 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.)

Mr. Hedani: Welcome to Kent Hiranaga, our newest commissioner. Welcome on board. You have a few words that you want to say Kent?

Mr. Hiranaga: I don't really have anything to say much except thank you for your welcome and I look forward to working with all of you.

Mr. Hedani: Thank you very much. Okay, we'd like to open it up for public testimony at this time on any agenda item in order to accommodate those individuals who cannot be present at the meeting when the agenda items are considered. Public testimony will also be taken when the agenda item is taken up by the commission. Maximum time limit on individual testimony is three minutes. A person testifying at the beginning of the meeting will not be allowed to testify again when the agenda item comes up before the commission unless new or additional information will be offered. Are there any members of the public that would like to offer testimony at this time? Please step to the microphone and state your name Mr. Pikrone.

Mr. Bud Pikrone: Thank you Chair Bud Pikrone, Wailea Community Association. I'd like to defer until the Four Season's project comes up.

Mr. Hedani: Okay, very good. Any other members of the public that would like to offer testimony? Seeing none, lets move on. We have a very full agenda today. We have 12 items on the agenda. Director Hunt could not be with us today and Deputy Director Suyama could not be with us today also because of hearings and a conference. So we have Clayton that will be acting director for today.

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

- 1. DKK PROPERTIES, LLC requesting a Special Management Area Use Permit for the proposed Two Daughters Business Building, a two-story, 7,654 square foot mixed-use commercial building and related improvements including the provision of onsite parking and landscaping at 2679 Wai Wai Place, TMK: 3-9-051: 041, Kihei, Island of Maui. (SM1 2006/0021) (P. Fasi)**

Mr. Paul Fasi: Before I begin I would just like to remind the participants for the minutes keeping just remember to use the portable mike.

Mr. Fasi then presented a summary of the Maui Planning Department's Report.

Mr. Hedani: Commissioners? Maybe the applicant can make their presentation at this point.

Mr. Fasi: Thank you.

Mr. Mike Munekiyo: Good morning Mr. Chairman, Members of the Commission. My name is Mike Munekiyo. We've assisted DKK Properties in preparing and processing the SMA application. We do have resources available this morning if there are any questions, we are of course are happy to answer. Representing DKK Properties is Mr. Doug McLeod to my left here. He's the principle in the LLC. We have our project architect, Gerald Hiyakumoto here, as well as our project civil engineer, Stacy Otomo. So again, if there are any questions relating to the project we'd be happy to address those.

Let me just run through briefly the project components again and maybe a little bit more illustrative to give a little bit more detail to what Paul has explained to you up to this point. Again, we are proposing or DKK Properties is proposing a 7,800 square foot, two-story office building with a 932 square foot basement parking area below. The total leaseable area is 6,477 square feet. As Paul mentioned, we will have a six-foot wide accessible ramp, bicycle path along the northern portion of the property that will connect to the future Liloa Drive and I will show that in a illustrative site plan in a minute.

Again, just a regional location map to indicate general location. Piilani Highway here, Kihei Elementary School, Lokelani Intermediate School in this vicinity here and the Kihei Business Park is in this vicinity here.

Within the Kihei Business Park you may be aware there are a number of building pads or lots already developed. This is Halekuai Street that goes up to Liloa Drive, South Kihei Road here. There's the Marco's Southside Grill. I understand they've renamed the restaurant, but what was known as Marco's Southside Grill is in this corner here. This is Waiwai Loop off of Halekuai and the property is located right at the top of the cul de sac at Waiwai Loop in this location here. So it's right in the, I guess, the top portion of the Kihei Business Park subdivision.

Just basic information. As Paul mentioned, the site is vacant, undeveloped.

Community plan designation business for the commercial use and underlying county zoning is B-2 Community Business District.

Let me just run through a few photos to give you some context as to what's on the site right now. It is a vacant undeveloped site and this is a photo looking from the Waiwai Loop entrance. As I mentioned, this property is at the top of the Waiwai Loop cul de sac so this is looking from the cul de sac entrance.

This is looking north towards Lipoa Street. Again, vacant property.

Moving on, this is the north view. There is a building being constructed on the north side as well as the south side which wasn't reflected in the previous slide but this is an office and warehouse building which is located to the immediate south of the property.

Again, this is the property looking back out to Waiwai Loop.

Now let me just go through the site plan real quickly. As I mentioned, and this doesn't really show it that clearly but I wanted to show this because kind of give you a general indication of the relationship of the building to Waiwai Loop and Liloa Street. So this is the future Liloa Drive or north-south collector road up here which the property abuts. This is the cul de sac at the top of Waiwai Place. And this is the property itself outlined here. Somewhat a pie-shaped configuration.

I did mention a six-foot wide pedestrian bicycle path which Mr. McLeod is installing to the north of the property and that's for purposes of connecting Waiwai Loop to the future Liloa Drive. Again, I think there is a desire to have ultimately a greenway type of facility at the Liloa Drive and this would accommodate that future connections between Liloa Drive and Waiwai Loop. The building – it's not very clear here but I'm just going to outline so that you can kind of get a sense of the building footprint versus the parking area. The building footprint basically runs along here. So, – and I did mention that there is a 932 square foot parking area below and that parking area providing 15 stalls is under the building in this location here. So just a very brief overview of the site itself or the parcel itself. It is about 10,000 square feet in size.

Let me just quickly run through elevations. What we've tried to do or what Mr. Hiyakumoto has attempted to do is maintain a residential kind of feel to the building. Again, a two-story building. Next slide.

Colored rendering. I posted this board on the easel as well, but this is a view of the building looking from Liloa Drive. Again, ultimate use would be for commercial purposes. So again, this is what the view would look like once Liloa Drive is put in place.

That, Commissioners, wraps up what I have to provide and we'd be happy to answer any questions that you may have this morning.

Mr. Hedani: Questions from the Commission? No questions? Personally my comments are that I like the architectural style of the building. I think it's very attractive. And the other question that I have was who are the two daughters?

Mr. Doug McLeod: Lily and Lucy

Mr. Munekiyo: Mr. McLeod's two daughters.

Mr. Hedani: Lily and Lucy. Got it. Okay. Any other questions for the applicant? Commissioner Guard.

Mr. Guard: Aloha Mike. On a few of the other projects in this subdivision, I think this is the third one in the past six to nine months, environmental standards came up and I was just going through the packet that says your issues with the LEED certification process or if you intend to go after any kind of I guess management, building management practices?

Mr. Munekiyo: We did address that with the KCA and I don't know, if Doug, do you want to respond to that?

Mr. Doug McLeod: I think what happened on that, we were asked by the KCA, you know we did make a presentation to them, and we were asked about the LEED standards and at the time we designed this building there wasn't a LEED standard for doing a building shell. You know what we're doing is basically the build out of the common area and the shell. And my understanding is there actually is now a new standard that would cover shell. So if we were starting this thing again, you might get a different answer. What we chose to do on this building instead, we haven't talked about this but we are putting in a demonstration project as far as solar and photo voltaic cells. We also did a couple things in terms of MECO's Energy Efficiency Program. So all of the AC units in this building will be part of MECO's program. The roof also reflects the research we did. You'll see the buildings next door were done with these asphalt shingles and, you know, in terms of the cool roof technology and energy savings we spent a fair amount of time looking at that and determining that this roof would really save quite a bit of energy.

So although we didn't do the formal LEED process this time because that particular standard wasn't developed, I do feel like we addressed environmental impacts pretty well on this and if you have any more follow up questions, we'd be happy to try and answer them.

Mr. Guard: So if it's a shell, is this a office condo project?

Mr. McLeod: Right now we're hoping not to condominiumize it, and we have not applied to

the state for that. We have a building that we built in Wailuku and we have not condominiumized that. So at this point, our plan is to do the same. That we would build this and rent it out to individual tenants and as each tenant comes, you know, you figure out how to fill out their space and what exactly it would be.

Mr. Guard: Last one. This is for Paul. On the specific conditions, have we compared the other conditions that we made for the other, like Dobrovich Construction and then I think the other one was the lawn equipment guy that we talked about maintaining all of the, I guess, petroleum and oil on site to make sure none of that goes downstream or gets into the wetland area down below.

Mr. Fasi: We reviewed that in the department's review of the project and we feel comfortable that the applicant has met those requirements.

Mr. Guard: Okay, so we don't – just to I guess standardize all three so not – so this project's not being scrutinized more than the other two or vice versa.

Mr. Fasi: That is correct.

Mr. Hedani: Mr. Munekiyo.

Mr. Munekiyo: Without jumping too far ahead. I think there is a condition that I think we can respond to with respect to BMPs and drainage inlets which separate petroleum products. So that's certainly something that Doug is willing to do and I think we're willing to incorporate. I think it's already in as part of the recommendations.

Mr. Hedani: Commissioner Guard.

Mr. Guard: And then with the underground parking, I guess you have to either get your drainage away or are you anticipating keeping more on site?

Mr. Munekiyo: I can have our civil engineer respond to that.

Mr. Guard: Okay.

Mr. Stacy Otomo: Good morning Mr. Chair, Members of the Commission, my name is Stacy Otomo. We are creating a basement. So technically the parking area will be slightly lower than the grade at the cul de sac. When this subdivision was developed, the drainage system was designed for full runoff to get onto the road into the system of the subdivision. But because we have that sump condition in the basement, what we'll be doing is we'll be putting a perforated drain system where we would take care of part of the runoff and as we reach a certain level, it's going to have to be pumped back up to the roadway. But we are

going to be putting in a system that actually is not required for the project.

Mr. Guard: To maintain more, to hold more of the water that you create like runoff?

Mr. Otomo: Yes.

Mr. Guard: Is the zero level that we've been talking about or no increase?

Mr. Otomo: Yes, no increase is what we're looking at or possibly a slight decrease.

Mr. Guard: Just from – I mean, you've been here seeing a lot of the people be required to make substantial decreases on runoff. And that one right now is below grade of the rest of the subdivision or just the basement will be?

Mr. Otomo: The basement portion will be below the road grade.

Mr. Hedani: Stacy is the site subject to flooding? I know that that was a concern from the KCA.

Mr. Otomo: There is some offsite runoff that comes across and at the time, Liloa – the north-south collector road is built, you know, it's going to take care of the offsite runoff. But I think in the interim what we're planning to do is put some drainage facility at the rear of the property that takes into account this offsite runoff.

Mr. Hedani: To intercept that?

Mr. Otomo: Yes.

Mr. Hedani: Is there a pedestrian access that's going to be provided off of Liloa?

Mr. Otomo: I haven't seen the –

Mr. Hedani: It looks like in the rendition that there's like a gate at that location. Is that what it is?

Mr. McLeod: This particular drawing was done by a 3-D design firm for us and the gate was just in their software. We're not trying to block that access. It's just the opposite that we want people to be able to flow through to Liloa.

Mr. Hedani: I see. Any other questions? Commissioner Amorin.

Ms. Amorin: Thank you Chair. Good morning. Mike, my concern, just making inquiry about

the bicycle path along the northern boundary. And so also there is no threat as far as drainage in the area. Statement here says that that bicycle path is to encourage pedestrian activity and bicycle access for owners and tenants. So is it for the public too, because pretty much it's going to cross from the connecting road in the back into the area.

Mr. Munekiyo: Right, I've just put up the slide of the parcel area, and again, it is intended to facilitate public access between Waiwai Loop here, the cul de sac and the future Liloa Place. And this is, again, the location of that pedestrian and bicycle pathway here. But I think Doug's intent was to put that in so that it will make it easier for everyone.

Ms. Amarin: There's no threat of drainage or flooding to the pedestrians using the pathway?

Mr. Munekiyo: No. I think Mr. Otomo has considered the grade of that walkway or pathway as part of his drainage report. So that should be operational in a fairly safe manner I think free from drainage and flooding kinds of concern.

Ms. Amarin: Thank you.

Mr. Hedani: Commissioner Guard.

Mr. Guard: Parking adequate on this one or is the 13 is that minimum for code?

Mr. McLeod: Well, I think we have 15 plus a loading zone and one of them is ADA also. I think we meet code.

Mr. Guard: All ...(inaudible)...

Mr. McLeod: Yes.

Mr. Hedani: Any other questions for the applicant? You know, as a comment I'd like to compliment the applicant on implementing the bikeway and pedestrian access system. Oftentimes when you do a subdivision it seems to appear like the responsibilities end at that point and one subdivision doesn't connect to the next subdivision and it makes for a ridiculous situation. And in this situation I think it's admirable that they're providing access for pedestrians and bicycles along that road. Thank you.

**a. Public Hearing**

Mr. Hedani: Are there any members of the public that would like to offer testimony on this item? Seeing none, the public hearing is closed. Staff recommendation.

**b. Action**

Mr. Fasi presented the Recommendation.

Mr. Fasi: The Planning Department would like to add that they feel this particular project sets a new standard in the area. We feel it's very unselfish of the owners to put in that pedestrian bikeway.

Mr. Hedani: Questions for staff? Commission Members what's your pleasure?

Ms. Freitas: Move to approve with recommendations.

Mr. U'u: Second.

Mr. Hedani: Moved by Commissioner Freitas, seconded by Commissioner U'u. Discussion? Commissioner Guard.

Mr. Guard: I was just going to say it's a good looking project.

Ms. Freitas: Very.

Mr. Hedani: One comment for staff. You know in the slides that we saw, not applicable to this building but the building next door.

Mr. Fasi: Yes sir.

Mr. Hedani: There was no landscaping around it.

Mr. Fasi: It's under construction.

Mr. Hedani: Okay. Thank you.

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

**VOTED: To Accept the Recommendation of Approval of the Special Management Area Use Permit with the Conditions.  
(Assenting - S. Freitas, B. U'u, K. Hiranaga, J. Guard, J. Amarin,  
W. Iaconetti, P. Eason)  
(Excused - J. Starr)**

Mr. Hedani: Carried. Thank you.



Mr. Fasi: Thank you.

Mr. Hedani: Congratulations to the Two Daughters.

Mr. Munekiyo: Thank you very much.

A recess was called at 9:29 a.m., and the meeting was reconvened at 9:34 a.m.

## **B. PUBLIC HEARING**

- 2. FOUR SEASONS MAUI requesting a Special Management Area Use Permit for the proposed adult pool, cabana, and trellis improvements at the Four Seasons Resort involving the development of a 2,270 sf adult pool and related deck/towel stand, spa facilities, deck area, and ADA-compliant bathroom, reconfiguration of an existing koi pond, and related site grading and landscaping and related improvements at 3900 Wailea Alanui Drive, TMK: 2-1-023: 007 (por.), Wailea, Kihei, Island of Maui. (SM1 2006/0027) (P. Fasi)**

## **C. COMMUNICATIONS**

- 1. FOUR SEASONS MAUI requesting a Step 1 Planned Development Approval and a Step 2 Planned Development Approval for the proposed adult pool, cabana, and trellis improvements at the Four Seasons Resort involving the development of a 2,270 sf adult pool and related deck/towel stand, spa facilities, deck area, and ADA-compliant bathroom, reconfiguration of an existing koi pond, and related site grading and landscaping and related improvements at 3900 Wailea Alanui Drive, TMK: 2-1-023: 007 (por.), Wailea, Kihei, Island of Maui. (PD1 2006/0003) (PD2 2006/0003) (P. Fasi)**

**The Commission may take action on these requests.**

Mr. Yoshida: We'll be taking the three requests together and the staff planner is Paul Fasi.

Mr. Paul Fasi presented the Maui Planning Department's Report.

Mr. Hedani: Questions from the Commission for staff? I have one question Paul. On the south side property line is there mauka-makai pedestrian access between Wailea Alanui and the beachwalk?

Mr. Fasi: I believe there's –

Mr. Hedani: It's a drainage easement and it looks like what's a path is shown within the drainage easement? Can you step to the microphone and identify yourself?

Ms. Teresa Law: I'm Teresa Law, I'm a landscape architect for the project. There is an existing bridge that connect at the very end of the property and I will show you in some of the slides.

Mr. Hedani: So there is pedestrian access?

Ms. Law: Yes. But that's way outside of this area.

Mr. Hedani: I'm sorry –

Ms. Law: Makai side. On the makai.

Mr. Hedani: On the makai side. But there's no mauka-makai pedestrian access?

Ms. Law: No.

Mr. Hedani: Maybe we can move onto the presentation and then get clarification at that point.

Ms. Gwen Hiraga: Good morning Chair and Member of the Maui Planning Commission. My name is Gwen Hiraga from Munekiyo and Hiraga representing the applicant, Four Seasons Resort. We will do a brief power point presentation this morning. I did distribute hard copies in terms of the power point. This is what our power point will cover. The project team, the existing site plan and conditions, the views of the project area. Description of the proposed improvements and the overall project vision for the Four Seasons improvements.

In terms of the project team, the development is MSD Capital, L.P. Project management is Manhattan Hospitality Advisors, a Santa Monica Hotel Group, operator is the Four Seasons Hotel and Resorts Corp., planner is our firm, Munekiyo and Hiraga, Inc., construction manager, Sterling Development Services, landscape architect, Belt Collins Hawaii, civil engineer, Belt Collins Hawaii, interior designer, Brayton Hughes Design Studio. And we have our resource people here today. The construction manager, Lance Wiesel is here. The landscape architect and civil engineer from Belt Collins are here and Mr. Thomas Steinhauer from the Four Seasons Resort is also present.

I'm going to turn over this portion of the presentation to Teresa where she will describe the

project plans.

Ms. Teresa Law: Thank you. I'm Teresa Law. I'm a landscape architect with Belt Collins. For our proposed area we are looking at the makai end of the project. This is the main entrance from the road and area is at the makai end and there's the adult pool, the cabanas and trellis at the Lokelani Suite and the trellises.

This is the road that comes down and this is the proposed adult pool site. The cabana and trellis is on this area, and the trellis we're looking at is the Pacific Grill area right here.

We're looking at first of all the adult pool. This is the existing view from the driveway coming down. The bottom view is from the luau lawn looking back up onto the area. This is the edge of the pool area. Our proposed site plan, this is the driveway and this is the luau lawn that we're looking back up. This is the stage area. The existing site is open lawn area out. This is right now is an existing lawn area and there's a koi pond out here and this area is used as the banquet area and some afternoon functions. The new pool area is for the – we're looking at adult pool for adults only and because of the travel nowadays with family people trying to get away from the children for a couple of hours and this is the area that we created for that purpose.

We have the swimming pool running the whole length of the proposed site and we have a swimmer pool bar at the makai end and there's a staircase that goes down to the luau lawn area. The existing stage remains and this area is transformed into a pool deck.

This is the entrance area. We are just relining the entrance area and this lawn area we have a screening and we are looking at the towel stand and the bathroom facilities and we are looking at the cabanas right at the end.

This is the section that showing the entrance to the area. We are looking at berming up and screening the building from the view from the driveway. This is the view further up into the swimming pool area. You come in this area and this is the berm that we saw in the section and that's the meandering path and coming into the towel stand and this check area so that we can check, secure that no children would be allowed in this area. And we have a water wall to provide some sound for the pool area from the driveway and the spa and we have stepping stone that lead from the deck over to the spa area. And then that's the existing drainage easement right along here and we have providing screening along this area. You can see that this is the area – we're looking the swimming channel. We're looking at the water wall and the water feature and the spa and the infinity edge and we are looking pavers with grass around to ...(inaudible)... some contemporary look for the pool deck area. And we have the bridge and the stepping stone connecting to the upper deck and we have the five cabanas on the upper deck area. And then this drainage easement and the screen planting along this area. This is a section of the upper spa and the backdrop

of the water wall and this is the bridge that connect the lower deck to the upper deck area.

This is the section between the drainage easement and cantilevered deck and shows what the existing site is like this. And this is drainage swale. We are proposing a buffer zone between the drainage easement so that we can buffer the pool from the adjacent property right here.

This is the proposed, some images of the proposed water feature and the proposed few of what this cabanas look like. This is the area that shows leading down to the luau lawn area. We're looking at a series of steps and some planters coming down. And this is the section, the elevation looking this way and this is stage area and this is the overflow pool that is backdrop of the stage area.

This is the plan of the new spa outside. This is where the existing restaurant is. We have the shoreline setback line right here. This is an existing water feature right now. The existing water feature and the waterfall will be kept. We're reducing the existing koi pond and realigning it. And then this area actually is a surface area underneath. We are putting a new spa on top of the structure and there will be water features going into the pool and some planters to screen off the area. The overflow edge along the pool edge above the stage area.

And we're showing you some sections in the next slide and there's two sections that I'm showing you. The first one is the spa over the existing area and this is the new deck. And the bottom one is where the swimming pool, the spa and the deck and koi pond is right here and the existing waterfall into the swimming pool.

So the schematic landscape plan, we are looking at screen planting from the driveway and screen planting along the new cantilevered deck to provide privacy. We are restoring the drainage swale with grass for erosion control. Right now there are few ...(inaudible)... trees that are in the swale area.

The irrigation concept were are taking the existing area to change it to pool deck so we are reducing this irrigation requirement like about 40% and the planting we are just keeping existing tree, clearing some of the existing area and putting some screen planting around the pool deck area.

The lighting concept we pretty much the follow the recommendation. We'll be using down-light for mood light. There will be no up-light in that area.

We have done some view study corridors from the neighborhood. So to show that there will be no view blocking or impact on the view from the neighboring property. These are

just some of the areas that we have done study on from buildings, selected buildings from the neighbor, Wailea Point.

The cabanas and trellis on the Lokelani Suite, this is what the existing suite, the place look like. It's pretty bare. We are just proposing some cabanas for shade for the guests.

This is the plans and elevations and the material we are proposing.

The trellis area in front of the Pacific Grill right now is fairly open and we are just proposing to add trellis and retractable shade structure in this area. That's one of the plans that show, and this is the section and elevations.

The proposed project we are looking at water usage increase is less than 300 gallon per day and the wastewater generation is about less than 2,000 gallons per day. Right now we would not be asking for additional water meters and usage and there will be no impact from the Lokelani Suite and the Pacific Grill area.

That concludes my presentation for the power point. We're just looking for approval so that we can create a resort that's more updated and allow the new travel trend with people with children an area they can get away from the kids for a while. Thank you.

Mr. Hedani: Okay, questions from the commission? Commissioner Amarin.

Ms. Amarin: Teresa, how far is this new swimming pool to the ocean shoreline?

Ms. Law: This is the 160 feet. We have the 150-foot setback, shoreline setback right here. And the pool is another 15 feet back.

Ms. Amarin: Okay, my concern is just for drainage because I know the terrain for the hotel, you know, it slopes then it's very steep. And my concern is for drainage any kind of overflow into the ocean and how are you going to maintain being so close and try to keep any kind of drainage on the property?

Ms. Law: We are not really changing the grade in that area. We're actually have this part over here is a cantilever deck above. We are keeping the existing terrain. On the deck area we're providing area drains and will connect back to the existing drain inlets on the streetside.

Ms. Amarin: Okay so there is no threat to any kind of runoffs or anything into the ocean?

Ms. Law: No.

Ms. Amarin: Sounds like a beautiful spa area and exclusive. I don't know if you're imposing freedom of dress or undress for the adults in the cabanas but sounds like a very exclusive, first class, keep the children out of there. Thank you.

Mr. Hedani: So it's a very adult pool?

Ms. Law: We hope so.

Mr. Hedani: Commissioner Freitas.

Ms. Freitas: I was going to say I had a follow up to that, but now I change my mind. I have a question regarding the pools and your landscape, are you able to answer my questions or should I talk to somebody else?

Ms. Law: I'll try to answer it.

Ms. Freitas: I don't know, all I heard is rumor, okay. ...(inaudible - changing of tape)... about these pools leaking. What I've heard and I want to know how you detect. I mean, if you have a huge leak I know you can detect it. But if you have a constant slow leak that this water is leaking and going into the ocean, can you address that because I've heard that that's going on.

Ms. Law: This pool is actually built on a cantilever structure. So it's open at the bottom. We should be able to inspect any leakage. Also because this is an overflow edge and we are looking at the infinity edge which the pool deck and the water level is the same level, so any water loss there will be an increase of water and we would know that right a way. It's not like a pool that is drop down six or eight inches below the pool deck, and sometimes you cannot keep up the transpiration rate. So with this kind of design the pool deck – the water use is constantly being monitored. So any decrease of water or leakage of water we would know.

Ms. Freitas: So there is a monitoring system that you use and so if there was suspected that somebody could go in and look at these numbers and see if that's what's happening?

Ms. Law: Yes.

Mr. Hedani: Other questions from the Commission? Commissioner U'u.

Mr. U'u: My question refers to water. I know there's a lot of water going to be used on this project because it's all pool, bathrooms. What mitigative measures are you taking to conserve on the water? Knowing you're asking for water meters and I know people been waiting for years for water meters. And my second question would be, it states that "new

source development projects include Waikapu South Well, and Maluhia Well,” maybe that’s for Public Works, when is that going to be up and going?

Ms. Law: We are not asking for additional water meter. Our water usage would be less than 2% of what is existing use at the hotel. And I’m sorry, I cannot answer the water well question.

Mr. Hedani: So the water would be provided through existing meters?

Ms. Law: Yes.

Mr. U’u: But it says, “additional or larger meters if needed may not be available until these sources are on line.” So you’re not expecting to have any water meters or larger?

Ms. Law: No, we are not.

Mr. U’u: None.

Ms. Law: No.

Mr. U’u: So as far as the mitigation of water, knowing you guys going be needing more water, what measures are you taking? Because it states here, “the applicant acknowledges the comments regarding water conservation measures.” And what is those? What is your water conservation measures?

Ms. Law: Right now our water usage is estimated to be only less than 300 gallons per day, 3,000 gallon per day. We have changed this area from regular sprinkler head system into a subsurface irrigation system. So we would not be exposing, wasting water for transpiration and the water would be feed to the landscape area. We probably will be doing more of the change over in some of the other landscape area from the regular sprinkler head to a subsurface irrigation system.

Mr. Hedani: Is that correct? I thought you mentioned that your irrigation was going to be reduced by 40%?

Ms. Law: Yes. Just this are only we are reducing by 40%, but in other areas, we are going to do a master plan to evaluate the water. So we will be trying to cut back irrigation water usage also.

Mr. Hedani: Is that potable water that you use for irrigation currently?

Ms. Law: Yes.

Mr. Hedani: Not recycled water?

Ms. Law: No.

Mr. U'u: Can we look into using recyclable water? Is it possible?

Ms. Law: There's a possibility. We need to check with DOH about the water. Because this is a hotel resort area and the water is – you know, the irrigation water would be where people get close to.

Mr. Hedani: Public areas.

Ms. Law: Public areas, yes. But any place we can, we will try to mitigate the water usage. And like we said, other than the swimming pool area we would try to also look at the other areas for the irrigation water we can cut back and we will try to do that.

Mr. Hedani: Commissioner U'u.

Mr. U'u: I guess my question going be for Public Works. Update about the Waikapu salt well and Maluhia well. Give me good news brother.

Mr. Miyamoto: Mr. Chair, unfortunately those are Water Department projects. They are purely Water Department projects at the time. Regarding reclaimed water in this area, currently the county system does not extend to this point. Their closest source if they were looking for any kind of reclaimed water would have to be from the private treatment plant in Makena.

Mr. Hedani: Commissioner Guard.

Mr. Guard: Looking at your sketch here on the photo on 29 or whatever it is, the shoreline setback was from November 2005, is that going to be updated because the photo being used on page 29 is a pretty old photo. I know there's quite a few new structures in there as well as little pocket of beach in the bottom right-hand corner sometimes disappearing. So I just want to make sure that we still have a 150-feet there. I like the intentions of the project but just to be concurrent with everything else to make sure we still have that from November '05 that might have changed, right?

Ms. Law: We just did another shoreline survey and we filed it with DLNR for the certification.

Mr. Guard: Okay, and then any change on aerials? Have we seen any new aerials since this one probably?



Ms. Law: No, we haven't done any new aerial yet.

Mr. Guard: I'm sure Four Seasons might have some on file of their beautiful hotel. No.

Ms. Law: No, we don't have any update photos. But we did file for recertification of the shoreline and right now DLNR have received it and we're waiting for the 90-day approval date review period.

Mr. Hedani: Other questions from the commission? Commissioner Freitas.

Ms. Freitas: Mr. Fasi, the water rate that this hotel is charged or hotels are charged. That's at a lower rate than like residential?

Mr. Fasi: I believe so. That would be a Water Department question, but yes, I believe hotels are charged lower rates just because of the volume of water that they use.

Mr. U'u: Why is that so?

Mr. Hedani: Commissioner U'u.

Mr. U'u: Why would they be charged less than a home owner?

Mr. Fasi: I can't say for certain, but my guess would be that it's just based on volume consumption. I don't know the reasoning behind the Water Department logic.

Mr. Hedani: Commissioner Freitas.

Ms. Freitas: Can we find out Paul?

Mr. Fasi: Yes ma'am.

Ms. Freitas: I mean, not that we're going to hold this up or anything but I would be very curious because they're using potable water for lawn, stuff like that. We need to find out because even when you say volume, but you know, even on ag property if you go over what you usually use, they charge you more. You know, so when you use more volume on ag, you're charged more and yet at a hotel because of their volume they're charged less.

Mr. Fasi: I'll find out.

Ms. Freitas: Would you please? Thanks.

Mr. Hedani: Other questions for the applicant? Commissioner Guard.

Mr. Guard: Regarding the survey, if you put in for a new survey, do we have the results from your surveyor as to any changes to the shoreline?

Ms. Law: The plans are the same but if you need, I can get you the copy of the new survey plan.

Mr. Guard: Well, I mean, we would either know it's the exact same or was there a difference?

Ms. Law: No, there's no difference.

Mr. Guard: Okay, and when was that – when was the survey completed?

Ms. Law: The survey was completed about a month ago, and we just received the letter from DLNR –

Mr. Guard: So it's in OEQC now?

Ms. Law: Yes.

Mr. Guard: And no negative testimony?

Mr. Hedani: Commissioner U'u.

Mr. U'u: Is there any in lieu of fees being paid?

Mr. Hedani: Can you repeat the question Bruce?

Mr. U'u: Is there any in lieu of fees being paid to the Water Department, to traffic?

Mr. Hedani: Oh, impact fees.

Mr. U'u: Impact fees. No?

Ms. Law: We don't think so.

Mr. Hedani: None are applicable to your knowledge?

Ms. Law: No.

Mr. Hedani: Be careful this commission could invent some.

Ms. Freitas: Not today.

Mr. Hedani: Are there any other questions from the commission? Commissioner Guard.

Mr. Guard: There's a lot of, I guess, written dialogue between Wailea Point, that seems to be the main neighbor that could be affected by this. And was the association, I guess the association would have notified any of the individual home owners. So as of now there's no individual home owners objecting to this because the association said that they didn't see a problem with it, correct?

Ms. Law: Correct.

Mr. Guard: And then, okay, so I don't know if there's public testimony otherwise or not. Just to make sure that a few of those people, it looks like a few of them may be affected.

Ms. Gwen Hiraga: Gwen Hiraga. In response to your question Commissioner Guard, we have residents from Wailea Point that had planned to testify.

Mr. Hedani: Any other questions for the applicant? I have a question, maybe, I'm not sure if Gwen or Belt Collins can answer but can you point out to me on the site where the beach accesses are and how many stalls are provided?

Mr. Lance Wiesel: Commissioners I'm Lance Wiesel with Sterling Development Service, project management. And to address, I think Teresa misunderstood that question when it was presented about beach access because there isn't any beach access for the public between the Wailea Point property and Four Seasons. That's a private walkway with a gate at the –

Mr. Hedani: There's pedestrian access, but it's not open to the public?

Mr. Wiesel: That's correct. Yeah, it's private. There is on the other side of the hotel on the north side, but not this particular.

Mr. Hedani: That's a separate lot, the beach access lot?

Mr. Wiesel: On the other side.

Mr. Hedani: On the north side.

Mr. Wiesel: That's correct.

Mr. Hedani: Do you know how many stalls are in there?

Mr. Wiesel: I would ask Four Seasons for that information. I'm not certain. Just having seen it several times, I would say that it's in the neighborhood of probably between 30 and 40 stalls. In one portion, probably another 20 stalls in the second area.

Mr. Hedani: There's two areas?

Mr. Wiesel: That's correct. There's two parking areas there but both on the north side of the project.

Mr. Hedani: Commissioner Guard.

Mr. Guard: If we listen to public testimony, we could bring the applicant back up after as well, right?

Mr. Hedani: Right.

Mr. Guard: That might trigger new questions.

Mr. Hedani: Okay, the other question that I had was the proposed project itself complies with the downlighting guidelines of the commission. Does the entire hotel comply with the downlighting guidelines?

Ms. Law: Yes.

Mr. Hedani: It does?

Ms. Law: Yes.

Mr. Hedani: Thank you. The last question that I would have is, and this is for – well actually two questions. Is there a provision for the children some place on site?

Ms. law: Yes, right now the big pool, a lot of children are using that area, that's the reason Four Seasons seek another area so that they can have some adult time.

Mr. Hedani: Okay, I'm just anticipating a suit by a child not being able to get into your adult pool. And the other question that I have is, for pools in general, are there times when you have to drain the pool and refill it with new water or how do you handle that in terms of making sure that the water doesn't end up in the ocean?

Ms. Law: The pool water – well, hopefully we would have to drain the pool because we

have the filtration system that is being maintained and monitored all the time. Generally the water, any pool backwash area would be go into the sewer system and we will follow the Building Department and the Department of Health guideline to do that.

Mr. Hedani: Is that a procedure that's approved by Public Works?

Ms. Law: No.

Mr. Miyamoto: Mr. Chair, currently the backwash on any kind of filtration system is not allowed into the county system. It's commented in the –

Mr. Hedani: So it normally would have to go into a landscaping area?

Mr. Miyamoto: Either a landscaping area or some kind of drywell system.

Mr. Hedani: Okay, so maybe that's something that you folks can look into.

Ms. Law: We will. We will have that, yes. We will provide that.

Mr. Hedani: Commissioner Guard.

Mr. Guard: How much excavation will take place? I know in – on some of the other properties do we have a archaeology factor in this?

Ms. Law: The existing –

Mr. Guard: And then – yeah, sorry.

Ms. Law: Go ahead please.

Mr. Guard: Just on this and I know most of it is above ground, but what the proposed site to dig for your footings, etc., to make sure that doesn't contain anything. I know it's standard, but if they're just looked into this, I know that's happened in a few of the other projects on that sand dune.

Ms. Law: We are not looking into excavating further. The site has been disturbed earlier for the building of the hotel itself.

Mr. Hedani: Any other questions for the applicant? Commissioner U'u.

Mr. U'u: I understand that the grading has been disturbed prior to this, but for one example, Kapalua Bay Hotel recently discovered bones and it was also worked on at once. So it

doesn't exclude you from finding anything there.

Ms. Law: If we do find anything we will follow the proper procedure.

Mr. Hedani: Okay, any other questions from the commission? Seeing none, are there any members of the public that would like to offer testimony on this item? Please step to the microphone and identify yourself.

**a. Public Hearing**

Mr. Bud Pikrone: Good morning Commission Members, Bud Pikrone, General Manager of the Wailea Community Association. Hopefully I can answer a few questions here also. As you know, many of you know and those who don't, the Wailea Community Association has a design committee that reviews all projects that are done in Wailea. This is a committee made of architects, homeowners and other professionals. So we do review everything closely and answer, try to ask some of the same questions you do.

The public access is to the north of this property. It does have approximately 60 some stalls. There were some added recently, so it's kind of maxed out now. There were some added about three years ago as part of another project that was being built in Wailea as a condition. We will be doing some other work on trying to renovate that project soon, that parcel, and see if there's any additional we add at that time. But I don't believe we can. That is not being interfered with by this project at all. As a matter of fact, even from the beach access, you probably will not see this project. The beach access is a pathway that runs along the shoreline between all the properties.

Also as far as pool, what happens with backwash, our guidelines and rules state that pools, homeowner pools, any pools, have to go to drywells on backwash. So that is a regulation that everybody has and follows. We hope they all do. We make sure that they do when we can especially homeowners that they do put in drywells.

We have reviewed this project and we feel that it does not interfere with public access. It is a nice amenity for the hotel and for the tourists that come. We also feel that it does not have any adverse effects on the community or on the neighbors and the owner has worked as you'll hear very closely with the neighboring property to make sure that it does not have any adverse effects with them.

We also are very positive the fact that they are going to be as was mentioned working on removing some of the unwanted plants and trees that have begun to grow in the area of the drainage. The types of plants that we don't want in the area, nobody wants in the area. So they will be attending to those also.

So we are happy that they following their rules and guidelines of the community association and working with the community neighbors. Thank you.

Mr. Hedani: Bud, where is the nearest beach access to the south?

Mr. Pikrone: The nearest beach access to the south would be, you have the Wailea Point property here and then you have the Kealani Hotel and it's next to the Kealani Hotel.

Mr. Hedani: So there's nothing between Kealani and Wailea Point?

Mr. Pikrone: No. No, you have the Polo Beach – that's called Polo Beach access, this would be the Wailea Beach access, then you would go down to the Ulua Beach access and then Keawakapu. Those would be the major accesses in there with parking.

Mr. Hedani: Okay. Any questions for the testifier? Seeing none, thank you very much. Are there any other members of the public that would like to offer testimony? Please step to the microphone and identify yourself for the record.

Mr. Jeremy Butler: Good morning, I'm Jeremy Butler, I'm Vice-President of the Wailea Point Village Association of Apartment Owners, the neighbor to the south of this proposed development.

Our association and the Four Seasons have worked together on this for over a year and we've had many discussions including some to us, very important mitigations to earlier designs that improve both the view or I should say the lack of view of this new development and also improve the noise impacts. We're satisfied with those items. And as a result, we do not oppose this development.

I'd just like to mention specifically what the important aspects of our agreements are so that you're aware. The Four Seasons has agreed to extend an acoustic wall which you've already heard about, the six-foot acoustic wall between them and us at this development. The landscape plantings have been discussed and agreed and of course, there will be a couple of years when they are growing up so there will be an interim period when we're not fully screened. We've also done some other shall say related things regarding improvement of our view lines over Four Seasons' property and administrative things such as updating a 1988 agreement regarding the maintenance of the landscaping that shields us from them and them from us. And we've also undertaken some work on a sewer line which is sort of a tangentially related issue but all in all speaking for the association, we do appreciate the cooperation we've had from Four Seasons and their designers and we expect a temporary period of inconvenience but hopefully look forward to a good development and I'm open for any questions that you may have.

Mr. Hedani: Questions from the Commission? I have a question, for Wailea Point do you see a current need for pedestrian access between your project and the Four Seasons or is that adequately addressed?

Mr. Butler: I think it's adequately addressed. The access that there as Bud was describing are not that far apart. It's a matter of, you know, several hundred yards between the access that's to the north of the Four Seasons and the next one that's to the south of the Kealani.

Mr. Hedani: No, my question is for people that are in Wailea Point to get to and from the Four Seasons, do you have adequate pedestrian access?

Mr. Butler: Oh I see, yes. Yes, one can go down to the seawalk cross over a little bridge get that way or you can go up to Wailea Alanui and along the sidewalk.

Mr. Hedani: And nothing in between?

Mr. Butler: No.

Mr. Hedani: And that's adequate?

Mr. Butler: Yes.

Mr. Hedani: Do you folks still maintain the native Hawaiian plantings along your walkway?

Mr. Butler: Yes, yes we do. Yes.

Mr. Hedani: Thank you. Any other questions for the testifier? Thank you very much. Are there any other members of the public that would like to offer testimony at this time? Seeing none, the public hearing is closed.

Mr. Yoshida: Mr. Chairman, I believe that thanks to our efficient staff and cooperation from the Water Department we have a member from the Department of Water Supply who can answer questions about differences in water rates.

Mr. Hedani: Please step to the microphone and identify yourself.

Ms. Holli Perdido: Good Morning my name is Holli Perdido. I'm the Fiscal Officer for the Department of Water Supply.

Mr. Hedani: Questions for the Water Department. Commissioner Freitas.



Ms. Freitas: Yeah, Mr. Fasi just showed me a remark. I suppose it came from you about the rate of the hotel in line with residential rates?

Ms. Perdido: Currently all the rates are one and the same. We have general service rates which are for residential and hotels.

Ms. Freitas: Okay so then the hotel rate is the same as the residential rate?

Ms. Perdido: Correct.

Ms. Freitas: And I thought I saw on there something about though that the actual meters and that are more expensive?

Ms. Perdido: Not that I know of.

Ms. Freitas: Mr. Fasi could you read that to me.

Mr. Fasi: I was handed a note by another staff planner and regarding hotels, and I quote, "meters, etc., cost more, however water rates are the same as residential."

Ms. Perdido: Not to my knowledge. The water system development fee is all the same for all our customers.

Mr. Hedani: I think the clarification is that a hotel would apply for a six-inch meter and a six-meter is definitely more expensive than a half-inch meter, right?

Ms. Perdido: Correct.

Mr. Hedani: By several thousand dollars.

Ms. Freitas: Whatever.

Mr. Hedani: The question for the Water Department is, is there a discount that the hotel gets for using more water?

Ms. Perdido: No, there's not.

Mr. Hedani: So there's no incentive for consuming more water?

Ms. Perdido: No, there's not right now.

Mr. Hedani: Is there an incentive for conserving water?

Ms. Perdido: No, they're still charged the same amount.

Mr. Hedani: So it's neutral.

Ms. Perdido: If they conserve water they'll get charged less, correct.

Mr. Hedani: But there's no penalty for using more water lets put it that way?

Ms. Perdido: No there is not.

Mr. Hedani: Okay, thank you. Any other questions for the Water Department. Kent.

Mr. Hiranaga: Holli, I thought there were price breaks? The more you use, the more you pay. Now is it set rate for the entire volume?

Ms. Perdido: No, no, well there's the tiered rate.

Mr. Hiranaga: Right.

Ms. Perdido: Zero to 10, 10 to 25 and greater than 25.

Mr. Hiranaga: Right. So the more water you use, the more you pay.

Ms. Perdido: Right. But that's for all our consumers.

Mr. Hiranaga: Right.

Ms. Perdido: Not just hotel.

Mr. Hiranaga: There is an incentive to reduce water usage because there are price breaks. You exceed a certain volume the rate goes up per thousands of gallons.

Mr. Hedani: Okay, so as you increase your volume, the rate increases?

Mr. Hiranaga: Yes, there's certain price breaks.

Mr. Hedani: What are the rates Holli?

Ms. Perdido: I don't – I think zero to 10, and I don't have the rates in front of me, I know I think are a \$1.55 per thousand and they go up, I can't tell you the exact amounts, but up to \$2.64 possibly. I've just been doing new rates for FY 08 so I don't have the exact amounts in my head. But they do go up once they're greater than 25,000 gallons then they

go up substantially.

Mr. Hedani: Okay, so there is a penalty for using more water?

Ms. Perdido: Well, yeah, well I guess you're charged more, correct.

Mr. Hedani: Commissioner Guard.

Mr. Guard: Hi Holli. The 25,000 what is that, what does that equate to? Is that a single family home could go over that rate fairly easily?

Ms. Perdido: Usually a single family – that's our base rate. Usually a single family home can go, you know, up to – well, 25,000 is you know, what we usually base it on that.

Mr. Guard: Okay, so after that there's – it's a real nominal change from someone – like what a single family home could do versus a 10-unit condo or hotel. Is there discussion of after 250 or after a million gallons to change those rates for real large consumers that aren't, like say, that aren't in ag production.

Ms. Perdido: Right now we're looking at new rates for FY 08, but they're going to break out between single family and general.

Mr. Guard: General.

Ms. Perdido: So we don't have a break out for hotels or others yet.

Mr. Guard: But just general, if someone uses – like a single family home would cap out at a pretty low number even if their meter was flowing hundred percent for the entire two-month period.

Ms. Perdido: Well, see it depends. Most – it depends what area you're in too.

Mr. Guard: Yeah.

Ms. Perdido: It's hard to say.

Mr. Hedani: What did the acronym stand for?

Ms. Perdido: Fiscal Year '08. I'm sorry.

Mr. Hedani: I hate acronyms.

Ms. Freitas: Me too.

Mr. Hedani: Commissioner Freitas.

Ms. Freitas: So in a residential home, to get your water or your meter they come out and they even count how many hose bibs there are, everything, sinks, everything. Do they do the same thing for a hotel?

Ms. Perdido: I'm not too sure on that process. I know fixture units, you know, is what you're talking about for the single family and everything. Our engineers do look at how much, what size of meter they would need for the volume of water and that's how they make their estimates on that. You know, on what size of meters they should have.

Ms. Freitas: For the hotel then?

Ms. Perdido: For the hotels also. I'm sure they go through a whole process on that.

Ms. Freitas: So evidently they had extra because if they're going to be adding these things and it's not going to change the water then they must of had like some usage in store or something. I mean how did they add to this?

Ms. Perdido: I'm not too familiar with what project you're talking about.

Ms. Freitas: What do you mean? Oh, well any hotel, any hotel. Like you couldn't go to a residential home and after you're, you know, you're occupying it start adding bathrooms and everything like that. You can't do that. And so I'm just questioning that you said they're not adding any more like fixtures or anything yet they're adding pools and things. So how could they do that without – I mean, they have extra water that they can just add all this stuff?

Ms. Perdido: Like I said, the engineers base everything on that. I'm not sure what the process the engineers do for the pools and all these other items. I just know for homes if they add extra fixture units when they go to add additions or whatever, the engineers review it and then they might have to up size the meter.

Ms. Freitas: Well, you can't though. I mean, you can't in a residential home well I want another house and so give me a larger meter. I mean, you just can't do it. I mean, if you have 5/8 inch water meter and you want more, good luck if you think you're going to get a larger meter for your residential home. I just – I've never heard of that happening.

Ms. Perdido: It does happen in Kahului or certain areas where they come in for additions and they need to, they're adding additional fixtures and they would not satisfy a 5/8" meter

they would need to up size to a larger meter?

Ms. Freitas: And they get that?

Ms. Perdido: They have –

Ms. Freitas: You have residential homes getting a larger meter?

Ms. Perdido: A three-quarter inch, yeah.

Mr. Guard: Paia, you can right now.

Ms. Freitas: For another house?

Mr. Guard: ...(inaudible)... to add more fixtures.

Mr. Hedani: You have another question for the testifier? Thank you.

Ms. Perdido: You're welcome.

Mr. Hedani: Any other questions for the applicant or staff? Any other members of the public that would like to offer testimony? Okay, seeing none, that's closed. Staff recommendation.

**b. Action**

Mr. Fasi presented the Recommendation.

Mr. Fasi: I would also like to address Commissioner U'u's concern regarding the certified shoreline survey and also include verbiage that this SMA permit be held pending until the Planning Department received the updated certified shoreline survey. So it shall not be issued until that updated survey is submitted to the department.

Mr. Hedani: Commissioner Guard.

Mr. Guard: Should we add language that it's still beyond the 150-foot mark?

Mr. Fasi: The Planning Department is fairly comfortable that there has been no substantial erosion of the beach and everything will be in accordance and the setbacks shall be observed and there's nothing in the 50-foot buffer that they have.

Mr. Hedani: I think they also testified that it's a 150 feet plus 15 setback.

Mr. Guard: Oh, well, just that photo. You wouldn't recognize that beach if you use that same photo any other day. I mean, it's a much different scenario down there now than that photo used for a 2007 application. I think – I don't know I just want to make sure all those other structures are all, maybe they came before the commission as well. I mean, there's kiosks, there's – you can buy anything you want down on the beach walk. That will be a good addition.

And then just to make sure all those other things are current within the SMA. To do those, even to apply all those kiosks, etc., that they have on the beach walk are all in compliance.

Mr. Fasi: In any shoreline setback, the rule of thumb basically is that it has to be removable and portable. There can be nothing anchored down with pylons, etc.

Mr. Hedani: Does that complete your staff recommendation?

Mr. Fasi: And standard condition no. 14, again, appropriate filtration measures shall be regularly maintained by the owners and that will conclude the department's recommendation.

Mr. Hedani: Questions for staff. Commissioner U'u.

Mr. U'u: I just got one question and this will clarify where I'm a little lost here. What is the difference between – what is non potable and reclaimed? What is the difference?

Mr. Hedani: Same thing.

Mr. U'u: Same thing.

Mr. Fasi: Yes, sir.

Mr. U'u: Is it the same thing?

Mr. Fasi: Non potable is basically drinking water –

Mr. Hedani: No potable is drinking.

Mr. Fasi: I'm sorry, potable water is drinking water. Non potable is probably a catchall phase for some of reclaimed water.

Mr. U'u: Does this area have reclaimed water? No, it doesn't. So how come it says here the demand is primarily for non potable uses?

Mr. Fasi: Irrigation.

Mr. U'u: Irrigation. But do they have non potable water there?

Mr. Miyamoto: I think the comment that came from Water Department, you know, the non potable uses include brackish water. If they had well water. A lot of resorts along the shoreline have their own well systems that they use brackish water for irrigation. So I think the non potable was a reference for a catchall whether if they have reclaimed water or brackish wells available that they try to minimize their demand for potable water.

Mr. U'u: But I thought you stated earlier that there was – the system didn't reach this far.

Mr. Hedani: There's no recycled water to this point. There's no R1 water.

Mr. U'u: Okay.

Mr. Hedani: Does the hotel have on-site non potable irrigation wells?

Mr. Fasi: No.

Mr. Hedani: Any other questions for staff? Commissioner Guard.

Mr. Guard: In meeting with them, I guess that's kind of a concern of mine. I don't know if you saw that if they discussed any other ways to mitigate their water consumption saying that they're among the highest of meters serviced by the DWS. Are they looking at either drought tolerant plants or more – I know a lot of the resort feel isn't towards that but if there's any areas that they feel like maybe they could try to decrease some of the water used on site. Well, this came in as Exhibit 6.

Mr. Fasi: If the – I believe the applicant has addressed that as much as they could to the extent possible on this particular project here. I don't know if they could add anything more to that.

Mr. Hedani: Paul, a question from Corp. Counsel, Condition no. 14 refers to a homeowners association, is the Four Seasons –

Mr. Fasi: I'm sorry, that standard, is a standard condition and that should be changed to owners. I believe I addressed that as my last concern Mr. Giroux.

Mr. Hedani: Okay, any other questions for staff? No further questions for staff. Commissioner's what's your pleasure?

Ms. Freitas: Move to approve with conditions.

Ms. Amorin: Second.

Ms. Freitas: As amended. We changed a couple of them.

Mr. Hedani: Moved by Commissioner Freitas, seconded by Commissioner Amorin, discussion? Commissioner Freitas.

Ms. Freitas: Okay. I have a question for Clayton I think. Clayton, in all of this, the recommendation and everything and when an applicant sends out to all of the agencies and then this is created. Out of those agencies is there some agency that inspects the actual water, the coast? Like the reef and do they actually – is that part of the thing? I mean, because we're supposed to be protecting the shoreline. And if in their investigation they go out and they actually – somebody goes in the water and sees what I was told was going on. I mean, wouldn't that be good to be part of a report being that we're supposed to protect the water? Is that in here?

Mr. Yoshida: Well, I guess Commissioner Freitas, I believe that typically they may do a water monitoring study. Hire a consultant and have that reviewed by the Department of Health Clean Water Branch.

Ms. Freitas: So it could, but it doesn't?

Mr. Yoshida: I'm not sure you know, if Wailea they have a water quality monitoring study. I know Makena Resort, I think, that's one of their conditions and I know on Lanai, Castle and Cooke Resorts does water quality monitoring in the Manele area.

Ms. Freitas: Yeah, because I thought that in these five years we did have people come in and talk about what was going on in the ocean. And so when I hear again like rumored like that maybe the coast or the reef is – got some problems coming from these hotels it doesn't seem like we're really looking at that. I mean if they volunteer it like Makena or something, that's one thing. But I don't know why that isn't a requirement if that's what we're supposed to be watching. Because if in fact there's a leaking pool and they're not doing anything about it and that is hurting the reef. I mean, that to me is very important especially when we add pools.

Mr. Yoshida: Maybe the applicant or someone from Wailea Community Association can answer that question.

Mr. Hedani: Bud, the question's headed your way.



Ms. Freitas: Okay, but as far as a condition?

Mr. Fasi: I would add that that requirement if it is a requirement should be applied to all hotels in Wailea.

Ms. Freitas: I understand that. That's why I'm adding it now. I already voted on this one as far as I'm concerned. I'm just talking about like, I'm seeing that, we're not really looking into the ocean and I don't know why it never dawned on me like this before until somebody came to me and said what was going on with the reef. So if Diane was here she'd be out there and we'd know, you know. But we don't have anybody on the board, I mean on this committee now that does that kind of thing. So I'm just suggesting to maybe the other commissioners that maybe in the future somebody needs to put on some snorkel gear and get out there and look at it.

Mr. Guard: Site visit.

Ms. Freitas: Yeah, site visit. That's it.

Mr. Hedani: Bud, does Wailea have a water monitoring program?

Mr. Bud Pikrone: Yes, actually Wailea Golf has for years been doing a water quality monitoring program and they do check the water quality. And the Wailea Community Association is in talks right now with DLNR in doing an actual reef survey program. So we're in the process of putting that together but the water quality is being checked already and we will continue to do that as more of an independent thing. I see what you're saying. The golf course comes in and volunteers that, there may be questions, but they do do it and they do that because they are concerned on runoff from the golf course.

Ms. Freitas: It would be good for it to be in a report.

Mr. Pikrone: We can get that to anybody that would request it from the community in the future. Sure.

Mr. Hedani: So the answer is the Wailea Community Association is looking into doing a reef survey as well as doing water quality monitoring?

Mr. Pikrone: Right, correct.

Mr. Hedani: Along the entire Wailea Resort area.

Mr. Pikrone: Correct. There's a number of reefs there that are frequented by anybody and everybody on Maui.

Mr. Hedani: So the intent is to measure the quality of the reef and whether it's deteriorating or not?

Mr. Pikrone: Correct. There's also a number of fish counts that are done on the reefs as it is now, but we want to do an actual quality of the water and the quality of the reef and how it's being affected by anything that would be runoff, the lack of fish which is pretty evident right now. So we are looking into doing a more official study with the DLNR on that.

Mr. Hedani: Thank you. Any other discussion on the motion? Ready for the question?

**It was moved by Ms. Freitas, seconded by Ms. Amarin, then**

**VOTED: To Accept the Recommendation of Approval of the Special Management Area Use Permit, as Amended.  
(Assenting - S. Freitas, J. Amarin, K. Hiranaga, J. Guard, B. U'u, W. Iaconetti, P. Eason)  
(Excused - J. Starr)**

Mr. Hedani: Carried. Thank you.

Mr. Fasi: Thank you.

Mr. Hedani: Take a five-minute recess.

A recess was called at 10:40 a.m., and the meeting was reconvened at 10:49 a.m.

Mr. Hedani: We are currently on Item C-2. We welcome Deputy Director Suyama to our meeting.

- 2. SUNSTONE KEOKEA, LLC requesting a 1-year time extension on the period to initiate construction for the Liloa Subdivision at TMK: 3-9-002: 116, 150, and 151, Kihei, Island of Maui. (SM1 2004/0010) (C. Suyama) (Deferred from the February 13, 2007 meeting. Commissioners: Please bring your report with you.)**

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

Ms. Suyama: The item is a request for a one-year time extension in order to initiate construction of the Liloa Subdivision in Kihei, Maui. The staff report has been circulated to the commission.

The applicant is requesting that one-year time extension to initiate construction and the reason for that is they are in the process of revising their subdivision plans and the subdivision plans are scheduled for review with the agencies as well as probably back to the commission as an amendment to the preliminary project plans. And for this reason, they're asking for a one-year time extension.

There are no violations on the project and the applicant is currently in compliance with the conditions of approval.

Mr. Hedani: Okay, does this require a public hearing?

Ms. Suyama: No, but it does require public testimony if there's anyone present.

Mr. Hedani: Are there any members of the public that would like to offer testimony on this subject? Seeing none, the public testimony is closed. Staff recommendation.

Ms. Suyama presented the Recommendation.

Mr. Hedani: Questions for staff? What's your pleasure?

Mr. Iaconetti: I move approval.

Ms. Freitas: Second.

Mr. Hedani: Move to approve by Commissioner Iaconetti, seconded by Commissioner Freitas. Discussion?

**It was moved by Mr. Iaconetti, seconded by Ms. Freitas, then**

**VOTED: To Accept the Recommendation of Approval of the One-Year Time Extension of the Special Management Area Use Permit.  
(Assenting - W. Iaconetti, S. Freitas, K. Hiranaga, J. Guard, B. U'u, J. Amorin, P. Eason)  
(Excused - J. Starr)**

Mr. Hedani: Carried. Thank you.

- 3. MS. KATRINA JAKEWAY of SPA REJUVA & FITEXPRESS requesting an amendment to an existing Accessory Use Permit to operate a massage school at an existing Day Spa and Fitness Center in the B-R Business Resort District at the Fairway Shops in Kaanapali, 2580 Kekaa Drive, TMK: 4-4-008: 017, Lahaina, Island of Maui. (ACC 2005/0002) (D.**

**Shupack) (Deferred from the February 13, 2007 meeting. Commissioners: Please bring your report with you.)**

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

Mr. Yoshida: Can we move to Rey Piros?

Ms. Suyama: He's not here?

Mr. Yoshida: Dan isn't here yet.

Ms. Suyama: Okay, our planner for this application is not here so we'd suggest moving onto Item No. 4.

- 4. MR. REY T. PIROS requesting a transfer of the State Land Use Commission Special Use Permit from CHRISTOPHER BERNARD to REY T. PIROS and a 10-year time extension on the Land Use Commission Special Use Permit to operate the Rey-Cel Broadcasting, Inc. facility at 729 Waiakoa Road, TMK: 2-2-009: 022, Kula, Island of Maui. (SUP 920006) (D. Dias) (Deferred from the February 13, 2007 meeting. Commissioners: Please bring your report with you.)**

**The Commission may take action on these requests.**

Mr. Danny Dias: Good morning Commissioners, I really don't have anything to add to the report. I think it's a pretty straightforward. It's just a transfer of permit and a 10-year time extension. The applicant is here for any questions if you folks have any.

Mr. Hedani: Questions for staff? Commissioner Freitas.

Ms. Freitas: I just want to ask Colleen, how come this isn't just done administratively? How come it comes in front of the commission?

Ms. Suyama: Because it's a transfer of the permit from one to –

Ms. Freitas: Oh, because of the transfer part?

Ms. Suyama: Yeah.

Ms. Freitas: Oh, okay.

Mr. Hedani: Does the applicant have any comments? No comments? Questions?

Commissioner Iaconetti.

Mr. Iaconetti: I'm wondering about the amount of area that is included in this property, 14.85 acres. How much of this is actually being occupied by the applicant for their business and what's being done with the rest of the property?

Mr. Dias: I went on the property and it's about, like you said, 14 acres in size. I would say at the most they're using about two acres, but that includes, you know, the room for the two dwellings, the workshop, the antenna, and you know, whatever yard space they have. The other 12 acres is just either pasture type land, overgrown land or like forested area.

Mr. Hedani: And this is a permitted use for agricultural land?

Mr. Dias: Yeah.

Mr. Iaconetti: So do we permit the entire 14 plus acres for this process or just the area that's actually being used?

Mr. Hedani: It's actually a permit for the use.

Mr. Dias: Yeah, it's a special use permit.

Mr. Hedani: So it's a permit for the actual use on that property.

Mr. Iaconetti: So the whole 14 plus acres?

Mr. Hedani: Well, only for the facilities.

Mr. Dias: Yeah, just for the antenna and the –

Mr. Hedani: It's only for actual –it's approval of the use on the facility not necessarily changing zoning for that particular property.

Mr. Dias: Correct.

Mr. Hedani: Any other questions for either staff or the applicant?

Mr. Hiranaga: Mr. Chair?

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: A couple of questions. I assume notice was given to all neighboring property

owners regarding the extension?

Mr. Dias: Not with this time extension. Basically when the permit first came before the commission, you know, years ago, everybody was notified as normal. Basically, at that – you know, from then until now if anybody has a problem with it, you know, they're more than welcome to call the department and let us know. But no, there was no noticing for this time extension.

Mr. Hedani: Were there any complaints that were filed with the department?

Mr. Dias: No. No complaints.

Mr. Hiranaga: My other question is, I notice previously extensions were granted for single year, single year, three-year, five-year and then another five-year period. So I'm wondering what the justification is for a ten-year request.

Mr. Dias: Generally with all special use permits I think it's when you first come you get a year, after that you get either another year or two years and then three and then five and then ten. So it's sort of, you know, as you get more and more approvals then we start increasing them on the time you can operate.

Mr. Hedani: So it's standard policy?

Mr. Dias: Yeah, I would say so.

Mr. Hiranaga: I guess my concern, and I'm not sure if it's a major concern is that notice was not given to neighboring property owners because ownership may have changed in the last 15 years and also the length of period for the request 10 years is a long time. Those are my only concerns especially since the antenna is located pretty close to the boundary line with parcel 21. Just wanted to make sure that they're aware that a 10-year extension is being applied for because it is a long time.

Mr. Hedani: Commissioner Freitas.

Ms. Freitas: I guess I've always thought that those kinds of things are mostly complaint driven and so, if they don't have any, they just – in fact I thought at one time we were trying to keep them even out of this commission and we were trying to make all the extensions just be done administratively because it was too much time for the commission and everybody involved just for that. And so the judgement really was administratively that we felt and that's what we were trying to do is move them all into that area and out of this commission. And also for a longer length of time because it was just taking up too much space to keep doing it every year and every couple years. So I think we were actually

moving that, trying to make that longer, this commission.

Mr. Hedani: Additional questions?

Mr. Hiranaga: Question for staff I guess. What is the status for the antenna that was constructed near Rice Camp in Haiku. I know there was a contested case hearing regarding that about eight years ago. Is that antenna functioning?

Ms. Suyama: I'm not familiar with the application you're talking about. It's something that we would have to research.

Mr. Hiranaga: It was for a cell phone tower I believe.

Ms. Suyama: I don't believe that I remember of an application for a special use permit at Rice Camp. It could have been a variance application.

Mr. Hiranaga: Might of been. It ended up in a contested case hearing though if I recall.

Ms. Suyama: That's why I'm not familiar with any contested cases that were – that the planning commission had reviewed.

Mr. Hiranaga: Okay, thank you.

Mr. Hedani: Any other questions for either the applicant or staff? Any further discussion on the motion? Ready for the question?

**It was moved by Ms. Freitas, seconded by Ms. Amorin, then**

**VOTED: To Accept the Recommendation of Approval of the Transfer of the State Land Use Commission Special Use Permit From CHRISTOPHER BERNARD to REY T. PIROS and a 10-Year Time Extension on the Land Use Commission Special Use Permit (Assenting - S. Freitas, J. Amorin, K. Hiranaga, J. Guard, B. U'u, W. Iaconetti, P. Eason)  
(Excused - J. Starr)**

Mr. Hedani: Next item on the agenda, can we go back to Item 3? Or is the staff person present and accounted for now? Commissioner Iaconetti.

Mr. Iaconetti: Point of order, maybe I missed it but I don't recall who made the motion or if the motion was made for that last.

Ms. Freitas: I did. ...(inaudible)...

Mr. Hedani: It was Commissioner Freitas and Amarin, seconded by Amarin. Yeah.

Mr. Iaconetti: Really?

Ms. Freitas: Sorry.

Mr. Hedani: She didn't do it loudly.

Ms. Freitas: I didn't use my mike. I'm sorry.

Mr. Hedani: We can remake the motion if you like.

Mr. Iaconetti: That's all right. I don't recall the motion.

Ms. Freitas: Just the vote.

Mr. Hedani: Item C-3, Director.

- 3. MS. KATRINA JAKEWAY of SPA REJUVA & FITEXPRESS requesting an amendment to an existing Accessory Use Permit to operate a massage school at an existing Day Spa and Fitness Center in the B-R Business Resort District at the Fairway Shops in Kaanapali, 2580 Kekaa Drive, TMK: 4-4-008: 017, Lahaina, Island of Maui. (ACC 2005/0002) (D. Shupack) (Deferred from the February 13, 2007 meeting. Commissioners: Please bring your report with you.)**

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

Mr. Dan Shupack: Sorry for my tardiness. Thank you for taking me out of order.

He then presented the Maui Planning Department's Report.

Mr. Hedani: Questions for staff? Is the applicant here? Do they have a presentation?

Mr. Shupack: The applicant had a representative here and I was looking for her before I came down. I wasn't able to locate her. So I apologize. I can answer, I can do my best to answer any questions you have.

Mr. Hedani: Commissioner Iaconetti.



Mr. Iaconetti: I think this is a good addition to that area. My only question is, is the parking adequate for the students that will be going to this school?

Mr. Shupack: Yes, –

Mr. Iaconetti: It's gotten a lot more crowded recently because all of the shops seem to be occupied now.

Mr. Shupack: Yeah. That was one of our concerns as well and basically as I had mentioned just previously the massage school is going to be operating in the evenings, mostly in the evenings after 7:00 p.m. as well as on weekends. It's basically outside of the normal business hours of most of the businesses within the shopping center. The maximum class size would be about 12 students. We transmitted this to our Zoning Division to do a check on the existing parking lot and they determined that there was enough parking existing to accommodate this new use. And that was without taking into the consideration that the use is going to be kind of separate from the day spa because, you know, they're going to be doing it in off-hours. So ...(inaudible)... the count cumulatively.

Mr. Hedani: Okay, your recommendation?

Mr. Shupack presented the Recommendation.

Mr. Hedani: Okay, are there any members of the public that would like to offer testimony on this item? Is your representative here?

Mr. Shupack: Yeah, actually she just arrived, Ms. Patricia Crown is representing Ms. Katrina Jakeway if you have any additional questions.

Ms. Patricia Crown: I don't really have anything to offer. Perhaps I could answer questions if you had any?

Mr. Hedani: Any questions for the applicant? Commissioner Hiranaga.

Mr. Hiranaga: Has the lessee received approval for the change of use from the lessor?

Ms. Crown: I believe so, yes. We have a letter here that says that.

Mr. Hiranaga: I wanted clarification, this might be for the staff planner, on page 3, the second to the last paragraph, now you say, "although classes will be conducted during business hours on the weekends, spa and gym services will not be offered during that time." So are you saying the spa and gym services will not be open on the weekends?

Ms. Crown: The gym services would not because that's the area we'll be doing the classes in.

Mr. Hiranaga: So the gym's services would be offered on weekdays only?

Ms. Crown: Correct.

Mr. Hiranaga: Okay. And I guess the other question I had is the lessor aware that you'll be committing eight additional spaces?

Ms. Crown: Yes, that's already been addressed.

Mr. Hiranaga: Okay, all right, thank you.

Ms. Crown: Thank you, sir.

Mr. Hedani: Commissioner Freitas.

Ms. Freitas: I'd just like one more follow up on that please. And, all of the shops will be closed and only that one shop will have –

Ms. Crown: No, this is just our business. The rest of the shops in the shopping center will be –

Ms. Freitas: Oh, they're open during those hours too?

Ms. Crown: Yes, they are. This is just about our business itself.

Ms. Freitas: Yeah, okay. Got you now. Okay, thank you.

Mr. Hedani: Any other questions for the applicant? Thank you.

Ms. Crown: Thank you, sir.

Mr. Iaconetti: I move approval.

Ms. Freitas: Second.

Mr. Hedani: Motion for approval by Commissioner Iaconetti. Seconded by Commissioner Freitas. Discussion?

**It was moved by Mr. Iaconetti, seconded by Ms. Freitas, then**

**VOTED: To Accept the Recommendation of the Approval of the Amendment to an Existing Accessory Use Permit to Operate a Massage School at an Existing Day Spa and Fitness Center in the B-R Business Resort District.**  
**(Assenting - W. Iaconetti, S. Freitas, K. Hiranaga, J. Guard, B. U'u, J. Amorin, P. Eason)**  
**(Excused - J. Starr)**

Mr. Hedani: Carried. Thank you. Next item that we have is Item C-5.

- 5. OHANA HOTEL COMPANY, LLC requesting a Special Management Area Use Permit one-year time extension on the period to initiate construction on the Hana Ranch Store at the Hana Town Center, TMK: 1-3-006: 056, Hana, Island of Maui. (SM1 2004/0020) ( D. Dias)**

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

Mr. Danny Dias presented the Maui Planning Department's Report.

Mr. Hedani: Any questions from the commission for staff? Any questions for the applicant? Are there any members of the public that would like to offer testimony on this item at this point? Seeing none, the public testimony is closed. Recommendation.

Ms. Freitas: Move to approve.

Mr. Hedani: Motion to approve by Commissioner Freitas.

Ms. Eason: Second.

Mr. Hedani: Seconded by Commissioner Eason. Discussion?

Ms. Eason: I just want to make a comment.

Mr. Hedani: Commissioner Eason.

Ms. Eason: I am so glad this is going to happen because we need to have a bigger store in Hana. Hasegawas is in a old theater and Hana Store is really quite small. So this is going to be a welcomed building in Hana. So I'm looking forward to it. I'll let you know how it comes out.

Mr. Hedani: Any other discussion?

**It was moved by Ms. Freitas, seconded by Ms. Eason, then**

**VOTED: To Accept the Recommendation of Approval of the Special Management Area Use Permit One-Year Time Extension.  
(Assenting - S. Freitas, P. Eason, K. Hiranaga, J. Guard, B. U'u, J. Amorin, W. Iaconetti)  
(Excused - J. Starr)**

Mr. Hedani: Carried. Thank you. Next item that we have on the agenda is Item D-1, Settlement.

**D. SETTLEMENT**

- 1. Corporation counsel will present a settlement agreement with a recommendation for action by the Commission arising out of a contested case between MICHAEL BASKIN and the COUNTY OF MAUI PLANNING DEPARTMENT regarding Notices of Violation issued( V 2005/0033, V2005/ 0034, V 2005/0035) for alleged Special Management Area and Shoreline Setback infractions for properties situated at 21 Holo Place(TMK: 2-6-008: 021) and 27 Holo Place (TMK: 2-6008: 029), Paia, Island of Maui. (T. Abbott) (Deferred from the February 13, 2007 agenda. Commissioners please bring your report with you.)**

**\* An Executive Session may be called by the Commission in order discuss their duties, powers, and liabilities as it relates to the subject settlement agreement.**

Ms. Suyama: The Corporation Counsel will present a settlement agreement with a recommendation for action by the commission arising out of a contested case between Michael Baskin and the County of Maui, Planning Department regarding Notices of Violations issued for alleged SMA and Shoreline Setback infractions for properties located at 21 Holo Place and 27 Holo Place in Paia, Maui. And we have Jane Lovell, Deputy Corporation Counsel.

Ms. Jane Lovell: Good morning Chair and Members of the Commission. My name is Jane Lovell. I'm a Deputy Corporation Counsel here with the county.

I'd like to just give you some background that is in addition to the report that you received from the staff planner which is Thorne Abbott and in addition to the actual settlement agreement which you have before you. Under the Special Management Area Rules of this commission, and particularly 12-202-23 which deals with enforcement, under (d)(3) of that rule and I will read it to you. It says, "if the violator seeks a negotiated settlement with the

enforcement agency, but waives the right to a hearing, the enforcement agency in consultation with the Department and the Corporation Counsel may negotiate a settlement agreement with the landowner or if appropriate the violator that provides for cure of the violation, set any fine and inspection of the parcel by the enforcement agency and the department. The proposed settlement shall be forwarded to the commission for final action.”

There’s actually some disagreement within our department, the Department of the Corporation Counsel whether this particular settlement even needs to come before this commission for blessing by this commission. And that is because in this particular case with Mr. Baskin’s property, he did not waive a hearing. In fact, the matter, he requested a contested case hearing. A hearing officer was chosen, the matter went to contested case. We were pretty far the road of the contested case, we had exchanged legal briefs, we had exchanged trial exhibits, written witness testimony and so forth, and then we reached a negotiated settlement. And it was a negotiated settlement in which the property owner, Mr. Baskin did not admit any wrong, the Planning Department agreed not to impose a fine and to work with Mr. Baskin to allow him to cure the various issues that had come up in the notices of violations. But nonetheless Mr. Baskin offered to do a \$50,000.00 beach nourishment program and the Planning Department accepted that offer. That was written up into a settlement agreement. The appropriate line items were put into the county budget to handle his payment to the General Fund, then a request for this beach nourishment program and so forth.

Mr. Baskin has fully performed on everything he was supposed to do. He also worked out with the Planning Department all of the different outstanding permit issues including after the fact permits and so forth. So although, I am not entirely sure that this body needs to approve this settlement, nonetheless just in case you do, it is my request and recommendation that you do approve the settlement. I think I will also be working with some of my colleagues in Corp. Counsel to see if we can make the language of the rule a little more clear so that in the future we won’t have this question as to whether we need to come before this body for the settlement or not.

Mr. Hedani: Questions for counsel? Commissioner U’u.

Mr. U’u: Yeah, I have a few questions. This is stemming from an illegal procedure that was done by Mr. Baskin in that rock revetment, what was it?

Ms. Lovell: Well, again, the case ended before there was any finding as to whether anything illegal had happened or not, but the allegation was that Mr. Baskin had either moved or replaced rocks on his revetment that fronts the property.

Mr. U’u: Do we have photographs of that, of the beach it affected? Or we’re just making

a ruling blind?

Ms. Lovell: No, no, we fully investigated. We went to the scene and we, and when I say "we" I mean myself, Mr. Foley, the then Planning Director, Mr. Abbott, various other members of the department, I think Mr. Shinmoto was there or – no, Francis Cerizo was there. Also there was an environmental assessment that was provided by Mr. Baskin's consultant which also contained photographs and so forth. So the question was whether rocks were really sort of repositioned and made less likely to tip or fall or whether rocks were actually added to the wall. But we did do, I think quite an extensive investigation and in the end we reached this resolution. Also, you have in the report before you, the recommendation of the Planning Department that they felt that no environmental harm resulted.

Mr. U'u: So is he allowed to work on the revetment now?

Ms. Lovell: I believe that what he was able to do was, I can defer to Mr. Abbott who has all of the particulars but basically he had to come in for after the fact permits of various kinds.

Mr. U'u: Okay, so is he allowed to work on the wall?

Ms. Lovell: No, not to do any further work, no.

Mr. U'u: At all?

Ms. Lovell: No, he would have to come in for additional permits to do anything in addition.

Ms. U'u: So your conclusion is that they found he hadn't violated anything, but he's paying the \$50,000.00?

Ms. Lovell: Well, basically often times what happens in a settlement is there's an allegation. The allegation is denied but then the parties nonetheless reach a resolution and legally that's what's happened. It's kind of like, you know, if you're stopped for speeding and you get a ticket and you say, I didn't do it, but here I tell you what I'm going to pay the fine anyway.

Mr. Hedani: Are we extorting \$50,000.00 from Mr. Baskin at this point?

Ms. Lovell: Mr. Baskin has paid the \$50,000.00. The check was good. And it's in the bank. And that \$50,000.00 will go to beach nourishment in a location that is to be signed off by the department, chosen by the department.

Mr. Hedani: So it's not in front of his property?

Ms. Lovell: No, no, it's not in front of his property. Well, I guess it could be if that's where Planning wanted it, but we left it open so that Planning could do this program wherever the Coastal Zone Management people think is best and where it's most needed.

Mr. Hedani: Thorne, do you have any comments on this?

Mr. Thorne Abbott: Thank you Jane for basically doing all the work for me. I appreciate that. I should mention – the only comment I would add is that a bad thing, perhaps a process was not followed and a good thing is coming out of that which is beach nourishment somewhere on Maui. It will be chosen primarily by the Planning Department in consultation with Zoe Norcross from SeaGrant and I think that's a very novel innovative move that we're using these funds to do a good thing. Any future work that would be done on that revetment would require a permit from our department probably a variance that would be seen by this commission.

Mr. Hedani: Do you have any photographs of the alleged violation?

Mr. Abbott: As Jane mentioned, we've done a substantial amount of investigation of this  
–

Mr. Hedani: But nothing that you could present today?

Mr. Abbott: I believe so, and I'll defer to counsel for their comments.

Ms. Lovell: You know, I don't happen to have the photographs with me, but ...(inaudible-not speaking into the microphone.)...

Mr. Abbott: If you'll give me a moment I could present it.

Mr. Hedani: Okay.

Mr. Abbott: Any other questions you might have?

Mr. Hedani: Commissioner Freitas.

Ms. Freitas: Okay, I just want to get this right. So this guy did or didn't do something and you're going to fine – we fined him \$50,000.00, it's a line item and it's to be spent somewhere else on beach nourishment?

Ms. Lovell: Again, I note maybe this distinction may seem strange to someone who doesn't deal with these kind of negotiating settlements but the \$50,000.00 was not a fine. We brought notices of violation, they were contested and then when we were contesting in a

contested case with a hearing officer and so forth, we reached this resolution. So there is no fine per se but Mr. Baskin did agree that he would fund this beach nourishment program.

Mr. Hedani: Commissioner Freitas.

Ms. Freitas: Okay, so I used the wrong word. It's not a fine, all right, but whatever. So basically he was extracted \$50,000.00 and it was put in a line item and that money is to be spent on the beach somewhere else?

Ms. Lovell: Well, again, I would not use that choice of words. I would say that we negotiated an agreement and this is the agreement.

Mr. Hedani: We get the idea. Commissioner Iaconetti.

Mr. Iaconetti: I, too, am somewhat confused here. There was or was not a violation? Obviously there had to be something done that should not have been done or he would not have agreed to the \$50,000.00. But the thing that really bothers me is the item on the settlement page 4, right at the top, hotel privileges and for some reason, I am not quite clear on the people at Wailea Marriott Resort properties are getting a 10% –

Ms. Suyama: It's the wrong settlement agreement.

Mr. Iaconetti: Oh is it? I'm sorry.

Mr. Hedani: Other side of the island.

Mr. Abbott: That was last week, we'll get to that next commission meeting.

Mr. Hedani: Okay, any additional questions?

Mr. Abbott: I have the photographs if you'd like to review them.

Mr. Hedani: Any additional questions? If you could circulate that Thorne?

Mr. Abbott: The red x's indicate the alleged rocks that were moved.

Mr. Hedani: Was this the result of a complaint that was filed with the department?

Ms. Lovell: I believe there were complaints. The inspectors went out to look and there were a number of items that were originally made part of the notices of violation. But the other thing I guess I'd like to say is that in any situation like this there comes a time when



one party or the other, in this case both, decide to just stop fighting and try to fix the problem. And I think that's what occurred here and I think what came out of it as Thorne said was actually a novel and good solution which was beneficial to all. There was not the drain on the department's time and resources. There was not the drain on Mr. Baskin's time and his resources and the public is able to get this beach nourishment program. So we look at this as rather a novel but win-win situation.

Mr. Hedani: Commissioner Freitas.

Ms. Freitas: I'm looking at this photo and I want to say something about that, but I want to work back first. Wasn't the last thing you said that you're bringing it in front of us because it may or not have to be here.

Ms. Lovell: Yes, what I pointed out was that the rule requires this body to approve settlements when someone waives a hearing, negotiates a deal to directly with the director and then I think the thing is, the idea is, is that this body wants to have oversight so that secret backroom deals are not entered into. Here we were in the midst of a contested case, a hearing officer was appointed, the former Planning Director, Mr. Foley was a very personally and fully involved, and this settlement agreement was approved by Mr. Foley, by our department which ordinarily has the power to approve settlements and also by the hearings officer. So frankly at the time, I did not believe in my heart of hearts I'm not sure even to this day that we need to come before you, but I think it's best nonetheless to bring it to you and ask you to approve it because I'm wrong in the way I read that rule then there would be uncertainty in the future.

Ms. Freitas: Let me tell you about my uncertainty is your statement because the whole thing you said sounded like it was supposed to be here and I was here when we did that. Yes, settlement agreements are supposed to come in front of this body and then after you say all that then you come back and you go, "oh but, you know, you many not." You know what, you're Deputy Corporation Counsel, if you don't know who does? So I would respect if you did – wait, I want to ask one thing about this, and then what I don't understand is looking at the rocks that were removed or whatever they think happened, I can't understand one, it's kind of absurd to me, I can't even believe this that somebody would do this, have a problem with this, okay, but lets say they did, I don't understand why you just didn't make them fix the problem that you think he created. Why take \$50,000.00 and put it somewhere else? I know it's not a fine, but if it isn't then how can you possibly do that? If there's a problem that he did, why don't you fix that problem? Instead you take \$50,000.00 and put it somewhere else, I just don't get it. I don't get it all.

Ms. Lovell: No, I –

Mr. Hedani: The red x marks is the ones that's in question.

Mr. Guard: It's more than that.

Mr. Hedani: Are those the rocks that are purported to have been moved?

Ms. Lovell: Yes, I think they're circled.

Ms. Freitas: Little x's on the top of them.

Mr. Hedani: Okay, so you're seeking a nonapproval from this commission?

Ms. Lovell: No, I'm actually seeking approval and I also strongly suggest that in the future that I work with Mr. Giroux or whoever else is the appropriate person to try to make the wording of this particular rule a little more exact so that these uncertainties don't arise in the future.

Mr. Hedani: Commissioner U'u.

Mr. U'u: Yeah, the question or problem I have is, you know, that property looks – the property looks the same as it has in the last my lifetime. Adjacent to that property is our property, our family property and it is demolished possibly by that. There was an access road where we could go below our house, our family house, drive up to one imu pit. It is totally trashed. Our cottage or our old house is sitting pretty close to the cliff, but yet these guys pay a fine, fifty grand, keep their beautiful lawn and their yard and our house adjacent to this gets trashed and now you like put the \$50,000.00 somewhere else? You gotta be shitting me. Are you kidding me? Our property is taking a smash to these illegal revetments. We're losing land by the year.

Ms. Lovell: No, I understand.

Mr. U'u: I no think you understand honestly. In fact you haven't had a clue of what we're losing, clueless. You are clueless. I going just make that statement, clueless. Our land is being lost. We got all dirt. We losing our road. We the small guy in the picture. That's why I'm totally against these rock revetments because it's unfair to the adjacent neighbor who gets screwed.

Ms. Lovell: Actually this particular –

Mr. U'u: Fifty grand is peanuts.

Ms. Lovell: Well this particular NOV was not over the building of the revetment itself which occurred –

Mr. U'u: I understand that.

Ms. Lovell: In the '60's.

Mr. U'u: I understand that.

Mr. Hedani: Commissioner Freitas.

Ms. Freitas: But following that, I mean, this is so logical, I don't understand why you can't get it. If there's a problem created next door, again, what he just said, why put that \$50,000.00 somewhere else?

Ms. Lovell: Well, it's not my choice where it goes. The choice is up to the Planning Department with the consultation with the Coastal Zone Management people and particularly Zoe Norcross. I have nothing to do with where the project will be located. It's where the experts believe it's most needed.

Mr. Abbott: May I add?

Mr. Hedani: Thorne.

Mr. Abbott: Bruce, I understand your sentiments and concur with them entirely. I will say however, this is next to the Hongwanji out in Paia.

Mr. U'u: I exactly know where that it.

Mr. Abbott: I just wanted to make sure we're speaking about the same place.

Mr. U'u: I'm right next.

Mr. Abbott: Okay, the adjacent property is the Hongwanji and the beach –

Mr. U'u: No, the adjacent property at that point is ours. Here's the bay.

Mr. Abbott: Right, no you're further out on the point with the green roof.

Mr. U'u: The green roof?

Mr. Abbott: There's the revetment, then there's the Hongwanji.

Mr. U'u: Directly across, Kahului side.

Mr. Abbott: Then there's a ...(inaudible)... and you're over here. So the Hongwanji is between you and the cemetery.

Mr. U'u: Right, our property changed over the last 40 years incredibly. And this property remains the same. Nothing against Mr. Baskin. I mean, it was there prior to him, but I'm just saying, you know, we're getting the short end of the stick.

Mr. Abbott: I agree. The revetment was built in the '60's, the late '60's, early '70's.

Mr. Hedani: Commissioner Guard.

Mr. Guard: This is for Thorne. Are there other -- are you dealing with any of these negotiations anywhere else on the island? I guess the concern is for \$50,000.00 to not put that out to someone in Wailea, Makena to possibly do their own revetments to protect land somewhere else that on the properties that might be in the tens of millions of dollars the \$50,000.00 might not seem like --

Mr. Abbott: The settlement agreement is not so much in relation to, --

Mr. Guard: Anything else?

Mr. Abbott: An alleged I built a revetment. This is in relation to we didn't follow a process.

Mr. Guard: Okay.

Mr. Abbott: So if there's any perception on the commission's mind that someone paid something and got something out of it, i.e., a revetment, that's a very wrong perception.

Mr. Guard: Okay.

Mr. Abbott: What happened here is a process was not followed and because of that process, a settlement agreement was reached because we had already entered into a hearing process, and out of that settlement a good thing is happening which is a positive outcome on a beach somewhere in Maui.

Mr. Guard: So we're not dealing with this like on Front Street or anywhere else where I know people are -- have the same rock wall issues that we've had come up in front of us with water spiting out of the properties.

Mr. Abbott: This is in large part a process issue.

Mr. Hedani: How do you address the question of the adverse impact of the revetment to surrounding property?

Ms. Freitas: Exactly.

Mr. U'u: You don't.

Mr. Abbott: One moment please. There's something I'd like to clarify to the commission if I may? As Bruce knows there's a lot of history in this particular bay and this particular location. If someone has a revetment that is considered nonconforming. That is, it's built before we had our very innovative rules that this commission passed. They are allowed to repair that revetment. They can get a variance. They can get a permit. There's criteria for that approval. In this case, there's a likelihood that that alleged work could have been approved by this commission. The problem here is, the process wasn't followed. There's a failure in process. There's a failure in your opportunity to debate this upfront before the work was done. And so that is what the settlement is in relation to. That's the first thing I'll say. I think the second part of your question, if you'd repeat it?

Mr. Hedani: Well, the question was, in the case of revetments that are put up, how do you address the adverse impacts on the surrounding property?

Mr. Abbott: Well, --

Mr. Hedani: It's like saying if the process is followed and you're allowed to keep it, you are allowing the impact to continue to exist.

Mr. Abbott: I concur. If you're going to come in and build a revetment or seawall or something of that nature, then you'd evaluate through the shorelines setback variance process, you're required to have a draft EA and a final EA which you'll be reviewing for other projects and currently are, Haines seawall out in Sprecklesville. They did a draft EA. There was a lot of debate from this commission. The applicant has to respond to those concerns. An EA was never produced for a revetment built in 1967. We didn't have that before. If you have an existing nonconforming structure such as a seawall or revetment and you're doing minor alterations to that do not interrupt the transport of the sand, in this case it doesn't, the whole revetment may Bruce, I don't disagree with that, but this wasn't a whole revetment that was built. This was repairs to a nonconforming structure.

So the question is, did those alleged repairs interrupt sand transport? Look at the picture, it's way up top. No. Item 2, did it interrupt or prohibit public access? No, public access did not change that much to and along the shoreline. And 3, did it artificially fix the shoreline? No, because our shoreline is already artificially fixed. So because of those three criteria there are not "adverse impacts" from this alleged revetment repair and that's

why if it would have come to you as a commission, there's a possibility, a probability, even a likelihood that it would be approvable by this commission. However, that permitting process, the application process was never followed.

Mr. Hedani: Additional questions? Commissioner U'u.

Mr. U'u: Yeah, I agree with you if the alleged work, you know, remains the same adverse impacts that it had prior or during, but all in all it still does an overall impact.

Mr. Abbott: I completely agree, but that adverse impact is from the revetment itself. There's other mitigating circumstances and the revetment isn't on Mr. Baskin's property. It extends two or three or four properties. So it's the entire revetment that's having an adverse impact.

Mr. U'u: Since you're the expert Thorne, how much land was lost? What would be the annual – what would be the average of property kind of adjacent to that revetment? I know because you guys stated that Baldwin Park is the worst and we're in that area and I can tell you this that we have two cars that when I was young which was like yesterday, we had two cars that go up and down to kalua pig, now we got to go around the house now. Before we could go in the front house. Now that is just totally washed and what would be your estimate say in the last 50 years? What would be lost of –

Mr. Abbott: Well, first thank you for the compliment. I'm not the expert. I defer to Zoe Norcross for that. As you know that particular area – first off, you do have high erosion rates that's why you have a revetment. You wouldn't need that if you didn't have erosion rates that are very high. There was substantial sand mining in that area, not in front of Mr. Baskin's area but in front of that whole bay back in I think it was the turn of the century. That used to have a beautiful, we have old aerial photos from you know, the '40's where there was a huge, sandy, beautiful beach like Baldwin Beach and it's all gone. And it's all gone not just because someone built a revetment. It's all gone because of sand mining. It's all gone because of sea level rise and higher storm surge and because somebody built a big revetment and because the original revetment material probably came from the reef. So there's a lot of mitigating circumstances there.

What you're dealing with now is for this segment of this revetment, for the alleged additions at the top did they adversely beach processes and I think it would be arguable, it might be difficult to prove that they in fact –

Mr. U'u: I agree. We agreed on that.

Mr. Abbott: Had adverse impact. But the erosion rates there, I think are in the two and a half to three and a half, four-foot category. But now if you look at the historic data, you

know, it was actually – yeah ... (inaudible – changing of tape)... of the revetment. It is having an adverse effect on the Hongwanji's property. I agree. But that, you know, there's a lot of mitigating circumstances there Bruce, and how do we correct those?

Mr. Hedani: Commissioner Freitas.

Ms. Freitas: This is for Corporation Counsel. So we're supposed to, what they want us to do is approve the settlement, is that correct or comment on it?

Mr. Giroux: That's the recommendation from Corporation Counsel, from Litigation is asking you to approve this settlement.

Ms. Freitas: Okay, in that, because I don't like the whole thing. But let's say it goes. Okay, we approve it. Could we recommend that the \$50,000 be spent in the like the adjacent property or in the area? Could we add something like that to it or we either have to approve it or not?

Mr. Giroux: I think if you look at the wording of the rules it's not – it doesn't really have a clear answer for you. It just says, must be forwarded for final action. Meaning that I think there's anticipation that the people who are most intimate to the alleged violation are going to look at all of the factors that need to go into either getting a settlement or getting a "conviction." So the department, the Planning Department, the staff, the experts and then Corporation Counsel with their litigation experience are going to get together with the alleged violator and come up with something that is reasonable. And then they're going to present it to you for final action.

I think the cleanest way is, you know, if you don't like what they've negotiated, you can disapprove it, send it back and tell them to negotiate further. As far as right now, this settlement is something between the litigation and the alleged violator. So it's as far as you changing –

Ms. Freitas: So we either approve or disapprove. We can't comment?

Mr. Giroux: I think you can comment, but as far as you actually changing the settlement at this point I don't think it's a reasonable action.

Ms. Freitas: After it leaves here with let's say our comments, where does it go? Is it over?

Mr. Giroux: Well, it's going to go back to the parties and as far as my understanding is that they were in the middle of a contested case so they would have to pick up from there as far as going back probably to a prehearing conference and seeing do they want to further negotiate this and bring it back for your final action or do they want to continue and go

forward with a contested case.

Ms. Freitas; Okay, thank you.

Mr. Hedani: Counsel did you have additional comments?

Ms. Lovell: Well, just an additional comment. I mean, there are three things I think that could happen is if it's not approved by this body. One is there could be litigation over whether this body has the authority and obligation to approve or disapprove. There could be a lawsuit over whether the County breached the settlement agreement or we could go back to the contested case hearing. So there's a variety of things that could happen. I think if the commission has recommendations to the Planning Department of what they would like to see happen with this beach nourishment program, there's nothing at all that I can think of that would prevent the commission from making those comments or recommendations and that actually the Litigation Department of the Corporation Counsel has no say whatsoever over where that beach nourishment takes place. We're leaving that to the people who understands such matters better than we.

Mr. Hedani: Can you clarify for me what the status is of the contested case or why there is a contested case in this case?

Ms. Lovell: Well, there was a contested case originally because the land owner contested the violations and he wanted his right to a hearing.

Mr. Hedani: So you would not have a contested case if the settlement is reached?

Ms. Lovell: Exactly, well, we had a contested case but in the middle of it we reached this resolution.

Mr. Hedani: So it's moot at this point?

Ms. Lovell: Well, I suppose you if you disavowed or disagreed with the settlement and did not approve, one of the possibilities is that we could go back and finish the contested case, but that's not the only thing that might happen. I think there might be other litigation that could ensue if –

Mr. Hedani: If it is approved is there a need to complete the contested case?

Ms. Lovell: No, no, not at all then it's over and as I say, the money has already been paid. Mr. Baskin has done all of the extra permitting and the after the fact applications and so forth that he was required to do. All of the processes that the planning commission or the Planning Department asked of him he has followed through –



Mr. Hedani: So it's a done deal with the exception of being anointed by holy oil?

Ms. Lovell: And the experts deciding where this beach nourishment program will take place.

Mr. Hedani: Got it. Mr. Hiranaga, Commissioner Hiranaga.

Mr. Hiranaga: Just clarification. This settlement agreement is for the alleged repairs to the rock revetment and that there are other pending matters which are not covered by this settlement agreement is that correct?

Ms. Lovell: There were a number of items including there was an allegation that mature trees had been brought in which had required, you know, holes to be dug for the trees and that that should have triggered a special permitting process under the SMA to you know, at least an EA kind of thing. There was a concern about a small rock wall that was not fronting the ocean but that it was, you know, within the SMA and within the setback area. There was a question as to whether a certain part of the house had been built strictly according to the approved plans. But those other items which I think in the view of all the parties were not as serious as the issues with the revetment have been resolved by working with the land owner making sure that he got the appropriate permits and the appropriate oversight and that those now working cooperatively with the Planning Department, the planning people feel that he has come into compliance.

Mr. Hiranaga: So this is the only outstanding issue is the alleged repairs to the rock revetment?

Ms. Lovell: Well, at the time it was entered into these other items hadn't all been taken care of, but the parties agreed to work cooperatively together and in fact that has happened to everyone's satisfaction.

Mr. Hedani: Commissioner Iaconetti.

Mr. Iaconetti: There appears to be a lot of questions about the entire agreement and I'm wondering if we should not go into executive session and discuss this entire process with our legal aid over there.

Mr. Hedani: Pretty much discussed just about everything I think and shined the open light of day on everything.

Ms. Freitas: I'll second it.

Mr. Hedani: Commissioner Freitas.

Ms. Freitas: I'll second it.

Mr. Hedani: You'd like to go into executive session, is that a motion?

Mr. Iaconetti: It should be appropriate, yeah. I'll move.

Ms. Freitas: I have one more question, is Mr. Baskin here.

Mr. Hedani: Question is is Mr. Baskin here?

Ms. Lovell: Yes, he is, but his legal counsel is not here. So I would strongly suggest that if wanted to hear from him, he should have his lawyer present and I can call Mr. Mancini.

Ms. Freitas: No, just wanted to know if he was here. I wanted him to hear this.

Ms. Lovell: Yes, yes.

Ms. Freitas: Okay, that's all I wanted. Okay.

Mr. Hedani: Commissioner U'u.

Mr. U'u: Just a comment. I have faith in the Planning Department of where they're going to spend the fifty grand and Sea Grant specialist. I somewhat have faith. So I going put it in good faith and I trust you guys to spend the money wisely.

Mr. Abbott: Yes, and if I can speak to that Bruce and also your concern Suzanne. It's not a matter of whether we'd spend it on the adjacent beach or not, it's a matter of one – if the settlement agreement was reached and anointed and approved then we'd want to make sure that wherever we spend or allocate those funds that it's effective. You know, beach nourishment is not effective in every situation. You have to do a fair amount of background research and studies and just to arbitrarily pick a place and say, oh we're going to do it here, that's not really good science and it's not good management. So this leaves it open so Zoe basically can give us guidance and also you know, probably ...(inaudible)... and probably Chip would get involved in getting a place where this is truly going to be effective and we would be more than glad, you know, obviously we're going to share that with you, but we're also very open to taking invitations of places where you think something like this might work.

Ms. Freitas: Then I think by this hearing, they'll see the concern. You know, so as they're looking at these spaces they'll see what we were looking for.

Mr. Abbott: Yeah, yeah, thank you.

Mr. Hedani: Going back to Commission Iaconetti, would you like to make a motion to go into executive session?

Mr. Iaconetti: I thought I did.

Mr. Hedani: Motion by Commissioner Iaconetti, seconded by Commissioner Freitas to go into executive session. Is there any discussion?

Mr. Giroux: Oh, just a second. Just as far as discussion I think part of the motion should include that Corporation Counsel Litigation should also be included in the executive session because you are going to asking about your duties and responsibilities.

**It was moved by Mr. Iaconetti, seconded by Ms. Freitas, then**

**VOTED: To Go Into Executive Session.  
(Assenting – W. Iaconetti, S. Freitas, K. Hiranaga, J. Guard,  
B. U’u, J. Amorin, P. Eason)  
(Excused – J. Starr)**

Mr. Hedani: Carried. Can the public please be excused.

The commission went into executive session at 11:50 a.m., and was concluded at 12:16 p.m.

The meeting was reconvened at 12:17 p.m.

Mr. Hedani: Commission is back in session on the settlement agreement with Michael Baskin. Discussion? What’s your pleasure as far as the commission is concerned? Staff recommendation.

Mr. Abbott: The matter of the settlement agreement between Michael Baskin and the Planning Department, we recommend the commission approve the settlement agreement as presented.

Mr. Hedani: Commissioner U’u.

Mr. U’u: I’m just letting the people know I’m going to recuse myself from this. However, I would have voted yes.

Ms. Freitas: If Bruce is happy then I'm happy. Move to approve.

Mr. Hedani: Motion to approve by Commissioner Freitas.

Ms. Eason: Second.

Mr. Hedani: Seconded by Commissioner Eason. Discussion? From a discussion standpoint as a comment, my recommendation would be that the department take serious consideration to considering the effect that erosion has in this particular area as a zone and that serious consideration be given towards implementing beach nourishment if it's appropriate in that area in a manner that would attempt ameliorate the impacts of revetments in that zone. That's my personal comment.

Mr. Abbott: So noted Chair, thank you.

Mr. Hedani: Discussion? Ready for the question?

**It was moved by Ms. Freitas, seconded by Ms. Eason, then**

**VOTED: To Approve the Settlement Agreement as Presented.  
(Assenting – S. Freitas, P. Eason, K. Hiranaga, J. Guard,  
J. Amorin, W. Iaconetti)  
(Recused – B. U'u)  
(Excused – J. Starr)**

Mr. Hedani: Motion carried. Commissioner U'u has recused himself from that vote. Thank you.

Mr. Abbott: Thank you very, very much.

Mr. Hedani: Going to take a break at this point for lunch and reconvene at 1:15 p.m.

A recess was called at 12:19 p.m., and the meeting was reconvened at 1:19 p.m.

## **E. NEW BUSINESS**

- 1. WESTERN APARTMENT SUPPLY & MAINTENANCE COMPANY requesting comments on the Draft Environmental Assessment prepared in support of the Community Plan Amendment from Single Family Residential to H-M Hotel for the Maui Oceanfront Inn and Sarento's on the Beach Restaurant project at 2980 South Kihei Road, TMK: 3-9-004: 029 and 3-9-004: 149, Kihei, Island of Maui (EA 2006/00 (R. Loudermilk)**

**(The draft EA was circulated to the Maui Planning Commission at its February 13, 2007 meeting. Commissioners: Please bring the DEA with you.)**

**The EA trigger is the Community Plan Amendment. The Maui Planning Commission is the accepting authority for the EA.**

**The Planning Commission is being asked to:**

- a. Provide concurrence on the filing the Draft Environmental Assessment and the Anticipated Findings of No Significant Impact (FONSI) with OEQC for publication.**
- b. Provide comments on the draft Environmental Assessment.**

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

**The Commission may act on the requests for concurrence and comments**

Ms. Robyn Loudermilk: Good afternoon Commissioners. With me today is Chris Hart and Jordan Hart and Brett Davis from Chris Hart and Partners. I'll have them do the power point presentation to go over the proposed project and then after that I will follow up with some procedural matters in our report. So I'd like to turn it over to Jordan. Chris, excuse me.

Mr. Chris Hart: Thank you very much Robyn. I appreciate the opportunity. My name is Chris Hart, Chris Hart and Partners. This is a complicated project so we have a lot of people here today. We have a power point presentation for you and I'd like to see if we could get the lights and we'll go through that.

Our client is Western Supply and Maintenance Company and the subject is the Maui Ocean Front Inn and Sarento's Restaurant. Basically we're going to be doing today is the environmental assessment and it's in a context of an application for community plan amendment, conditional use permit, a special management area use permit, shoreline setback variance and off site parking approval.

The objective is to resolve all land use and permitting discrepancies for the Maui Ocean Front Inn and Sarento's Restaurant parcels which are parcel 29 and 149 in Kihei or Keawekapu area including the community plan amendment and then of course, the list of permits or the list of issues that we're discussing today.

The parcel is located in Keawekapu, this would be South Kihei Road. This would be Kilohana Drive. The parcel 29 is a portion of land that was actually leased by the State of Hawaii. Both parcels are actually owned by the State of Hawaii and the property was actually issued a building permit in 1973. It was one of those original hotel parcels that was developed by Walter Witte. Not Walter Ritte, Walter Witte. Okay. Right next door is another project that was developed by Walter Witte and the same situation. It's called Hale Hui Kai. Now these are older parcels.

The project was originally called the Outrigger Maui, and now it's the Maui Ocean Front Inn. And the restaurant used to be called Carelli's if you recall. Most recently that's what we remembered as and it became Sarento's.

Just a little bit of history. Because of the impacts of Carelli's which was a very popular restaurant the issue of providing parking was always a parking. There was a lawsuit filed by Hale Hui Kai and part of the settlement of the lawsuit was basically the opportunity to secure revocable permit from the State in order to develop some additional parking. But over the years there's been some inconsistencies that have evolved with regard to the project. Some of it has to do with issues that were – I feel beyond the control of the lessees of the land and the developers of the property. And some occurred just because of laws becoming more restrictive over time and so we're involved in a settlement agreement regarding those and we'll explain a bit of that.

As far as the flood insurance rate map is concerned, both parcels 29 and 149 are located in flood zone C and are in an area of minimal flood hazard.

This is a map actually showing the shoreline. This would be South Kihei Road. This would be parcel 29 and this would be parcel 149. Also, to the upper part of the drawing is the Mana Kai Maui Condominium project which you can see here and the Mana Kai Maui also has a lease over a portion of state land. State land actually runs – this parcel is a basically a state beach reserve that is pretty substantial in front of parcel 29 and also in front of parcel 149.

The areas that are identified in yellow are basic improvements that were done that require approval and they will be the subject for the approval of the special management area use permit which you will be considering at a later date. Together with the issue of having to pave the parking lot which an improvement that was applied for as a minor permit but we were advised that we should because of all these little issues that we should apply for a special management area use permit. So that's what we're doing.

This is the special management area so that you have a chance to see. This would be the ocean. This would be Piilani Highway and at the time the project was built, the Outrigger was built and the restaurant the special management area did not exist. It didn't actually

occur until 1976 or 77 in that time frame. So this was actually built, constructed actually in 1974. The building permits were issued in '73.

This is a site plan showing the project as it is today and this would be the landscape planting as it exists today together with the landscape planting that basically exists in the parking area which again is by revokable permit by from the Department of Land and Natural Resources. And this also shows again, the state beach reserve that is a state parcel that fronts the parcel 29 and 149.

These are some views of the site. We're using this as a key. So this would be where you would be standing, the view area would be according to the arrows. This would be standing on South Kihei Road looking at the entry.

The project was actually renovated back about a year – around 2000 and at that time, obviously it was built without a special management area permit and at that time, the – basically Great West– I'm sorry, Western Apartment Supply actually applied for an approval to essentially repair and maintain – repair maintenance or interior alterations to existing structures as an exempt action in the special management area. And of course at that time that was allowed and they were issued building permits to do the repairs. They've actually done quite a nice job. But you know, over time, obviously that changed and now the state, actually there's been an amendment to Chapter 205A that requires an SMA Assessment in terms of any repairs in order to determine that there wouldn't be cumulative effect or a significant environmental or ecological effect. And of course, in the context of work that was being done, there were violations filed that were beyond what was considered exempt and so therefore, we're in this situation that we're in today.

This is South Kihei Road basically looking north that would be toward parcel 149. This would be looking south from the entry at parcel 29. This is the sewage pump station. This is right at the intersection of Kilohana Drive that's looking toward Wailea. This is our entry looking west from South Kihei Road into the subject site. You can see the Sarento's Restaurant. Again, this is at Sarento's Restaurant.

The state land use map, state land use district boundary map identifies that the parcels are both located in the urban district, in the state urban district.

This is the actual map from the Kihei Civic Development Plan. This is the General Plan map of 1968, and it shows that the parcel 29 which is the parcel that we're – Maui Ocean Front Inn is located as well as Hale Hui Kai. We're identified as being in the Hotel District. And you can see the area that's to the north which would be the parking lot area, parcel 149 was located and proposed as park and the area where the Mana Kai is was also identified as hotel. And then the area going south toward Wailea was in the single family residential district or was proposed for single family residential.

This is the Maui County zoning map and it's essentially the 1969 map which shows that the parcel 29 is actually in the HM Hotel District and the area that's parcel 149 is in the Park District and of course, this would be Mana Kai which is HM Hotel. I might say that this was the Maui Ocean Front Inn and the Outrigger was developed as a two-story project whereas the Mana Kai of course, is actually eight stories.

A little bit of chronology again. The County of Maui issued various building permits for the construction of the hotel building and the restaurant building on parcel 29. This was back in 1973. There were approximately 96 rooms within six, two-story buildings. Under the County's Off Street Parking Ordinance, there were 47 paved parking stalls. The hotel standard at that time was one stall for every three rooms, there were 32 stalls. Restaurant standard was one stall for every 100 square feet of dining, there were 15 stalls. Of course, we did identify that the restaurant became popular and of course, the parking was not really adequate for the restaurant even though it meet the requirements of the ordinance.

Again, in January – a little bit of chronology, January 28, 1975, Walter Witte and John Fagan entered into sublease with Sunshine Hotels to operate the hotel facility on parcel 29. Then in 1977, Walter Witte and John Fagan entered into a lease with Maui Outrigger Restaurant for a restaurant and parking spaces on parcel 29. And then on February 28, 1978, the lease was assigned to another group called Island Investment, Limited. Then in July 1985, there was a change in the Kihei Community Plan which was formerly the Kihei Civic Development Plan which was adopted by the County of Maui, Parcel 29 was redesignated from hotel to single family. We're basically saying that we are not sure of the reason for the change basically the hotel and restaurant developed under the existing lease continued. The property was not rezoned by the County and remains subject to the HM Hotel District zoning provisions.

This is the Kihei-Makena Community Plan of 1998. So the 1985 plan identified this site as single family and also the Hale Hui Kai site is single family. And the 1998 plan continued to identify both sites as single family and again, they're zoned HM Hotel and they were basically developed in 1974. It identified again that this is parcel 149 which is in the Park District.

The community plan amendment for parcel 29 from single family residential to hotel, the change is consistent with the long established use of the property, Maui Ocean Front Inn and Sarento's Restaurant built in 1974 and the current HM Hotel District zoning in existence since 1969. It's important to have the consistency with the community plan in order to get approval of those special management area permit. The special management area permit that's necessary for some of the improvements that were done. So we have to go through that.

This is the certified shoreline boundary. And this shows the boundary and I might add that



prior to the amendment of the shoreline setback rules, this project was exempt from the shoreline setback requirements because there was an existing parcel that fronted the property, the state beach reserve which I'm pointing to here. And so the – basically the improvements that were made were – they were not consistent with the required 40-foot shoreline setback but that was the way the rules read at that time. Currently the rules read that there is no – that basically if there is a parcel that the shoreline has to be actually determined and certified and the setback for the erosion base and for the average lot depth have to be established and whichever the greater setback is the setback that you have to go with. And so the most mauka setback is the average lot depth setback. The one makai is the erosion rate setback. And so in the context of our application we have to request basically kind of an after-the-fact shoreline setback variance for the improvements that were actually constructed.

This gives you an idea of some of the other issues that have to be discussed as part of the SMA permit. It involves basically utility enclosure that was built in the parking lot and this is a refuge enclosure. Basically this is an access for the public to the beach that was built without an SMA permit. This is a ramp that was built, ADA ramp, and the stairway that was built. And also approval to pave the parking is the other issue, the other request that we're making.

Also in addition, the awning at Sarento's and Carelli's – actually at Carelli's at the time it evolved from a lanai with umbrellas over the tables to actually an awning and it's really – it is a fabric type of awning but it is really a roof. It's a real structure. So we need to get approval of that as well.

It is the intent of the application to satisfy the variance requirements for all existing structures for the purpose of avoiding future discrepancies. Now, there have been issues related to lot coverage and so on that have been subject of – setbacks that have been subject of a variance application as well as – but it's through the Board of Variances and Appeals. Sarento's on the Beach Restaurant – I pretty much went through all of those.

Also there were some concrete stepping stones that were put in that we have to basically get a part of our shoreline setback variance.

This is the access to the beach, where there stepping stones.

And this gives you an idea of the type of awning that exists. It is a fabric type of awning but it is definitely a structure. It's not umbrellas on tables anymore.

There's a shoreline setback variance again for the improvements within the current shoreline setback area including replacement of existing awning and other exterior and interior improvements to Sarento's Restaurant.

And this shows the project as it would be envisioned or as it really is including the paved parking.

A little bit of – as part of the process that's gone on with this project there was a settlement agreement executed between Western and also Tri-Star Restaurant which runs the Sarento's Restaurant. And this, Dana Naole Hall, Mr. Leslie Kululoio and the County of Maui to resolve pending issues relating to noncompliance with County requirements. The subject HRS 343 Environmental Assessment and related land uses applications are basically the result of the settlement agreement. Our firm was contracted to actually prepare the documentation so that all of this could get resolved once and for all.

June 13<sup>th</sup>, the general lease S4212 was assigned to Western Apartment Supply, this was in year 2000. Western undertakes interior renovation and exterior maintenance of the buildings. And again, the permits that were granted, building permits were based on the understanding that the work was exempt from the special management area permit process as a repair and maintenance of an existing project. And then December 1, 2000, the Board of Land and Natural Resources issues a revokable permit no. 7235 to Western to permit the parking lot.

Also as part of this there will be a conditional permit and this is to allow a parking lot on a portion of parcel 149 for public beach access use and commercial use by Maui Ocean Front Inn and Sarento's Restaurant within the Park District. In other words, it's not technically allowed in the Park District. Off site parking approval is a requirement to use a portion of the parking stalls situated on parcel 149 as commercial parking in conjunction with Maui Ocean Front Inn and Sarento's Restaurant on adjacent parcel 29.

Proposed action will not expand or change existing uses of the subject properties. The proposed action will result in a total of 82 parking stalls with 42 paved stalls which 51% that's in accordance with the lease agreement with the state for public beach access use. And 40 additional paved stalls, 49% for use by Maui Ocean Front Inn and Sarento's Restaurant as required by Section 2.5.1 of settlement agreement.

The public beach parking spaces will be distinguished from the Maui Ocean Front Inn and Sarento's Restaurant parking stalls by signage indicating parking for government beach reserve. On a daily basis, Maui Ocean Front Inn and Sarento's Restaurant staff will periodically observe the public beach parking to insure that parking stalls are not being used by MOSR patrons.

Functionally the beach use typically occurs during daylight hours. Sarento's Restaurant is open in the evening for dinner only. There's no lunchtime activities. Demand for guest parking for Maui Ocean Front Inn is lower during the midday due to offset peak use of Maui Ocean Front Inn and Sarento's Restaurant and public beach goers. It is expected that

adequate parking for public beach use and MOSR will be accommodated as it the current situation. I did indicate that the parking has been basically constructed although it was never paved and that is something that we want to get approved so it can be done as a part of the special management area permit application.

This gives you a sense – these are the utility enclosures that were built that were never – never got permits. I mean, special management area permits for.

This is the entry to the parcel 149 and the parking. You can see that the landscape planting has been done. It is gravel parking however. You get a sense of the parking and it is used by the public as well as by patrons of Sarento's and Maui Ocean Front Inn.

This is the entryway that was built as an access to the beach from the parking lot which again, is part of the application for the special management area permit. This is the ramp, ADA accessible ramp that was built. These are the stairs that were built connecting the two properties.

This is an interesting one. As part of the renovation, these are – was basically utility boxes that were hung on the side of the building. So Great Western decided that they wanted to improve the character. Of course, they didn't identify what the allowable setback is. So a portion of this actual enclosure is in the setback and it's a subject of a variance, of the variance application.

Again, these are the enclosure – this dumpster enclosure and this is the electrical utility enclosure.

In conclusion, the settlement agreement and approvals are – in order to resolve all land use and permitting discrepancies for Maui Ocean Front Inn and Sarento's Restaurant on parcel 29 and 149, in accordance with the settlement agreement entered into on November 25, 2005. Only proposed new construction, the only proposed new construction is the paving of the existing and in use gravel parking lot. MOSR parcel 29 has been a hotel and a restaurant use since 1974.

We respectfully request your comments on our draft EA and we thank you for your consideration. Thank you very much and you should all have a copy of the draft EA. It's a complicated project and when we got into it, as our firm got into it, I told the staff that is kind of like a masters degree program. It's got a little bit of every single issue that you could come up with as far as a land use problem that's supposed to be cured as part of this process. So anyway, we're available for any questions that you might have.

Mr. Hedani: Questions from the Commission? Commissioner Amarin.

Ms. Amarin: Thank you Chair. Chris, you know, the parking area that's to be paved, are the entry from that parking area into the hotel area or the restaurants, are they going to be as we saw or is that adequate your entry because I see some steps going up and then I did see the ramp area.

Mr. Hart: Yeah, there's stairs. Basically those two structures, the stairs and the ramp are basically designed to create connectivity to the parcel 29 which is the Maui Ocean Front Inn. There's also – there's public access to the ocean. In other words, there's public access along this pathway which exists currently. And there's also public access along this access to the ocean. So there's basically two accesses and then I indicated to you that this area is basically leased by Mana Kai Maui and so there's the opportunity to go, to basically get into the area from Mana Kai. There's also some parking that Mana Kai has that's farther north. This parking there will be much more formal than if you've been down there at the Mana Kai, you'll see a portion of it. It's gravel, as well that's mauka of their parking lot and they have – That's similar kind of a revokable permit that they have with the state. But this one would actually be paved and all of the stalls that toward the 42 stalls would be identified with signs for the public and we're also talking about actually painting a public kind of use sign on each one of the stalls on the surface so there won't be any misunderstanding. But I believe, you know, in terms of access to the ocean and from the point of view of the public that there will be sufficient access to the ocean. For those individuals that are guests, I don't think there will be very many guests of the hotel that would be using the parking here. But there could be some. Most of the individuals using the parking from parcel 29 will be valet guests of the Sarento's Restaurant. So they would basically take those cars over here and any access would be by the stairway and by the ramp, I'm sorry, by the stairway and by the ramp back to the parcel 20.

Ms. Amarin: Right that would seem like good options for valet and I know that area is awful when you try to get convenient parking, there's n such thing. And people, they park even across the street on the other side of Kihei Road, South Kihei Road, but – so you're saying that Mana Kai will be able to access also the parking?

Mr. Hart: I'm sure they could. Yeah, anybody that's going to be going to beach down there, all of that beach area, is basically – there's state land right along the edge of the beach so it's all public. And you know, the public parking that will be provided if people were you know, at Mana Kai – or they could park here and go down to Mana Kai, sure.

Ms. Amarin: That's great. You know, my compliments to providing beach goers some parking spaces there because I parked on that gravel area myself and to try to get to the restaurant, you know, that's a far distance.

Mr. Hart: It is.

Ms. Amarin: But you know, the valet service, it's a good option.

Mr. Hart: I would say probably 90% of the customers that come to the restaurant that come by car would have their car valeted and you know, – so they would basically – the valet would be bringing the cars over to this lot and then when they're ready to leave they would go and get the car and bring it back. But you know, there are people that walk to the restaurant in the area from other condominiums and so on.

Ms. Amarin: Right, absolutely. I was thinking the convenience of the guests staying there, you know, to be parking in that parking lot just having that one entry. I don't know if the ...(inaudible)... are accessible from that side, you know, for them to go through the lobby and getting into their rooms. I see a lot of inconvenience but at least the parking is there. So that is going to be a big plus for the area. Thank you.

Mr. Hedani: Other questions from the commission? There would be dedicated beach accesses from the parking lot to the beach?

Mr. Hart: Yes, well lets see. This is definitely all public, this portion right here. This would be open to the public as well. Whether or not – I'm not sure about this portion of it because where I think it might be on the leasehold property of parcel 29, but you know, I really can't – I know that this would be dedicated. It would be definitely available to the public but whether or not this part would be actually identified as a dedicated public access, I can't really say. I'm sure that that it could be worked out that way, but that's not necessarily what was intended.

Mr. Hedani: Okay, is there public pedestrian sidewalk improvements on the streetside?

Mr. Hart: That's a interesting point, no, there aren't. They're not there, are not. In other words, when the project itself was built again, there wasn't a requirement for curbs, gutters and sidewalks. There really aren't any in the area but there are not curbs, gutters and sidewalks fronting South Kihei Road on either parcel.

Mr. Hedani: And the proposal would be to pave all of the stalls and dedicate 51% of those stalls for public beach access parking?

Mr. Hart: Yes. That's, again, that's part of the lease agreement and also the settlement agreement.

Mr. Hedani: And signage would be placed along South Kihei Road to identify the public beach access?

Mr. Hart: Yes. Public beach parking.

Mr. Hedani: Public beach parking.

Mr. Hart: Yes.

Mr. Hedani: And access.

Mr. Hart: And access, yes.

Mr. Hedani: What is the area in dark brown? Is that just landscaping?

Mr. Hart: Yes, it is.

Mr. Hedani: That's the beach reserve?

Mr. Hart: It's part of the beach reserve. The beach – basically the beach reserve comes like this and comes along the edge of the property and comes down like that. It's actually an area that was in – that's in naupaka. And that was one of the issues that it involved with representatives like Dana Hall and Leslie Kululoio. We basically had to prune this naupaka back and so that I think we just identified that ...(inaudible)...

Mr. Hedani: I guess the only other question that I would have is how could property that was owned by the state get so screwed up over the years?

Mr. Hart: Well, that's kind of difficult to really understand. I'm really not sure. I mean, in looking at it from the point of view of the community plan for instance to take a hotel zoned property that was or two of them are actually developed for hotel use and to change the community plan to single family, I mean, that sounds kind of strange first of all. But you know, it happened and you know, we're not arguing with the fact that it happened and then of course, you know, an individual taking an old building and was really pretty dilapidated at the time Mr. Davis of Western Apartments basically was able to secure the lease and to take out building permits to repair it, and to be basically told that it was exempt from the SMA permit process. Which it was at that time. And it wasn't until 2002 or so that the SMA Assessment process was required. He basically did some things, you know, like for instance, the electrical and trash enclosures and built the gate for the public access. You know, things like that that were not – he did not have approval for. And then you know, Carelli's Restaurant as people looked through the file there were approvals for basically using that lanai as dining with umbrellas, but all of a sudden it has a roof, you know. That's what basically Western Apartment inherited from the prior lessee. It's just interesting how projects evolved. I don't think it's anybody's – well, there is fault but you know, I don't think it was – they're willing to rectify the problems and make it a good project.

Mr. Giroux: Chris, as an attorney I just have a quick question. As far as when you guys

were looking at the community plan, you know, that 1998 all of a sudden it's community planned single family?

Mr. Hart: Yes.

Mr. Giroux: Did you do any kind of legislative history or look at the CAC minutes or to see what was the thinking behind changing an already developed hotel property into a single family community plan. I mean it just seems so bizarre.

Mr. Hart: Well, we talked about it with the prior Planning Director. We talked about doing that. Actually it goes back to the Planning Directorship of John Min when he was Planning Director and you know, it was pretty much determined that it wasn't going to be able to be considered as a mistake, you know, by the County. And that therefore, the County should assume the responsibility of going through the process amending the community plan. It was pretty much determined that that wasn't going to happen. So we never did the research. But it would be interesting to do the research to see back in before the 1985 community plan was adopted, what was the thinking of the CAC.

Mr. Giroux: Yeah, because I mean we've seen similar situations come through and it just creates such a legal problem, I mean, as far as counseling, mitigation and then with the – having difficulties with SMA processing. And I mean, I know that, yeah looking at the minutes of those minutes, looking at the matrixes, looking at things that the Planning Department offered or even Council action. What happened at the Council level and what minutes came out of those meetings. If there was any discussion about was it a really conscious act to do something like that?

Mr. Hart: Well, as I say, you know, we were going to do that, but it was pretty much determined that the County, well, the Planning Department at the time wasn't going to initiate that process of amending the community plan. So, it was part of this ongoing discussion of an appropriate settlement agreement. And that negotiation went on for several years with the parties. So finally, you know, it was just we just said we'll go through the process of filing the EA and actually applying for the community plan amendment. But it would be interesting to go back and do the research. It would be time consuming.

Mr. Giroux: Yeah, because I think it's going to have to be done. I mean, even because you are asking for a community plan amendment and that would be part of the argument that it's appropriately or inappropriately currently community plan.

Mr. Hart: The one that I think is important and I don't know what the circumstances are but the, what's it called, right next door, I can't remember it, Hale Hui Kai, that also is single family. You know, so I'm not sure whether they've applied or they're going to apply. There was some dialogue between Western Apartments and the management but there was no,

you know, desire to kind of participate.

Mr. Hedani: Is it your conjecture that that was mapping error that was done sloppily back in 1998?

Mr. Hart: I don't want to say – Yeah, I think it was an error personally, but you know, it happens. You know, it's happened before and it can happen again. If you go back to the community plan map, if you look at it, you know all of this area to the south is single family. It doesn't seem illogical that somehow that whole block could have been identified.

Mr. Hedani: And I think it was probably done at a time when you didn't have like aerial photographs and satellite photographs that you could work off or geographic information systems.

Mr. Hart: This is what the old one looked like. It's pretty clear. That's the 1968 General Plan.

Mr. Hedani: That's actually a lot more accurate than the one that was done subsequent to that.

Mr. Hart: So anyway, you know, we went through that and I kind of feel in my own personal opinion is that it was a mapping error, but that's okay. I mean, we're willing to go through with everything else involved and make it all right finally.

Mr. Hedani: Any other questions from the commission? Did the settlement agreement involve payment of attorney's fees to the people that were filing the complaint?

Mr. Hart: No, there aren't any attorney's fees mentioned, no. But there are attorneys on both sides.

Mr. Hedani: Right, but there was no compensation to the complaining party?

Mr. Hart: No, not that I'm aware of.

Mr. Hedani: Any other questions? Are there any members of the public that would like to offer testimony on this item? Seeing none, the public testimony portion is closed. Staff.

Ms. Loudermilk presented the Recommendation.

Mr. Hedani: Questions from the Commission? So what you're asking for at this point is an acceptance of the EA and comments? Filing of the EA?



Ms. Loudermilk: Concurrence with the filing of the draft EA with the anticipated FONSI is one action and the second action would be if there's any – we had some questions, but if there's any formal comments that the commission would like to provide to the applicant for them to respond to and be part of the final EA document that would come back before this commission.

Mr. Hedani: How many hurdles do they have to go through between now and when even everything is determined? This is just one step out of many at this point?

Ms. Loudermilk: Yes, this is one step out of many.

Mr. Hedani: Right.

Ms. Loudermilk: And regarding the comments would be if there are any pieces of information that members feel should be included or explored for inclusion into the next – the final document, the predraft final that will come back before you, for final acceptance.

Mr. Hedani: Commissioner Freitas.

Ms. Freitas: Oh, I was just going to make a motion.

Mr. Hedani: Go ahead.

Ms. Freitas: Okay, I so just move to concur so we can, –

Ms. Loudermilk: Concur with the department's proposed determination of EA FONSI.

Ms. Freitas: Okay.

Ms. Loudermilk: Okay.

Mr. Hedani: Okay, so there's a motion to concur with the filing of the EA with an anticipated FONSI.

Mr. U'u: I'll second that.

Mr. Hedani: Seconded by Commissioner U'u. Discussion?

Mr. U'u: Discussion. One discussion to follow up if you may on the things brought up earlier.

Mr. Hedani: Right. Do research on the notes and the matrixes of the community plan.

Ms. Loudermilk: The department will work with the applicant to find out how we got to the situation that we are in.

Mr. Hedani: Another question that I would have is on the – when you pave the entire parking lot how is the drainage on that parking lot going to be handled? Is it going to be retained on site and filtered and all that stuff.

Ms. Loudermilk: Yeah, it would be on site retention with oil/water separators.

Mr. Hedani: Right.

Ms. Loudermilk: So just, would you want further clarification or is that just comments?

Mr. Hedani: If that is the answer then that's sufficient for my purposes.

Ms. Loudermilk: That's what they're going to do.

Mr. Hedani: Right. Okay. Any other comments on the draft EA from the commission?

Ms. Amorin: Yeah, I have.

Mr. Hedani: Commissioner Amorin.

Ms. Amorin: Thank you Chair. Just trying to get my thoughts together. You know, I've been listening to a lot of the setback, the violations that's in the setback, the utility sheds is it properly contained. Maybe for, you know, it has a good covering but safety is important, very important and also the awning that's out in the restaurant back area is it proper? How far in the setback is it? I understand what I heard that it's going to be replaced. Is there a consideration to put back the umbrella type style in the back there rather than to be in violation with the awning back there. How many feet is that?

Ms. Loudermilk: Okay so the clarification on the – how the existing and proposed improvements how they meet the current code requirements in terms of safety. Okay.

Mr. Hedani: Deputy has a comment.

Ms. Suyama: Yeah, I just have one more. Because of the closeness of the improvements to the public beach right of way or the beach reserve, the draft EA should address how do you maintain public use of the public spaces because I remember several years ago there were complaints about Sarento's using that as their private lawn and the public was basically – had the idea that it was no longer public space but private.

Mr. Hedani: So they could address that through signage or –

Ms. Loudermilk: How to maintain the public –

Ms. Suyama: The public beach reserve as for public use.

Ms. Loudermilk: Beach reserve.

Mr. Hedani: Chris, do you want to comment on that?

Mr. Hart: Yes, we agree that that's been a problem in the past and as a result, there is essentially a wall that was put up and on the wall it says, "to the public please enjoy the lawn," or something to that effect. But we can definitely – it would be through signage that we would do that and the idea was that the wall was intended to restrict the customers of Sarento's and from the hotel not to just filter out onto the grass, that they would basically have to go around to go down to the beach.

Ms. Suyama: Right. Maybe some public signage that say that this is public lands for public purposes.

Mr. Hart: Sure.

Mr. Hedani: Or identifying it as a public beach reserve.

Mr. Hart: Yes. Okay.

Mr. Hedani: Any other comments from the commission? Are there provisions for showers, public showers at this point?

Ms. Loudermilk: Not on these properties. I believe in the beach reserve area there is an existing shower.

Mr. Hedani: There is an existing show?

Ms. Loudermilk: Yeah, there's an existing shower. I believe so, yeah. It's in the state beach reserve between –

Mr. Hedani: So perhaps signage on that would be appropriate too so people can understand that they're welcome to use the showers.

Ms. Loudermilk: So in terms of general comments, I'm hearing several things.

Mr. Hedani: Identification of the public beach reserve areas.

Ms. Loudermilk: Beach reserve areas.

Mr. Hedani: For public beach use.

Ms. Loudermilk: Public beach use. Adequately identifying the public access and the public parking portion on the property and then in terms of the existing structures and proposed development insure that they meet the current health and safety codes associated with the project.

Mr. Hedani: And I think to some degree inspection to make sure that there's no signs that read otherwise.

Ms. Loudermilk: Sure.

Mr. Hedani: You know, the opposite, like keep out, no trespassing, private property. Commissioner Amarin.

Ms. Amarin: Thank you Chair. And one more big concern is the parking area properly lighted because of that area, you know, being so far making sure. And I'm sure Chris will oversee all of that, but that's so important. Thank you.

Mr. Hedani: Any further discussion? Any further comments? So the state is in the hotel and restaurant business at this point?

Ms. Loudermilk: Yes, as of 1974. Oh no before, excuse, early '70's. Because it was built before the shoreline setback law was passed by the legislature, the SMA law and the CZM in the late '70's.

Mr. Hedani: Are there any plans on the state's part to improve the public park lands that's designated in the community plan?

Ms. Loudermilk: Unclear but they will be one of the commenting agencies. They are one of the commenting agencies and I can do a follow up call depending on what their response is for that. I do know the Maui Land Agent well so he could tell us yes or no upfront on that.

Mr. Hedani: Commissioner Freitas.

Ms. Freitas: Do you know if this was taxed as single family or hotel?

Ms. Loudermilk: I have no idea.

Mr. Hedani: Any other comments?

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

**VOTED: To Accept the Department's Recommendation of the Commission's Concurrence with the Draft Environmental Assessment and Anticipated Finding of No Significant Impact Determination and to Address Comments from the Commission. (Assenting - S. Freitas, B. U'u, K. Hiranaga, J. Guard, J. Amarin, W. Iaconetti, P. Eason) (Excused - J. Starr)**

Mr. Hedani: Carried. Thank you.

#### **F. UNFINISHED BUSINESS**

- 1. MR. JEFFREY S. HUNT, Planning Director, transmitting Council Resolution No. 06-131 containing A Bill for an Ordinance Amending Chapter 19.04, Maui County Code, Pertaining to General Provisions and Definitions, and Chapter 19.36 Pertaining to Off-Street Parking and Loading. The purpose of the draft bill is to establish new definitions and standards for residential uses within a single project, in the Village Mixed Use District as allowed in a Project District, the B-2 Community Business District, the B-3 Central Business District, and the B-CT Country Town Business District. (J. Alueta) (Deferred at the February 13, 2007 meeting.)**

Mr. Joe Alueta: The copy I just passed out is just a cleaned up copy from the changes that we discussed at the last meeting. So all I did was add in the verbiage that I verbally told you about and those changes were one, putting in under shopping centers, residential mixed use developments shall not be assessed as a shopping center. Second, the other one was putting back in the loading spaces, the requirement for loading spaces and I added that as a new section, 19.36.160 as I talked to you about. And then also to clarify under 19.36.130 parking reduction waiver, to be clear on No. A2, commercial or residential mixed use facilities. So I wanted to – those are just the – I believe there were only three changed that we talked about verbally and then that's all I added in.

But when we last left you at the last meeting, the discussion over the changes I guess in the discussions were one again, that this is an attempt to stick some type of neotraditional

town planning, the concepts, encouraging those concepts by having the option of the director waiving or reducing the parking requirement up to 30% based on an analysis and we outlined the points that a typical planner will go to in assessing a commercial project or any type of project for parking.

We also talked about over parking. People developing excess parking stalls well in above the requirement. My classic example was the Home Depot site. We talked about that. We also added provision that allows for temporary or special event parking. As you know, some of the times we've – this commission itself has conditioned or required large construction projects to provide some sort of off site parking area temporarily for their employees so that it minimizes the impact on most likely beach parking or beach access parking stalls.

And when we deferred, you deferred on this item, the issue that you wanted to go over I guess today was one, have more time to read it so you thoroughly understand it and two, to bring up the discussion of compact stalls. At the time, you remember the department doesn't have a position. It was one of those four items that the Council asked you to specifically look at. They didn't necessarily provide much guidance. They just wanted you to discuss it. So if you look at my staff report it talks about I believe they talk about stacked parking. I showed you some pictures of those. Landscaping, which I addressed also in the staff report. Compact stalls. So that's kind of where we're at. Questions?

Mr. Hedani: Questions from the Commission? Commissioner Amarin.

Ms. Amarin: Thank you Chair. I just wanted to share my comments because I was just thinking on the matter of being on the road, going to the shopping center and trying to park. Compact parking, I think in most places that you shouldn't have compact parking. Because I have a big car and I'm desperate to get into that store I'm going to squeeze my big car in there. But, to no fault of somebody else who's parking next to me, the space, there's a lot of dents. You need a lot of Dent Doctors in town. But I don't believe in compact parking for that reason. And trying to get – could you tell me the specifics as far as a standard size parking versus the compact space parking?

Mr. Hedani: Is it 10 feet by 20 feet versus 8 feet?

Mr. Alueta: It's about six inches. It's 7'6" and 8'.

Mr. Hedani: 7'6" and 8'?

Mr. Alueta: Correct. Compact stalls shall be at least 7'6" wide and 16 feet in length. I think it's 8' and 18' long.

Mr. Hedani: 8' and 18'?

Mr. Alueta: Yeah, I'm trying to find the exact because we did amend that.

Mr. Hedani: And the Costco standard is 10' x 20'?

Mr. Alueta: No, I don't think it's that wide. I think their stalls because they use that "U" island or painted island. I think they added about one foot for every two. So six inches on each side in addition. So one foot total.

Ms. Amarin: Actually two feet.

Mr. Alueta: Oh, you measured it?

Ms. Amarin: Yeah.

Mr. Alueta: Okay, I didn't measure it.

Ms. Amarin: So each stall you have an extra 12 inches on each side because that "U" as you're saying is approximate two feet on each side.

Mr. Alueta: But you got to understand that's –

Ms. Amarin: On each side.

Mr. Alueta: Yeah, but it's for the stall on the other side also. So you have to half it.

Ms. Amarin: Right. But there's two feet so you got one foot on each side.

Mr. Hedani: Any other comments from the commission? Discussion or questions? Joe, you know when we're considering this particular ordinance when you talk about off street parking, you're talking about the requirements on private property pretty much, right?

Mr. Alueta: Yes. And public institutions also.

Mr. Hedani: Right.

Mr. Alueta: We're not talking about the street parking.

Mr. Hedani: Not talking about street parking?

Mr. Alueta: Correct.

Mr. Hedani: Okay. My personal opinion on something like that would be generally speaking, I think the market place probably does a better job than government in terms of identifying what their parking needs might be and in responding to it as opposed to government saying thou shalt and coming up with a standard that doesn't work for everyone. That's my personal opinion.

Mr. Alueta: As far as compact stalls or in general?

Mr. Hedani: As far as all stalls. Like the Costco or the, you know, the Home Depot, Lowes type of situations where they double the amount of parking stalls that are actually available to the customers as opposed to what's required by law.

Ms. Suyama: I do have a comment though. Because we worked in our officer a lot with dealing with people with parking spaces and landscaping, you need at least a minimum dimension because when people are tight with the amount of stalls they need, they kind of cheat and instead of the eight feet, they kind of cheat like seven feet. I mean, especially if you look at some public parking lots the way they do their stalls, basically it's not really a stall that they want counted. So I think you have to at least have a minimum criteria.

Mr. Hedani: I do personally think that landscaping requirements within parking lots are important. You know, from the standpoint of softening the appearance of the parking lot buffering it from view from surrounding properties and making it a little bit more civilized for everybody when it comes to aesthetics of a parking lot. And I think from the standpoint of regulation that the County needs to get deeply involved in it from the perspective of requiring certain stalls for things like public beach access parking for properties that abut the shoreline which is not something that they're going to give you voluntarily. So you need to require it. Commissioner Guard.

Mr. Guard: Thank you. Because a lot of this is also trying to limit the size of large parking lots as well, right? I mean, I guess it's twofold on a minimum amount of stalls but also to minimize just the – yeah, masses of asphalt out there. So I guess it's a happy medium for us to say we want a minimum size and number of stalls versus possibly the larger overflow grass area for parking. And even in the residential mixed use if that might be available to set aside little swaths of land that can just remain grassed, that if you don't need it in a residential mixed use, it's a great - it could become a park but if we need to absorb it for some temporary night time parking it's there instead of a parking nightmare in all these towns.

Mr. Alueta: Right. I think that, you know, it's like the initial parking standards as I said they came straight out of like an IT book. And so we have a pretty good idea. And then the reason that we went with the 30% is that that's pretty standard in developed residential areas or areas that have a residential commercial mix that they do see a reduction in the



need for parking of up to about 30% where you have a large residential population within near or incorporated within commercial complexes and that's where that number comes from. So it's not like – you know, that's why we're not pulling this out. These came from actual studies, not nationwide studies and that's where the probably – and like I say, the initial parking standards came from was straight out of a national IT book. You know, for transportation. I think – and what we're trying to do is we're trying to say hey, we have this concept of neotraditional town planning. We want to encourage those types of developments. We also think residential – people should look at building more residences. And if they build it within the commercial complex, great. And I think that's what we're trying to encourage. And so we're trying to tell the developer, hey if you do a residential mixed use development, we're going to recognize your effort and we're not going to have you – we're not going to have the same parking requirement that would normally apply if it was just, here's the use, here's your number of stalls. We want to say, hey, you do a residential mixed use in a commercial complex, we're going to give an option to reduce that because that's going to help everybody. It's going to reduce the amount of paved surface for everyone and we're going to reduce the cost for the developer ultimately in not only maintenance, but also just the initial construction of that parking.

Mr. Hedani: Any other comments from the commission? Commissioner Iaconetti.

Mr. Iaconetti: This may be a way out one, but is there any consideration for requiring valet parking for some of the larger establishments, larger parking areas?

Mr. Alueta: No, that was never given a thought as far as requirement. Once again, why the department struggled with the compact stall side and you know, the enforcement, there was the issue of enforcement the other thing, is one, like I say, we do believe that the private sector and the people who own these parking lots are going to take ownership in them and if they have a problem where people who are using two compact stalls to park their SUV then the owners of those stalls – I mean, the owners of that shopping complex is going to get irrate and he's either going to start towing those cars or you know, people who have to park next to them will swing their door a little harder when they get out. That's how people – I mean, I think that's the regulation and also it's like, where you have a high turnover of work, stalls are a premium, you see that where people are taking the initiative to do valet parking. I've seen it in shopping centers on mainland especially during Christmas season where you know, you want to keep that high turnover of parking stalls. I mean, so it's a creative thing but we're not going to put it as a regulation. I think if a large landowner, large commercial complexes if they want to take the initiative fine, that's their prerogative, but we're not going to create some kind of mandate in this ordinance. ... (inaudible) ... we did not look at it.

Mr. Hedani: Any other comments from the commission? Commissioner Amorin.

Ms. Amarin: No, just a lead off from what you had just made comment to about valet parking and on the mainland, but it's in Honolulu. You can go into shopping complexes and they do have valet service. Of course, they take the first, second and third rows and then you have to park way up there, you know, the public, but it's in use. There's pros and there's cons to everything, but I'd just thought I'd share. Thanks.

Mr. Alueta: Yeah, at Pearlridge. I saw that at Pearlridge they were doing it.

Ms. Amarin: It's at Ward Warehouse, all those areas.

Mr. Hedani: Maui Memorial Hospital has valet parking.

Mr. Alueta: And as indicated, no one had to tell them that. They chose to do it on their own because they felt it was need to service their customers better. And so it's not like a requirement.

Mr. Hedani: Commissioner Guard.

Mr. Guard: On the compact Joe, was that a change, the 25% for compact, 19-36-011(b), it may not exceed 25% of the total number of stalls. Was that a reduction or? Because it goes both ways. Not only large cars parking in compact, but the small cars parking in the normal stalls and only leave that out. So –

Mr. Alueta: No, none of the things you see -

Mr. Guard: Those are all the same.

Mr. Alueta: That is correct. We did not touch 19-36-110 and I like say, where you have hotels, restaurants or large – not to exceed 50% and other uses up to 25%.

Mr. Guard: So with the hotels being, that's some of the cars people rent are more compacts.

Mr. Alueta: I'm assuming so. I'm not going to tell you I know for sure but that has a little more, that's some of the logic to it. Like I said, we didn't feel comfortable enough. It didn't come up as an issue with the department. And like I say, there wasn't much guidance I guess from the Council as to what they were looking for from us as to whether they should eliminate it. We just felt that we don't have enough information or know enough about it to say, yeah lets do away with it.

Ms. Suyama: Just for some background information. Originally when the parking ordinance was first adopted, it was 25% compact stalls. And several years ago because of the rental

car industry where a lot of people were renting compact cars, you know, the visitors, people noticed that the hotels and shopping centers, certain areas there were predominantly compacts than regular sized cars. So they made the provision to change it to 50%.

Mr. Hedani: My only other comment that I would have on the question of stacked vehicles with the equipment you know, that was displayed for stacking of vehicles was that I thought it was an aesthetic nightmare. And that to me, it just looked like a very cheap way to do multi-deck parking without the multi-deck. I wouldn't object to something like that if it was totally screened from view and it was handled in a way that, you know, you had an attendant or a valet system which you're going to absolutely need for something like that. But if you were to permit something like that it shouldn't be something that you would punish the public by having to look at so it should be completely screened from view.

Mr. Alueta: Okay.

Mr. Hedani: And I think if you're looking at regulations that deal with multi-deck parking structures, consideration should be given to, and I'm not sure if this goes to building codes, but to ensure that the lights from the vehicles don't impose on surrounding properties in deck structures or even on regular on grade surfaces and that they be screened from light pollution to surrounding properties as well as noise pollution to surrounding properties through the design of good parking lots that don't have tires squealing all the time when they're going up and down the ramps and things like that to make everybody crazy through all hours of the night.

Mr. Alueta: Okay.

Mr. Hedani: Those are just my personal observations. Commissioner Freitas.

Ms. Freitas: Speaking of that stacked parking, weren't you going to find out if those folks that already have that stacked parking going were supposed to have some covering going?

Mr. Alueta: I'm sorry, I did not check on that. I did not – whether or not the landscaping.

Ms. Freitas: I'm only here for two more times Joe. Come on.

Ms. Suyama: I don't think it required an permitting because it's not in the special district. It's outside of the SMA area.

Ms. Freitas: So are they the only ones on the island that are doing that right now?

Mr. Alueta: Yes.

Ms. Suyama: I think they are. I haven't seen any.

Ms. Freitas: Okay, so how did they even know if they needed one or not if nobody ever did it before? You mean, you can just go and put that anywhere?

Ms. Suyama: I believe it is to store the vehicles that they are selling versus it's a public – you know it's a parking lot for customers.

Mr. Hedani: This is Island Honda you're talking about.

Ms. Freitas: Yeah but –

Ms. Suyama: And because the way the parking ordinance is written, we only deal with required parking. In other words, parking that's required for the business but not the storage of parking that's associated with, you know, car dealerships.

Mr. Hedani: Commissioner Freitas.

Ms. Freitas: So, for them to put that up there they didn't have to get any kind of permits or anything?

Ms. Suyama: They may have to have gotten just from the Public Works, a building permit, that's about it.

Ms. Freitas: And the building permit wouldn't have anything – because I've seen building permits and they do have where you have to, you know, shield or you know, put green up or something, you have to fence it.

Mr. Alueta: Well, it is fenced. There was an existing fence that's still there, the chainlink fence.

Ms. Freitas: Yeah I know, but –

Mr. Alueta: But as far as the installation it is outside of the special management area and because as indicated by our deputy director, it's not required parking so the requirement for landscaping, buffer zones is difficult for us to try to get enforced.

Ms. Suyama: We try to have people do it but it's more voluntary when it's not a required parking lot.

Ms. Freitas: Well, my goodness.

Mr. Alueta: That's one of the changes.

Ms. Suyama: That's one of the changes we've proposed is that you take out the –

Ms. Freitas: Yeah, because that doesn't show very well for that company. You know, when you know that they would do something like that voluntarily.

Mr. Hedani: Any other comments? I thought it was admirable that the department took it upon itself to try to rewrite the ordinance rather than just try to tinker with it because it made everything much more understandable.

Mr. Alueta: Thank you.

Mr. Hedani: Commissioner Amarin.

Ms. Amarin: You know, I always believe in a standard and again, I was just using a scenario I don't park a big vehicle in a compact parking space, I don't do that, but I've seen so many people that do and I feel that when there's a lot of public parking in a large area you should have a standard there because there's a lot of people going to utilize the merchants and everybody else there. It makes better sense to me if it's a smaller private owned parking area because of the land area that need to utilize. Let them have more control over the space size. I don't say that it has to be large spaces, but I think you should work on having a standard.

Mr. Hedani: Are you requesting that the commission approve the draft that you came up with or what are you looking for at this point Joe?

Mr. Alueta: Yeah, at this point, one, we're looking at –

Mr. Hedani: Support of the draft?

Mr. Alueta: Support of the department's proposed changes as opposed to the Council's.

Mr. Hedani: So that would be to support the department's rewrite of the draft ordinance and recommend approval of that to the Council?

Mr. Alueta: Correct. As well as, your specific comments that I have on the – I guess the four specific issues which was one, the landscaping which I think we addressed by having requirements as well as additional landscaping buffers. The stacked parking is an effective way to store cars or have those cars, however, they need to be aesthetically pleasing either by having them as an enclosed structure. You know, slapping up stucco exterior or something like that and making it look pleasant is the primary issue. And then

enforcement. Whether or not you had much comments on that as you know, like I said, our department's position was that we feel it should be, the enforcement should be handled by the private landowner. That's our – that's what we stated in our staff report and with regards to compact stalls, lets see – I didn't get much – I did get comments from a few of the commissioner like you feel that they should be Costco size. That can be a comment. I mean, like I say, these are just comments on them. Another issue on the stacked ones, you wanted to make sure that light pollution was handled and those are the comments that I've heard. So yeah, we would want to, one, get a motion to adopt the department's position as far as the amendments to 19.36 and 19.04 which are the definition to include as well as transmitting your comments with regards to those four. That's all I could remember as far as summary if that's appropriate.

Mr. Hedani: Does the department have a requirement for beach parking?

Mr. Alueta: Oh, I'm sorry. No. We do not. But you wanted that as a comment.

Mr. Hedani: Right.

Mr. Alueta: Okay, beach – requirement for beach access. I will note Chairman Hedani is that if you look under 19-36-120 it says special management area, it says additional requirements, "nothing in this chapter shall be construed to limit the authority of the Maui Planning Commission to impose additional off street parking and loading requirements on developments within the special management area."

Mr. Hedani: Commissioner Guard.

Mr. Guard: I was just wondering if Joe saw this that we received today regarding like self-storage and spaces?

Mr. Alueta: I believe –

Mr. Guard: I believe one per 5,000.

Mr. Alueta: Correct. I believe we saw that. Our reasoning when I discussed it with my boss, the deputy director was that we don't see a difference in the definitions. They were going to add a separate definition to self-storage. We felt that the definition of storage includes self-storage. We didn't feel that should be changed.

Secondly, the provision I guess our position was the position that provisions for reduction could be – is still there.

Mr. Hedani: Okay, are there any members of the public that would like to offer testimony

at this time? Please come forward.

Mr. Mich Hirano: I'm Mich Hirano with Munekiyo and Hiraga. I'd like to just address some of the points that were submitted to the commission with the letter from Maui Lani and I think the letter that was submitted this morning as written testimony in response to the parking ordinance amendments speak to two – I think are twofold and speak to two parts of the proposals before you.

One is the ordinance, the draft ordinance that was passed down from Council Chairman Riki Hokama. I think Maui Lani's position is that they support that ordinance as it's written simply for the reason that it establishes very specific standards for parking requirements and in the position of Maui Lani is a master land use developer within the Central Maui area and as well having recently established a village mixed use approval for a large portion of their project district they're involved in the planning process right now for that particular segment of their project district and they feel that to have exact standards to design from is very important and that a discretionary kind of a assessment that can go from 30% to 5% less is very risky when you're investing a lot of front time in doing your land planning. So that part of the ordinance I think is very important concept as far as any amendment to the parking ordinance. So for that reason, they supported the position in the ordinance that was drafted by Council.

However, in light of some of the efforts that are made by the Planning Department with respect to overhauling the overall parking ordinance which is commendable, I think Maui Lani in that instance then would like consideration for some very specific uses within that captured parking standards. So I'd like to just draw your attention to some of those areas.

I see that the parking requirements for the shopping centers in the table has been amended to include shopping centers and I think that that's a very important aspect because you need to clearly exempt these missed use developments from that requirement. So that is in there and I think that that's an important consideration.

Secondly, they also have put in there a further definition of indoor recreation and they would want consideration to have the parking standards for that adopted as a very strict ordinance, one parking space for every 600 square feet of floor area for a pool, gymnasium or a wellness center or recreational center.

The other aspect and this is the one that I think Joe Alueta had just commented on about self storage, that I think that the data and the research does show that self storage is a very kind of unique land use within a light industrial area. There was a study done in Kaimoku Facility which is a self storage facility in Honolulu and they actually took a table and took the number of parking stalls throughout the day every hour on a 24-hour basis. And I think the most frequent or the most number of people that are using the parking stall and this is

a 150,000 square foot facility was 30 stalls for one of their requirements. I think it reduces down to about one stall per 7,500 square feet of storage facility. It is a very unique situation with self storage. The very nature of it. People don't usually go to their self storage lockers very often. So I don't think the requirements for parking are as heavily needed as in other type of uses. And so for that reason I think Maui Lani had suggested that the self storage be a specific category within the parking breakdown and standards and they're proposing one parking stall for every 5,000 square feet of floor area. So that's still you know, much less than what is required, so much more stringent than the 7,500 which was kind of studied in Honolulu, but it certainly is much less than what is required in the existing ordinance.

And then, finally, I think in terms of getting back to the discretionary approval for a waiver of parking and reduction, I think that that is still a very important consideration. So for that reason they've red-lined some of the parking waiver language to make it less discretionary and to have it more as a standard that you could rely on because criteria, subjective involvements get in, come into making these assessments and you know, the Director of Planning has a lot of responsibility but – and would probably do a thorough job, but still it is a discretionary approval. And as it is subject to subjective interpretation and I think Maui Lani is asking for a more objective process, one that has a clear standard. So for that reason, they're requesting to make it a more of a mandatory standard as opposed to a discretionary standard and have suggested language that could accommodate that objective in the ordinance as is drafted by the Planning Department.

So if there are any questions, I'd be happy to answer them, but that's it. So thank you for your consideration.

Mr. Hedani: Questions for the testifier? Mich, so you're saying the private sector is asking to be regulated?

Mr. Hirano: I think just clear standards. Clear standards so that everyone can see that they're either being followed and the reasons for that as opposed to a discretionary approval.

Mr. Hedani: So it's definitive as opposed to being up in the air?

Mr. Hirano: Yes. And it'd be consistent as well. That it would be the same in one area as it is in another because the uses are similar and the mixed use development definition applies to the project.

Mr. Hedani: Staff do you have any comments to the testimony?

Mr. Alueta: One is that I do support and I do understand the self storage issue. If the



commission so chooses, we can add that back in. So the amendments would be to add that as a specific category to our table of self storage that is proposed within the Council's resolution as well as add the definition back into 19.04 for self storage and also to amend – we would have to amend the definition of storage which would be just striking self storage from that definition, or I guess it could still be in, but we'd find some way to clean it up and to make sure that it was comported with the intent of reducing the amount of parking requirements for self storage.

With regards to the comments of having a clear and definitive standard, it's already there. It's very clear as to how many parking stalls you're required. And so you either provide them or you don't. And if you want to get a reduction then that's fine.

Mr. Hedani: I think they were commenting on the Council's version as opposed to the department's draft.

Mr. Alueta: Right. And they're – Council's version specifically makes a brand-new section and creates new definitions and new standards for one type of use and that is a residential mixed-use definition. And as we indicated in our staff report, we think that those standards of the residential mixed-use or the definition of it can apply to anywhere and we also feel that the reduction in parking could apply to other areas outside of the residential mixed-use district. We feel that by doing that, like I say, it can apply to anywhere and that parking is not just about putting five apartments above Kmart. There's a lot more going on to it. It is subjective, it is a planning – applying specific planning principles which we outlined and that is like I say, close to public transportation such as if you're near a bus hub, how much commercial or residential developments around you? What type? Are they single family? Large lot single families? Or is it high density apartments? All of that comes into play. So just saying reducing the parking for residential mixed use standard without any context I think could create a disaster of having not enough parking. And so that's why we feel that we have parking standards and if you fall within this certain context, you can get it. Like I say, all decisions by the director are appealable to the commission and that's in our standard rules and we can be specific if an applicant comes in and requests reduction in parking and they don't get it, he can always appeal to this commission and he can lay his case before the commission as to how much parking. And that's currently the process now is that he would have to come before the commission for a lot of these parking waivers or off site approvals. We're trying to make it simpler. Like I say, we're trying to make the overall ordinance simpler, easy to read, as well as the approval of the process of getting a waiver simpler by putting it with the director.

Mr. Hedani: Does that work for you Mich?

Mr. Hirano: I think the developers do need certainty at a very early stage in order to do the planning. In looking at parking ordinances, and we commented on, our company

commented on the draft ordinance at a very early stage when it was with the Council.

Mr. Hedani: Did you have an opportunity to review the?

Mr. Hirano: Yes, I will. I was saying our company had a lot of opportunity to have input at the early stages when the Council was as well deliberating on this matter. And when we looked at parking ordinances across the country, I mean, we drew upon examples from other areas that were maybe further advanced with respect to the principles of smart growth planning that were instilled and also had the ordinances and the tools to actually implement the projects.

Most of those were not discretionary standards. There were clear standards for mixed use or a combination of smart growth planning principle land use concepts and they were clear standards of lower parking ratios for those particular projects and they weren't discretionary and they weren't appealable. I mean, they could be appealable I guess through a variance but it wasn't as though you would do your land planning and then go to the Planning Director to see if you would qualify for a reduction in parking. It was established in the code that if you had this kind of project your parking standards would be of this which would be a lower ratio. So I think that although there is a process to discuss with the director and an appeal process, it is also time consuming and that also adds to the planning horizon and development horizon. So I think from the development side they would just like to have a standard, a clear standard with a less amount of parking that would be required so that they can do their land planning and get onto the development side of it and the approval side.

Mr. Hedani: Any other comments from any other members of the public on this subject? Okay, if not, then the public testimony would be closed on the subject. Commissioner Freitas.

Ms. Freitas: Yeah, it's for Mich.

Mr. Hedani: Question for Mr. Hirano.

Ms. Freitas: You know where you have the use as a light industrial use?

Mr. Hirano: Yes.

Ms. Freitas: So this is what you're proposing is this –

Mr. Hirano: The 5,000 square feet, yes.

Ms. Freitas: But Kahului Industrial Park is – I mean, that's a nightmare. Wouldn't that create more of that? I mean, they have trucks all over the grass.

Mr. Hirano: Commissioner Freitas, I think it's the self storage that is required for that.

Ms. Freitas: Oh, so you're only dealing with that?

Mr. Hirano: For the self storage. It was one –

Ms. Freitas: Oh, only.

Mr. Hirano: Yes.

Ms. Freitas: Oh okay, I thought you were just generalizing.

Mr. Hirano: No, because it says on the second part of that underlined thing, any other use, I think was one per 600 square feet.

Ms. Freitas: Well, no your last page, yeah that is there.

Mr. Hirano: Yeah. So that would be the standard.

Ms. Freitas: Okay, but self storage is page before.

Mr. Hirano: Self storage is yes. One per 5,000 square feet. Oh, I'm sorry. Yes. I'm sorry, it was for the light manufacturing processing that would as well be included as one per 5,000. One per 1,500 square feet, yes.

Ms. Freitas: When I think of that, I see Kahului Industrial Park.

Mr. Hirano: Yes.

Ms. Freitas: And that doesn't work. I mean, you drive through Kahului Industrial Park you can't hardly get through because nobody has parking so all equipment and everything is all over the roads and at night every business parks their trucks all over. And so it doesn't seem like there's enough parking in that industrial park and this sounds like it's more of that. No?

Mr. Hirano: I'll have Daren just –

Mr. Daren Suzuki: Thank you Chair, Members of the Commission, Daren Suzuki, Maui Lani Development. When Maui Lani's village mixed-use district was developed back in 2006 for approximately 130 acres a definition was defined in the County Code under Section 19.04 which includes specifically light manufacturing and processing. And if you look at the same table on the right-hand side justification, it specifically includes the type of uses permitted

within the light manufacturing and processing district. Just to read that, it says, "light manufacturing processing as inclosed facilities for production or assembly of products other than food or agricultural products involving limited or minor emissions of odor, fumes, noise, vibrations, heat, glare or electrical interferences to the exterior such as but not limited to commercial laundries, laundromats, crafts industries, apparel manufacture and small craft assembly plants." Those describe very specific use under the definition of light manufacturing and processing as opposed to just general categories of light manufacturing in the county code, and that's why we're requesting very specific – that this specific use also be included and incorporated in the parking ordinance.

Ms. Freitas: Thank you for clarifying that. Thanks.

Mr. Suzuki: Chair if I could just add one more thing. We didn't really grab the one to 1,500 just out from the air. We used a standard and I just wanted to point out that the standard is consistent with the standard in the Wailuku redevelopment area.

Mr. Hedani: Okay. Any other questions for the testifier? If not, what's your pleasure.

Ms. Amarin: Move to accept.

Ms. Freitas: Second.

Mr. Hedani: Motion to accept by Commissioner Amarin, seconded by Commissioner Freitas. Your motion is to accept the department's recommendation as amended today?

Ms. Freitas: As amended, yes.

Mr. Alueta: Was there any discussion on the self storage like as indicated at this time, unless I hear an objection from my boss, I didn't have an objection over the self storage part.

Ms. Suyama: There's just one thing. It has nothing to do with the self storage. I was looking, I apologize, I haven't really been looking at this ordinance real well.

Mr. Hedani: Never admit that.

Ms. Suyama: Well, I apologize for that. But anyway, I've looked at some of the uses that were used in the Council version and what Joe is proposing and there are some definitions that are in the code that's not reflected in the – our department's version. And what I would suggest is that they fit in a category. They all fit in a categories but adding those definitions to where they're appropriate in the table that Joe has done. I mean, like education specialize would fall in with schools with students more than 15 years of age, but adding

those definitions into the appropriate categories. That's one suggestion.

Storage, you know, to me storage is defined. There is a proposed parking standard and there is a provision if that they wanted to reduce that there's a provision for waiver.

Mr. Hedani: Any other discussion? You got all that Joe?

Mr. Alueta: Yeah. Oh no, I did, just adding the definitions that are currently used in 19.04.

Ms. Suyama: Right.

Mr. Hedani: Any other discussion? Does the ordinance as drafted, you know, as was drafted by the department have an – does it provide incentivising alternative transportation modes?

Mr. Alueta: Incentive alternative transportation modes?

Mr. Hedani: Say a person in a development, does a development, comes up with his own transportation system to shuttle people around like the Kapalua shuttle or the Wailea shuttle or things like that.

Mr. Alueta: It talks about that as part of the parking waiver. That's one of your criteria, that you have some type of public transportation nearby. And so that can be used as I say, it's flexible enough for the director to take that into consideration as far as the waiver. And then adding the definitions, I do note that, you know, the waiver as far as the parking or storage would – has been consolidated like I said down into this and it would be limited to the 30%. Whereas, as indicated previously self storage, they're proposing one per 5,000. Under the existing standard it's one per 600 I believe.

Mr. Hedani: Any other discussion? Commissioner Eason.

Ms. Eason: I just wanted your thoughts on this suggestion about deleting the shopping center parking standard for the residential mixed use. I wasn't here at the last meeting so, it seems reasonable to me.

Mr. Alueta: To delete the standard.

Ms. Eason: No, to delete the shopping center standard for residential mixed use.

Mr. Alueta: Correct and we added that into our definition. On the one that I handed out this morning, I had verbally talked about it at the last meeting and so this – the handout that I gave you today was an update of making the corrections and the things I verbally talked

about, and that was yes, we are putting in under shopping centers we're putting residential mixed use developments shall not be assessed as shopping centers. So we do agree with the I guess, the original drafters of the resolution. And our only thing is like I say with some of their comments. I understand their comments. They're looking specifically at their development per se at Maui Lani. As the Administrative Planning Officer I'm writing the ordinance to cover the entire three islands, not just one project district. So I need to take that into account.

Mr. Hedani: Any other discussion?

Ms. Suyama: There's only just two more changes, sorry. I do not see a definition for day care facility and education specialist, I think this was meant to be more than just I think we have where we talk about educational facilities it's like kindergartens, elementary, intermediate, high school and college, like MCC, but there are other educational facilities that are provided like you know, Kumon having a class, things like that. I think you want to put maybe the education specialized and the day care facility as separate uses with separate parking requirements in it.

Mr. Alueta: Okay.

Mr. Hedani: I'm getting confused looks.

Ms. Suyama: What I'm saying is that taking from the Council's version for day care facility and education specialized and adding it into the department's proposal.

Mr. Alueta: Okay, we can add them in as – the way I looked at it is that they were already covered under certain categories, but to be more specific we can add them in, however, the parking standards that we wish to use is based off of square footage rather than by per person. And our discussion over using by recipients as indicated in theirs, is very difficult for enforcement. And they are national standards for how much space you need per occupant such as, you know, for day care like 35 square feet for every child. And so in discussion with the Zoning Administration Division it's more appropriate to have standards that are based on a square foot. Because someone could say I only have 10 people that come and then you show up and there's 15 or 20. So we'd rather be able to say, this is how big my building is and this is how many stalls you're required. It's very simple, it puts it clear, clear definition out there for people.

Mr. Hedani: I think it's important that the department that's going to be enforcing the regulations be able to participate in the formation of the regulations so that they don't create something that they can't enforce. Commissioner Guard.

Mr. Guard: So did we make a change to the self storage? I mean, that's a small one but

I do see it as kind of unnecessary parking, one per 600 or are you going to change that to 2,500 or 3,000 and if you get that 30% waiver you'd be at one per 4,000.

Mr. Alueta: Correct, and that's why – I'll leave it up to the commission. I'm just saying is that I understand their concept and I'm just making you note that we do not have that other waiver. That waiver has been consolidated down. So that waivers would be maxed out at 30. If the commission sides with the testifier, we can add that back in as far as one to 5,000. We're just making our recommendations.

Mr. Guard: Right, right, right. Or even just one to 3,000 might cover your base more than the one per 600 that it is now. That's what it would read now is one per 600?

Mr. Alueta: Yeah, under the existing industrial storage it would be one per 600.

Mr. Guard: Which is a fair amount of parking for self storage.

Mr. Alueta: Right. Or 25% of the lot whichever is greater that's all storage.

Mr. Guard: Okay.

Mr. Alueta: So on the storage – I mean, that's something that you, as a commission needs to put forward. Secondly on the day care facilities, we can add that in under – we can either add that as a separate category and go back it falls under schools or something like that. I think that from how the – obviously there's day care facilities and obviously they're being assessed parking. And so we're currently just saying there's some type of educational facility. So that's how we've been assessing them. So to make it clear we can just add it in under the category that the current– currently we are assessing them.

Ms. Suyama: Well, I was looking at day care facilities like adult day care rather than child care.

Mr. Hedani: Okay where are we? Are there any other comments or discussion on the motion on the floor?

**It was moved by Ms. Amarin, seconded by Ms. Freitas, then**

**VOTED: To Accept the Recommendation of Approval, as Amended.  
(Assenting - J. Amarin, S. Freitas, K. Hiranaga, J. Guard, B. U'u,  
W. Iaconetti, P. Eason)  
(Excused - J. Starr)**

Mr. Hedani: Carried. Thank you.

**G. MINUTES OF THE JANUARY 23, 2007 MEETING**

The minutes of the January 23, 2007 were accepted as circulated.

**H. DIRECTOR'S REPORT**

**1. Scheduling of the Site Inspection of Various Kapalua Projects: (A. Cua)**

- a. **Kapalua Coastal Trail EA and SMA Applications**
- b. **Kapalua Ritz-Carlton SMA Application for Renovations**
- c. **Kapalua Central Resort SMA and Phase 2 Project District Applications**

**The Commission may decide on a date, starting time, and meeting place to begin the site inspections.**

**2. Scheduling of the public hearing in West Maui on the following project district applications:**

- a. **W2005 KAPALUA/ GENGATE HOTEL REALTY, LLC requesting a Phase 2 Project District Approval and a Special Management Area Use Permit for the Proposed Lobby and Common Area Improvements at the Ritz Carlton Kapalua, 1 Ritz-Carlton Drive, TMK: 4-2-004: 021, Kapalua, Lahaina, Island of Maui. (SM1 2006/0039) (A. Cua)**
- b. **MR. RYAN CHURCHILL of MAUI LAND & PINEAPPLE COMPANY requesting a Phase II Project District Approval and Special Management Area Use Permit for the proposed Kapalua Central Resort Project on 34 acres of land within the Kapalua Resort consisting of multi-family residential units, administrative facilities, and the realignment of Office Road and a 15-lot larger lot subdivision at TMK: 4-2-004: portion of 024, Kapalua, Lahaina, Island of Maui. (PH2 2006/0006) (SM1 2006/0029) (A. Cua)**

Ms. Cua: Good afternoon Mr. Chair and Members of the Commission. Two weeks ago at your commission meeting we started to discuss the scheduling of a site visit as well as a night meeting to hold two public hearings. When we gave you the recommended date that we had discussed with the applicant as to what would work for the department's schedule as well as the applicant's schedule which was April 9<sup>th</sup>.

The Chair at that time, Commissioner Starr, had indicated that the commission had some



concern with our past practice of holding site visits and night meetings the day prior to a regularly scheduled planning commission meeting on a Tuesday. And we explained that the reason why we've done that in the past was always to accommodate the Hana commissioner. However, the direction we received at that time was to continue to pursue scheduling site visits and night meetings on the off week, on your off week.

So based on that, we went back, asked the applicant and looked at our schedules, looked at the availability of facilities in West Maui to hold a night public hearing and we came up with a date that we wanted to discuss with you today of April 16<sup>th</sup>. That would be starting the site visits at around 1:00 in the afternoon starting with the Kapalua Coastal Trail. We'd meet at the Village Clubhouse which I think most of you have gone on site visits, where that's where we usually meet. And then we do the Kapalua Coastal Trail first, visit the Ritz-Carlton to see the work that they want to do there in the context of their SMA permit that they filed and then we take a look at the Central Resort project. So that would happen in the day at around 1:00, we'd probably finish by around 4:00 and then you take a dinner break.

We're looking to convene the meeting, the night meeting at 6:00 p.m. since you have two items. I know normally when we go out there we have one item, but being that we have two projects that are ready to be scheduled for public hearing, we have the Ritz-Carlton as well Central Resort, the Kapalua Coastal Trail public hearing is not ready to be scheduled yet. So you'd just be doing the site visit on that.

So that is our proposal to you. We have already reserved the Civic Center.

Mr. Hedani: What was the date, Ann?

Ms. Cua: April 16<sup>th</sup> which is a Monday, but it is on your off week. You're regularly scheduled meetings for April are April 10<sup>th</sup> and April 24<sup>th</sup> on the Tuesdays. So we're looking at the Monday in between that.

Mr. Hedani: The reason we're doing this is because it's required for us to do the meeting in West Maui, right? We don't have a choice about this.

Ms. Cua: Right. Two of the project applications, and I really should say that because I assume that. I know you know, but this is also being televised so we need to let the public know that we do have applications that are located within project districts and the way the law reads is that if you are doing a development within a project district and you need various like a Phase 2 Approval which in this case the Ritz-Carlton and Central Resort needs, you need to hold the public hearing, the planning commission must hold the public hearing in the affected community plan region which in this particular case is West Maui. So we've had this situation before so once we get you out there, we keep you out there.

We do your site visits, your public hearings because we know how difficult it is for you to adjust your schedules to get out there.

Mr. Hedani: Any objection to April 16<sup>th</sup>?

No objections from the commission.

Ms. Cua: So we'll finalize the details with the applicant but we're looking again to start 1:00 on the 16<sup>th</sup>, meeting at the Village Clubhouse and then from there Maui Land and Pine would provide the buses for or vehicles for both the commission as well as any members of the public who want to go on the site visit and we would start at that point, board the buses and start with the Kapalua Coastal Trail then go to the Ritz-Carlton and then the Central Resort project and then with two public hearings that evening starting at 6:00 at the Lahaina Civic Center.

Mr. Hedani: Okay. Thank you.

### **3. Planning Commission Projects/Issues**

Department had nothing to report.

### **4 Status of the Kahoolawe Site Inspection**

Mr. Hedani: Kahoolawe site inspection?

Ms. Suyama: That you have to address to Mr. Hunt as our director.

- 5. EA/EIS Report**
- 6. SMA Minor Permit Report distributed for the February 13, 2007 meeting**
- 7. SMA Minor Permit Report**
- 8. SMA Exemptions Report distributed for the February 13, 2007 meeting**
- 9. SMA Exemptions Report**

Ms. Suyama: In terms of EA/EIS Reports, Minor Permit Reports and Exemption Reports that has been circulated to the Commission for your review. The other thing is today that we circulated the draft EA for the Palaeua entitlements. It's going to be probably placed on your March 13<sup>th</sup> meeting for acceptance of the filing of the draft EA as a FONSI as well as to obtain your comments.

Mr. Hedani: Okay, so this we have to keep, right?

Ms. Suyama: That you have to keep.

Mr. Hedani: What about this abandoned vehicle facility?

Ms. Suyama: That's to tell that it's been circulated.

Mr. Hedani: Any other questions to the Director on either the SMA permits or EA/EIS Reports?

Mr. Iaconetti: I routinely go over these, I suppose everyone else does and I routinely ask questions about many of them and I routinely get an answer oh, I will get back to you. I have yet to have gotten back to. I keep asking these questions simply because I'm wondering about them, what are they and nobody ever tells me. Now is there some reason why we have this thing? I don't know why I spend the time looking at it if nobody is ever going to tell me anything about the questions.

Ms. Suyama: Unfortunately the director did not tell me there was any reporting back to.

Mr. Iaconetti: I mean, I've been doing this for three years. You weren't in that position for three years, but no one ever comes back with any comments.

Ms. Suyama: I will make an endeavor to address your comments. Do you have any on this report? Maybe I can answer them.

Mr. Iaconetti: Well, I'd like to know about what some of them are. One the last page, 24 of 24 pages there's a retaining wall. Now, where is this place and what is the wall retaining? Is it property from someone else's lot or is it retaining all wall near the ocean or what is it, but you don't have to go into all that because I'm sure you don't have the answer. Then on page 22 of this is the Cliff House repairs, exactly what are they repairing. I know the Cliff House we've all been there. What are they repairing? What's the degree of the repair? I don't know what this, on page 20 refers to the project is Maui Oceanfront and it has something to do with tours, what tours? What kind of a tour are we talking about? I guess that's probably enough for one time. But I would like to get some response to these questions otherwise, I don't see any point in wasting my time looking at it. Napili Kai demolishing the pool. This is on page 16.

Ms. Suyama: That one I know. Their existing pool at the Napili Kai they want to renovate it and one of it will be removing the old pool and putting a new pool facility in the same location.

Mr. Iaconetti: Bigger, smaller?

Ms. Suyama: Bigger, slightly bigger.

Mr. Iaconetti: I fell into that pool one night making a night call when all the lights were out. I hope they light it up adequately.

Mr. Hedani: Actually Colleen, you folks are actually required to produce this report?

Ms. Suyama: We're required by your rules that once we issue any exemptions, emergency permits.

Mr. Hedani: So anything that's done administratively that doesn't have to come before the commission.

Ms. Suyama: We need to do a report back to the commission. And the way we do it is at each meeting you get an update of the report. And anything that's an SMX is really an application still in progress.

Mr. Hedani: So I think what the doc is saying is that this report form still needs additional information.

Ms. Suyama: Okay.

Mr. Iaconetti: And how long for things that are voided stay on here? Pineapple Grill has been in business for well over a year now. I talked to the owner the other night, he was totally unaware that he was still on this list and I don't know why he's still on the list because they finished all the renovations, but it's here time after time.

Ms. Suyama: We've been having a problem with the KIVA system in the sense that when we close out an application or we void an application somehow when we print these reports they still get picked up. We've been complaining for a while, about you know, something's there's a glitch in the system and for some reason things that are closed, expired or voided are still appearing in the reports themselves. So we've been trying to correct that for several months.

Ms. Freitas: Yeah, actually I don't know about this several months because since I came on I remember Bernice had a real problem with these and she was always every meeting trying to get it corrected and everything and here we are, she's been gone for years already. So if that's going to be a glitch in the thing maybe like when you ask those questions, instead of just like do you have any questions. Maybe there should be a line that says, the answers to your questions from the previous meeting or something so they specifically are addressed every time. Instead of just, you know, not paying any attention to them.

Mr. Hedani: Or what you could do is have all of the staff people that are responsible for the

items on this report be present at the time we review the report so that if we have questions on them we can ask them directly.

Ms. Suyama: There are some permits that are handled through the Zoning and Enforcement Administration and there's some that's handled by the Current Division. Those that are simple SMA Assessment applications like interior renovations, nonstructural improvements, residential improvements usually are handled by the Zoning and Enforcement Division.

Ms. Eason: So that permit would be listed here, right?

Ms. Suyama: Everything gets listed.

Ms. Eason: You know I see homes being built where I live and I don't see the names ever.

Mr. Hedani: Lets clean it up in 60 days Colleen.

Ms. Suyama: Okay.

**I. NEXT REGULAR MEETING DATE: MARCH 13, 2007**

**J. ADJOURNMENT**

The meeting was adjourned at 5:21 p.m.

Respectfully submitted by,

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

**RECORD OF ATTENDANCE**

Present

Wayne Hedani, Chairperson  
Kent Hiranaga  
John Guard  
Bruce U'u  
Suzanne Freitas  
Johanna Amorin  
William Iaconetti  
Patti Eason

Excused

Jonathan Starr, Vice-Chairperson

Others

Clayton Yoshida, Planning Department  
James Giroux, Department of the Corporation Counsel  
Mike Miyamoto, Department of Public Works and Environmental Management