

15:47:42 1 quality specialist, and I would like to bring him up to  
15:47:45 2 respond to the questions that you have.

15:47:48 3 MR. BROCK: Thank you.

15:47:48 4 Madam Chair, Members of the Commission, thank you  
15:47:51 5 for having me. My name is Richard Brock. I've been a  
15:47:55 6 researcher at the University of Hawaii researching things such  
15:48:00 7 as this, marine research in coastal waters for over 30 years.  
15:48:04 8 I have recently retired.

15:48:05 9 And I have been involved with monitoring at the  
15:48:09 10 North Beach parcel since 2001. We monitor both shallow  
15:48:17 11 coastal monitoring wells on the project site and we monitor in  
15:48:21 12 the ocean fronting the project site and we monitor at a  
15:48:26 13 control site down near Malu Wharf. So we have a lot of data.

14 (Commissioner Guard left the room.)

15:48:30 15 MR. BROCK: Basically, in response to some of the  
15:48:33 16 things I heard earlier about algae, if I could just for  
15:48:37 17 second, the limu there when I started in 2001 was in much  
15:48:39 18 greater abundance than it is today. One would think with the  
15:48:43 19 growth of the community and the sewage treatment system and  
15:48:48 20 the use of it, you would expect, if it was related to algal  
15:48:52 21 growth that there would be more algal growth today, and there  
15:48:55 22 is not. The data does not show that. We have less, actually,  
15:48:59 23 in front of North Beach. But we are monitoring, yes, and  
15:49:02 24 that's an active program.

15:49:04 25 CHAIR AMORIN: Commissioner Pawsat.

15:49:06 1 MEMBER PAWSAT: Is this ongoing monitoring or, as  
15:49:09 2 she mentioned, 18 months of monitoring or is there going to be  
15:49:11 3 monitoring after that?

15:49:12 4 MR. BROCK: Well, monitoring -- I don't remember  
15:49:14 5 when the contract ends, but it's like 2012 or -- I mean,  
15:49:19 6 it's -- I signed a contract and I honestly don't remember, but  
15:49:22 7 we monitor now, starting in 2001, an active program, and it  
15:49:27 8 will continue to that point 18 months after construction.

15:49:31 9 CHAIR AMORIN: Commissioner Pawsat.

15:49:33 10 MEMBER PAWSAT: Because a lot of times with the fuel  
15:49:36 11 injection wells you don't really see the effect of them for a  
15:49:38 12 decade after. It takes a whole decade to go through the --  
15:49:40 13 get underneath the ground and come back up. So it seemed like  
15:49:44 14 annually monitoring past that date might be appropriate. But  
15:49:48 15 I'm not really sure about my science here myself, but --

15:49:51 16 MR. BROCK: Yeah. Well, we look primarily at  
15:49:54 17 nutrients sorts of things, nitrate, phosphates, that sort of  
15:49:59 18 thing. Those are the things that have been of concern in the  
15:50:02 19 past and those are the things that are required by the  
15:50:05 20 Department of Health and US EPA. We follow all the protocols  
15:50:12 21 with that.

15:50:12 22 MEMBER PAWSAT: 'Cause I would just assume that as  
15:50:14 23 long as the injection well is in service, that that should be  
15:50:23 24 continually monitored. You know, not excessively -- I don't  
15:50:23 25 know what the appropriate would be, but that it wouldn't stop

15:50:23 1 after construction. As long as the injection well is in  
15:50:25 2 service, it should always be monitored for nitrates and algae  
15:50:30 3 and things like that.

15:50:31 4 MR. BROCK: That's what we're doing now. I mean,  
15:50:34 5 that might happen. I don't know at this point.

15:50:37 6 MR. SWENSON: Ron Swenson from Critchfield. In our  
15:50:41 7 operation we'll monitor what we draw and what we return on a  
15:50:44 8 weekly basis. And I believe we have to provide -- Yearly  
15:50:48 9 reports to the State -- yearly reports to the State showing --  
15:50:53 10 It will have the definition -- Basically it's all computer  
15:50:56 11 monitored. It will have definition for every hour of every  
15:51:01 12 day and we can provide the State with whatever they need.  
15:51:04 13 We're basically drawing seawater and putting seawater in.  
15:51:09 14 Thank you.

15:51:10 15 CHAIR AMORIN: Commissioner U'u.

15:51:12 16 MEMBER U'U: This is for Ron.

15:51:14 17 MR. SWENSON: Okay.

15:51:18 18 MEMBER U'U: Ron, you mentioned earlier that you  
15:51:20 19 guys did a similar type of project over on Oahu.

15:51:23 20 MR. SWENSON: I have done two personally, yes.

15:51:26 21 MEMBER U'U: When was it?

15:51:28 22 MR. SWENSON: Kahala Mandarin was done in the early  
15:51:31 23 '90s and it is still active, and the University of Hawaii,  
15:51:36 24 John A. Burns School of Medicine was done in 2002.

15:51:38 25 MEMBER U'U: And you guys do follow-up reports on

15:51:41 1 those, also?

15:51:42 2 MR. SWENSON: The operator -- The Board of Water  
15:51:44 3 Supply is actually the operator at John A. Burns School of  
15:51:46 4 Medicine, they do all the reporting. And for Kahala Mandarin,  
15:51:52 5 they do all the reporting. Kahala Mandarin is unique where  
15:51:57 6 they take -- they don't return the water into a well, they  
15:52:00 7 actually put it into the lagoons where the dolphins are having  
15:52:03 8 a living environment.

15:52:05 9 MEMBER U'U: What was the outcome of the studies,  
15:52:07 10 the most recent up to date as far as this fear of algae bloom?

15:52:13 11 MR. SWENSON: There have -- We are basically pulling  
15:52:16 12 seawater and putting seawater back with no nutrients.  
15:52:21 13 They're -- At the level we're injecting, without nutrients,  
15:52:25 14 without light you cannot have algae. The water we have has no  
15:52:31 15 nutrients.

15:52:32 16 MEMBER U'U: Thank you.

15:52:33 17 CHAIR AMORIN: Thank you.

15:52:34 18 Commissioner Mardfin.

15:52:36 19 MEMBER MARDFIN: I'm new, so forgive me if I ask  
15:52:43 20 stupid questions or raise stupid issues, but let me make a  
15:52:47 21 point. This is an SMA, so we need to follow the Maui PC SMA  
15:52:53 22 rules. And on page 202-11 it seems to say, "In considering  
15:52:59 23 the significance of potential environmental effects, the  
15:53:03 24 director shall evaluate: 1) the sum of these effects that  
15:53:07 25 adversely affect the quality of the environment and ecology

15:53:11 1 and shall evaluate the overall cumulative adverse effects of  
15:53:16 2 the proposed action."

15:53:18 3 And under two 2it has an A, "involves an irrevocable  
15:53:24 4 commitment to loss or destruction of any natural or cultural  
15:53:27 5 resources," which I interrupt to include the reef system.

15:53:32 6 I have -- I happen -- I'm not an expert on this. I  
15:53:38 7 just -- I went to a health fair in Hana this past weekend and  
15:53:42 8 found something from the -- "Status and Trends of Maui's Coral  
15:53:51 9 Reefs" from the EAR. What does that stand for? But it's a --  
15:53:56 10 EAR, Maui office, which basically reports on some studies  
15:54:01 11 saying that there is a correspondence between reefs with  
15:54:07 12 severe algal blooms and coastal areas with high human  
15:54:07 13 population density strongly suggest that elevated nutrients  
15:54:11 14 from wastewater or fertilizers are fueling accelerated algal  
15:54:20 15 growth. They have a map showing invasive species connected to  
15:54:21 16 County sewage injection wells.

15:54:23 17 This wouldn't be the project because we're talking  
15:54:25 18 about saltwater going in. I'm not addressing that issue. But  
15:54:29 19 the sewage would be, I understand -- we were told that the  
15:54:31 20 sewage would go to a County facility. There are letters from  
15:54:36 21 the County facility saying that they've got -- wastewater  
15:54:41 22 system capacity is available. I see that. But the corals in  
15:54:51 23 that area seem to be very dangerously threatened.

15:55:01 24 In the document on Maui Planning Department reports  
15:55:06 25 to the Maui Planning Commission, I'm not -- I think it's

15:55:09 1 Exhibit 7. There's a letter from the University of Hawaii Sea  
15:55:15 2 Grant Extension Service, Maui Community College, which says a  
15:55:20 3 couple of things. In part, fertilizers, pesticides and  
15:55:23 4 herbicides for landscape use will eventually -- Now, this is  
15:55:27 5 not the sewage, this is landscaping. Fertilizers, pesticides  
15:55:31 6 and herbicides will eventually find their way to the ocean,  
15:55:35 7 have harmful effect on marine life and water quality.

15:55:38 8           The latest water quality monitoring report indicates  
15:55:42 9 that the coral, algal and fish communities present in the  
15:55:45 10 waters fronting North Beach are reasonably diverse and appear  
15:55:48 11 to be healthy. Because of this, it's essential that there be  
15:55:51 12 no long-term impact on this healthy marine community as a  
15:55:54 13 result of the resort development.

15:55:55 14           Two paragraphs down: Additionally, in many cases  
15:55:58 15 the cumulative impacts of regular nutrient and chemical  
15:56:02 16 application on adjacent uplands takes a number of years to be  
15:56:06 17 detectable on water quality -- this is Commissioner Pawsat's  
15:56:10 18 point -- on water quality and marine life and are not so much  
15:56:13 19 the result of construction as they are the result of landscape  
15:56:17 20 maintenance.

15:56:18 21           From this I -- It makes me -- If you're concerned  
15:56:21 22 about reef life along this coast, which I believe is a natural  
15:56:26 23 resource, we have some serious questions, I believe, both in  
15:56:35 24 where the sewage goes and where runoff goes. Now, the  
15:56:38 25 gentleman that just spoke from the University of Hawaii seemed

15:56:41 1 to indicate that it's pretty healthy where -- the corals are  
15:56:45 2 pretty healthy where they were. Well, he referred to algal  
15:56:48 3 not being excessive where they grow.

15:56:52 4           The injection wells -- I mean, it's unfortunate that  
15:56:56 5 the cumulative impact of this through the County injecting  
15:56:59 6 nutrient-rich water into injection wells is harming coral.  
15:57:05 7 And, you know, it's unfortunate that a particular project that  
15:57:10 8 doesn't have any direct control over that, but is feeding  
15:57:14 9 nutrients into the system will have a -- will increase the  
15:57:18 10 adverse impact. So I'm just really bothered by this whole  
15:57:22 11 issue.

15:57:26 12           CHAIR AMORIN: Karlynn.

15:57:27 13           MS. KAWAHARA: To address the concerns brought up by  
15:57:31 14 Commissioner Mardfin, I would just like to reiterate that  
15:57:34 15 Starwood is committed to taking the R1 water and using it for  
15:57:38 16 their irrigation. And it would not only be for Lot 3, it  
15:57:42 17 would be for Lots 1 and 2, which they also have. And I  
15:57:45 18 believe the Intrawest project has also made a commitment. And  
15:57:49 19 this commission, I believe, on other projects has now made it  
15:57:52 20 a standard condition to take, you know, the R1 water. So  
15:57:56 21 although we are contributing to the wastewater that would be  
15:58:00 22 processed at the Lahaina Wastewater Treatment Facility, we're  
15:58:05 23 also trying to be part of the solution by taking that water  
15:58:07 24 and reducing the amount that would be injected and using it  
15:58:11 25 for our landscaping.

15:58:12 1 Also, to address your comment with regards to  
15:58:15 2 landscaping -- and we can bring our landscape architect up if  
15:58:18 3 you want further clarification, but it's my understanding that  
15:58:21 4 Starwood has already implemented a program with regards to its  
15:58:24 5 fertilization and the use of the pesticides. So they are  
15:58:31 6 keenly aware, due to their location close to the ocean, about  
15:58:35 7 the potential for pollution.

15:58:37 8 The last point that I would like to make is that on  
15:58:40 9 this Lot 3 Project, we are going above and beyond even, 10  
15:58:44 10 percent over what is the required capacity, drainage retention  
15:58:48 11 capacity for the North Beach Subdivision. And so we are  
15:58:52 12 planning to retain our drainage on site.

15:58:56 13 You are correct that it's difficult for us to do  
15:58:59 14 anything about the lands mauka of us, but for our part, you  
15:59:03 15 know, we are providing for an excess which is actually even  
15:59:06 16 over -- almost 50 percent more than what the County would  
15:59:10 17 normally require of us to retain on site, so --

15:59:15 18 CHAIR AMORIN: Commissioner Mardfin.

15:59:16 19 MEMBER MARDFIN: I again apologize for my newness on  
15:59:21 20 the commission. Would you explain more about this R1? Does  
15:59:26 21 that mean that you're not going to be sending nutrient-rich  
15:59:28 22 sewage to Lahaina or you're going to -- I just don't  
15:59:32 23 understand exactly what this will imply.

15:59:34 24 MS. KAWAHARA: Okay. And I will tell you right off  
15:59:38 25 the back, I'm not an engineer, either, and perhaps maybe



15:59:42 1 Deputy Director Miyamoto could explain a little bit more, but  
15:59:47 2 that department is no longer under his jurisdiction. The  
15:59:51 3 Department of Environmental Management has split off into its  
15:59:55 4 own department.

15:59:56 5 But my rudimentary understanding is that the  
15:59:59 6 wastewater from Lot 3 will be taken to -- will be transported  
16:00:03 7 to the Lahaina Wastewater Treatment Facility, where they have  
16:00:07 8 the process to treat the water to basically get it to R1  
16:00:12 9 quality. That wastewater would be treated to R1 quality and  
16:00:16 10 we would then be able to use that water, pump it back over to  
16:00:21 11 our site and use it in our irrigation and, therefore, reduce  
16:00:25 12 our use of potable water on our site. So although we're  
16:00:29 13 putting supply in, we're also taking some of the supply back  
16:00:33 14 to be used for our irrigation water.

16:00:36 15 And right now my understanding is is that it's that  
16:00:39 16 water that may be injected into those wells, that R1 water,  
16:00:46 17 because they don't have anyplace else to put that water. But  
16:00:51 18 by Starwood stepping forward and working with the County along  
16:00:54 19 with Intrawest to get the infrastructure -- whatever is needed  
16:00:57 20 to use that R1 water on our site, that would thereby reduce  
16:01:01 21 the amount that's being injected. That's my understanding.

16:01:04 22 CHAIR AMORIN: Commissioner Mardfin.

16:01:06 23 MEMBER MARDFIN: Does this imply that you have a net  
16:01:08 24 zero impact on injecting nutrients into the water near  
16:01:14 25 Lahaina?

16:01:15 1 MS. KAWAHARA: I don't know that I could say that  
16:01:17 2 we're having a net zero impact. I don't know that we've  
16:01:21 3 actually looked at that, so (pause) --

16:01:23 4 CHAIR AMORIN: Commissioner Hedani.

16:01:25 5 MEMBER HEDANI: I know -- I know generally that this  
16:01:28 6 particular project is working very aggressively with the  
16:01:32 7 County of Maui in terms of expanding R1 capacity for the  
16:01:36 8 County at the sewage treatment plant across the street. Our  
16:01:41 9 organization has utilized R1 water within Kaanapali South  
16:01:46 10 Beach since the early 1960s. It is primarily used on the golf  
16:01:51 11 course and it's also used in the common areas of the resort  
16:01:54 12 for landscape irrigation.

16:01:56 13 R1 water is much higher quality water than -- Well,  
16:02:05 14 let me put it this way: Honolulu does not produce R1 water.  
16:02:13 15 They treat their water with chlorine and then they send it out  
16:02:22 16 into the ocean, is what's done for millions and millions and  
16:02:22 17 millions gallons of water. In West Maui that hasn't occurred  
16:02:23 18 with the development of Kaanapali since 1960. Kaanapali  
16:02:29 19 developed a sewage treatment plant that produced secondary  
16:02:33 20 treated effluent and utilized that effluent for irrigation  
16:02:37 21 purposes within the resort itself.

16:02:38 22 The County's capacity for producing R1 water is  
16:02:43 23 currently maxed out just with the utilization of the golf  
16:02:47 24 courses and the common areas at Kaanapali. This particular  
16:02:51 25 project has taken upon itself to go to the County and offer to

16:02:55 1 do improvements to the sewage treatment plant which would  
16:02:59 2 expand its ability to produce R1 water, reduce its -- the  
16:03:06 3 amount of water that they would be injecting into the ground,  
16:03:10 4 and take back through utilization on its site R1 water for use  
16:03:18 5 within its property.

16:03:20 6           It's not totally altruistic. R1 water is much  
16:03:28 7 cheaper than potable water for use for irrigation purposes, so  
16:03:32 8 there's an economic benefit to doing that. However, R1 water  
16:03:35 9 is very expensive to produce in and of itself as opposed to  
16:03:40 10 injecting it into the ground. The County's proposal for West  
16:03:43 11 Maui I believe was a \$47 million R1 system, which would -- if  
16:03:48 12 you did all of that, you wouldn't be injecting a drop into the  
16:03:52 13 ground with injection wells. But a \$47 million project like  
16:03:58 14 that is something that the County has to come to grips with.  
16:04:03 15 This particular project has offered to do its share toward  
16:04:06 16 producing R1 water so it can utilize it on its site.

16:04:11 17           And the only other point that I wanted to offer,  
16:04:13 18 actually, before John left was that in this particular case an  
16:04:18 19 EIS was done for the subdivision of North Beach and that was  
16:04:21 20 completed. And the developer in this particular case was not  
16:04:28 21 required to do an EA because an EIS was already done on the  
16:04:34 22 subdivision. I guess it's up to this commission whether you  
16:04:38 23 want to require an EA or not, you know, under those  
16:04:43 24 circumstances, but from a developer's standpoint, I wouldn't  
16:04:46 25 subject myself to that if I didn't necessarily have to or be

16:04:51 1 required to do so by law.

16:04:52 2           The only other point I wanted to make was that for  
16:04:55 3 this particular property, it's been zoned for hotel use since  
16:04:59 4 the 1960s. It's been urbanized under the State Land Use  
16:05:05 5 Classification since the 1960s. And it's been assessed since  
16:05:10 6 that time based on those zoning classifications for the  
16:05:15 7 property. And at this particular point in time I don't know  
16:05:20 8 that requiring an EA would provide us with any more  
16:05:24 9 information than has already been provided to us to date.

16:05:28 10           CHAIR AMORIN: Thank you, Commissioner Hedani.

16:05:31 11           Commissioner Starr, followed by Commissioner  
16:05:35 12 Mardfin.

16:05:36 13           MEMBER STARR: Yeah. That's why I tried to ask  
16:05:38 14 about whether we're -- whether the department is saying that  
16:05:41 15 no EA is required or whether the EIS that was done in '88 is  
16:05:47 16 applicable. And, you know, the answer I got was that there's  
16:05:53 17 none required. In the event that it's considered that the  
16:05:56 18 1988 EIS is applicable here, even though it was not provided  
16:06:05 19 in full in our package or, you know, we were not given -- I  
16:06:12 20 would like to read the applicable ordinance under Hawaii  
16:06:20 21 Administrative Rules, Title XI, Department of Health, Chapter  
16:06:24 22 200. And I read under Subchapter 10, this is part 11-200-26,  
16:06:36 23 Supplemental Statements, General Provisions: A statement that  
16:06:41 24 is accepted with respect to a particular action is usually --  
16:06:43 25 I'm sorry, I'll slow down -- is usually qualified by the size,

16:06:47 1 scope, location, intensity, use and timing of the action,  
16:06:53 2 among other things. A statement that is accepted with respect  
16:06:58 3 to a particular action shall satisfy the requirements of this  
16:07:03 4 chapter and no other statement for that proposed action shall  
16:07:08 5 be required to the extent that the action has not changed  
16:07:12 6 substantially in size, scope, intensity, use, location or  
16:07:20 7 timing, among other things. If there is any change in any of  
16:07:27 8 these characteristics which may have a significant effect, the  
16:07:33 9 original statement that was changed shall no longer be valid  
16:07:38 10 because an essentially different action would be under  
16:07:44 11 consideration and a supplemental statement shall be prepared  
16:07:48 12 and reviewed as provided by this chapter.

16:07:55 13 So there's more. I'm not going to read it all into  
16:07:58 14 the record, but it's there and there is additional wording  
16:08:01 15 that makes even more compelling that if the position is taken  
16:08:08 16 that the 1988 EIS is still valid, then the fact that this has  
16:08:14 17 changed in so many different ways, including the addition of  
16:08:19 18 injection wells, then a supplemental EIS would definitely be  
16:08:27 19 required.

16:08:27 20 So I once again make the case that we are not  
16:08:34 21 obeying 343 and the environmental disclosure laws. And that  
16:08:39 22 if we were to approve the SMA without taking this into  
16:08:46 23 account, we will not only be acting in contravention to that,  
16:08:51 24 but are liable to be held responsible for not performing our  
16:08:55 25 duty as a stewards of the shoreline area.

16:09:01 1 CHAIR AMORIN: Thank you, Commissioner.

16:09:04 2 Deputy Director, your response.

16:09:04 3 MS. SUYAMA: I agree that there is a provision in  
16:09:13 4 the rules of the Department of Health as it pertains to  
16:09:14 5 environmental impact statements. However, what you have to  
16:09:17 6 remember is that the original application was for the  
16:09:22 7 subdivision of this property, which included a shoreline  
16:09:26 8 setback variance which triggered the requirement of Chapter  
16:09:30 9 343. That subdivision action has been completed. So,  
16:09:34 10 therefore, it's valid in the sense that it was required for  
16:09:37 11 the original subdivision, which has been completed.

16:09:41 12 Now we're talking about the individual developments  
16:09:44 13 of the individual lots that were created. And as such, when  
16:09:48 14 you look at the individual lots and the proposals that are  
16:09:51 15 coming forward before the commission, when we looked at the  
16:09:55 16 application, that application does not trigger compliance to  
16:09:59 17 Chapter 343. And, therefore, our position is that the  
16:10:04 18 original EIS is still valid for the original subdivision of  
16:10:08 19 this particular project and Lot 3 does not require Chapter 343  
16:10:14 20 compliance because a trigger has not been initiated.

16:10:20 21 CHAIR AMORIN: Thank you, Deputy Director.

16:10:22 22 Commissioner Mardfin.

16:10:24 23 MEMBER MARDFIN: I wanted to ask Commissioner -- I  
16:10:27 24 think I understand what Commissioner Hedani was saying, but I  
16:10:30 25 want to be sure. It sounds like you were saying to me that

16:10:35 1 they're -- that they want to use R1, that they're -- and that  
16:10:41 2 they're willing to contribute toward a bigger facility, but  
16:10:44 3 that facility is going to be like the bypass road, it may  
16:10:48 4 never happen.

5 MEMBER HEDANI: No.

16:10:49 6 MEMBER MARDFIN: It doesn't mean that?

16:10:51 7 MEMBER HEDANI: It will happen.

16:10:53 8 MEMBER MARDFIN: It will happen soon?

16:10:55 9 MS. SUYAMA: Could I address that?

16:10:57 10 MEMBER MARDFIN: Yes.

16:10:57 11 MS. SUYAMA: We recognize that there is a problem at  
16:11:00 12 the existing sewage treatment plant, and it is the injection  
16:11:03 13 wells. And the only way you're going to resolve that problem  
16:11:06 14 is you have to have people use the R1 water, which is the  
16:11:09 15 highest level that we can reuse, which the Department of  
16:11:14 16 Health allows you to use for irrigation purposes. Then you  
16:11:17 17 have to look at who are the property owners closer, closest to  
16:11:22 18 the sewage treatment plant, and those property owners are the  
16:11:25 19 Kaanapali Resort, both North Beach and South Beach. They are  
16:11:30 20 high users of water. There is an existing R1 line that comes  
16:11:34 21 from the sewage treatment plant into the resort already that's  
16:11:39 22 adequate to meet the accommodations of all of these individual  
16:11:44 23 properties.

16:11:45 24 So what we're saying is that if you get approved,  
16:11:46 25 one of the conditions is that you need to utilize the R1

16:11:49 1 water. You need to do whatever is necessary to make sure the  
16:11:51 2 County can provide you with that water, because that is one of  
16:11:54 3 the conditions that we're proposing. And if you want your  
16:11:57 4 certificate of occupancy to be issued by the time that you've  
16:12:01 5 completed your construction and you're ready to occupy, you  
16:12:04 6 have to ensure to the County for us to give you a final  
16:12:08 7 compliance approval that you have met that condition.

16:12:11 8           And our position is that meeting that condition is  
16:12:14 9 getting the R1 water to the project, however that requirement  
16:12:19 10 is. So you work with the County to make sure that that  
16:12:23 11 facility is upgraded to the point where we have the additional  
16:12:27 12 water capacity to take the water away from the injection wells  
16:12:32 13 into irrigation purposes. And my understanding is that one of  
16:12:36 14 the problems with the R1 water is that to provide the  
16:12:40 15 secondary treatment, you need the UV, the ultraviolet channels  
16:12:47 16 that kill the bacteria so that the water is safe enough to be  
16:12:51 17 used for irrigation purposes.

16:12:53 18           And not only this developer that we're asking them  
16:12:56 19 to work with the County, Intrawest has that same condition  
16:12:58 20 about the R1 water. They are working actively with the County  
16:13:01 21 to see what needs to be done in order to provide the  
16:13:04 22 additional capacity for the R1 water so that it can be  
16:13:08 23 utilized within the North Beach and the South Beach area.

16:13:13 24           CHAIR AMORIN: Commissioner Starr, followed by  
16:13:14 25 Commissioner Mardfin.



16:13:16 1 MEMBER STARR: I recently toured the facility as  
16:13:23 2 part of -- for this commission, and I do want to make a couple  
16:13:29 3 of technical comments. And that is that there is some  
16:13:34 4 vestigial R1 treatment there and what happens after it's been  
16:13:40 5 through the various processes to go from R2 to R1, which is  
16:13:45 6 the level of treatment that we would want to -- you know, for  
16:13:50 7 it to be used, it has to go through a UV where there are  
16:13:56 8 actually tubes, ultraviolet tubes that look like fluorescent  
16:14:02 9 tubes inside a pipe and the water runs along that.

16:14:06 10 Now, there is some UV treatment channels; however,  
16:14:10 11 there's only one set and right now -- you know, they're  
16:14:12 12 capable of treating a certain amount, but since there's only  
16:14:15 13 one set of them, if they go down, then it -- there's no backup  
16:14:21 14 and the treated water stops. And that -- for that reason, up  
16:14:26 15 'til now the department has only supplied the R1 water to  
16:14:33 16 facilities that have a backup with some other -- or the  
16:14:37 17 ability to not use water for a day, several days or so on  
16:14:42 18 until the plant is put back.

16:14:44 19 So another set of UV, you know, has to be put in  
16:14:48 20 place, but even more to the point is that the only facilities  
16:14:55 21 that have gotten it so far have their own storage and pumping  
16:14:59 22 ability. So what has to be done is storage tanks, you know, a  
16:15:04 23 large, million gallon or whatever storage tank would have to  
16:15:08 24 be built up the hill, and then the R1 water after it's treated  
16:15:15 25 would have to be pumped up to those tanks to provide the

16:15:16 1 gravity feedback down. So lines back up the hill and back  
16:15:20 2 down, plus the storage tank. So those are the constraints.

16:15:23 3 And the other issue involving this is that the  
16:15:26 4 Lahaina plant is unique. It was never built -- It was built  
16:15:30 5 without the digesters, which take the solid waste -- when the  
16:15:34 6 solid waste gets separated out, usually there is a system of  
16:15:38 7 digesters which use microbes to kind of eat the -- you know,  
16:15:43 8 the funky stuff out of it and you end up with kind of a --  
16:15:47 9 stuff that's pretty inert. But because when it was built,  
16:15:51 10 even used federal money, but Pioneer Mill wanted to use the  
16:15:57 11 solid waste in the plantation, so it was built without the  
16:16:01 12 digesters, which means that it provides a certain odoriferous  
16:16:09 13 addition to the air over there, which treatment plants  
16:16:14 14 shouldn't. They should have digesters.

16:16:16 15 It's only been used at half capacity. The second  
16:16:19 16 half of the capacity is just coming on line, which will  
16:16:22 17 increase the smell coming out of it usually. So it's going to  
16:16:27 18 stink to high heaven over there as that capacity gets added  
16:16:30 19 on. And the digesters should be put in place so that the  
16:16:37 20 smell, which thereto was just going over toward the ocean, now  
16:16:41 21 will go over toward these buildings and it will probably be  
16:16:46 22 better to have digesters as well.

16:16:48 23 CHAIR AMORIN: Thank you, Commissioner. A lot of  
16:16:50 24 education for you and me.

16:16:52 25 Commissioner Mardfin.

16:16:55 1 MEMBER MARDFIN: And I need two questions still. I  
16:17:01 2 guess I'm still not totally clear -- There are two things.  
16:17:05 3 One, I'm not totally clear whether the net generation of  
16:17:10 4 sewage from this capacity will be totally taken back, is one  
16:17:16 5 question, or whether they'll take back 90 percent or whether  
16:17:20 6 they'll take back 110 percent.

16:17:22 7 The second major question I have is: Once this is  
16:17:25 8 used to fertilize -- I'm not concerned about the pathogens  
16:17:28 9 particularly, although I should probably be concerned about  
16:17:31 10 that, too, but I'm concerned about the nutrients because of  
16:17:37 11 the algal blooms. And so I guess if you use the R1 to  
16:17:40 12 irrigate or to fertilize the land, will there -- what's going  
16:17:42 13 to happen to runoff from the land into the ocean? And maybe  
16:17:45 14 that's what the gentleman from UH was talking about and so far  
16:17:48 15 it hasn't happened, I don't know, but if they're not using R1  
16:17:51 16 there, we don't know yet.

16:17:55 17 CHAIR AMORIN: Karlynn.

16:17:56 18 MS. KAWAHARA: Chair, if I can, I would like to have  
16:17:57 19 Ron Swenson answer the first part of Mr. Mardfin's question,  
16:17:58 20 and then call on Dr. Brock with regards to the algal blooms.

16:18:03 21 CHAIR AMORIN: Mr. Swenson.

16:18:05 22 MR. SWENSON: Ron Swenson, Critchfield Pacific.  
16:18:08 23 Currently our domestic water needs are about 150,000 gallons  
16:18:13 24 and our irrigation needs are close to 150, 160. So if we're  
16:18:18 25 only consuming 150,000 gallons of water a day, no more than

16:18:24 1 150,000 can go down the sewage. We're bringing back 160,000  
16:18:33 2 for irrigation, so we should be at zero impact.

16:18:36 3 CHAIR AMORIN: Thank you.

16:18:38 4 Please state your name.

16:18:40 5 MR. BROCK: My name is Richard Brock. I'm with  
16:18:43 6 environmental assessment. With respect to your question  
16:18:46 7 regarding the use of R1 water on landscaping and golf courses,  
16:18:52 8 I've conducted a study at Waikoloa over on the Big Island for  
16:18:58 9 the last, oh, more than 20 years, I guess it's going on 22  
16:19:02 10 years, where they do use R1 water on their golf course. And  
16:19:06 11 we don't find a -- We monitor the quality of water in wells on  
16:19:11 12 the project site, both mauka as well as makai, and we monitor  
16:19:17 13 out into the ocean out in front of the project site. We don't  
16:19:20 14 have -- We don't see the stuff in the ocean. We see a little  
16:19:23 15 bit in the wells underground, but by the time that water has  
16:19:27 16 gotten out to the ocean, it's completely diluted, effectively  
16:19:31 17 it's gone. We have not seen a problem with changes in the  
16:19:35 18 algal communities, so the problem isn't there.

16:19:40 19 The Water Resources Research Center at University of  
16:19:43 20 Hawaii has spent a lot of man years, if you will, of research  
16:19:47 21 looking at the use of R1 in golf courses. The first place  
16:19:51 22 they did it was in Kaneohe at the Klipper Golf Course. And  
16:19:57 23 it's all been published. And it's pretty unequivocal, you  
16:20:01 24 don't have a problem.

16:20:02 25 Now, you can go overboard with this, too. You can

16:20:06 1 pour too much stuff on, you know fertilizers and things. The  
16:20:09 2 way things are done today, we don't pick up fertilizers, we  
16:20:14 3 don't pick up pesticides because we also sample for that,  
16:20:20 4 so (pause) --

16:20:22 5 CHAIR AMORIN: Commissioner Mardfin, you had another  
16:20:24 6 question?

16:20:24 7 MEMBER MARDFIN: No.

16:20:26 8 CHAIR AMORIN: Thank you.

16:20:27 9 At this time we're going to take a little break for  
16:20:29 10 the steno. We'll be back at 4:30. (Gavel.)  
16:20:38 11 (Pause in Proceedings: 4:20-4:29)  
16:27:16 12 (Commissioner Guard is present.)

16:29:04 13 CHAIR AMORIN: Maui Planning Commission meeting of  
16:29:09 14 January 22nd is back in session.  
16:29:13 15 Deputy Director Colleen.

16:29:15 16 MS. SUYAMA: Before we go further with the KOR  
16:29:18 17 property, we would -- the department would like to recommend  
16:29:21 18 that everything on your agenda from D onward be deferred to  
16:29:28 19 your next meeting. I don't think we're going to get through  
16:29:31 20 the agenda since it's getting close to 5 o'clock.

16:29:32 21 CHAIR AMORIN: Okay. I have spoken with the  
16:29:35 22 commissioners. Most of you can stay 'til at least 5:30. We  
16:29:40 23 have one that has to leave at 5:15. We still do have quorum.  
16:29:46 24 Asking Commissioner Mardfin and Commissioner Starr, can you  
16:29:51 25 stay 'til 5:30?

16:29:55 1 MEMBER STARR: It's going to be tough. I would  
16:29:57 2 prefer it to end earlier. I don't know what time we're going  
16:30:03 3 to lose corp counsel and I have some questions of corp counsel  
16:30:06 4 for some of the items, later items on the agenda.

16:30:10 5 CHAIR AMORIN: Okay. We have a quorum 'til at least  
16:30:13 6 5:30 with Pawsat, Iaconetti, Hedani, myself, John Guard --  
16:30:21 7 Commissioner Mardfin, you can stay 'til 5:30? At least we do  
16:30:26 8 have quorum.

16:30:29 9 Commissioner Iaconetti.

16:30:29 10 MEMBER IACONETTI: The postponing of the agenda has  
16:30:32 11 been occurring time and time again. This is about the fourth  
16:30:36 12 time I've brought it up. Whoever makes the agenda is  
16:30:40 13 overburdening the agenda and we never get over it. And as a  
16:30:43 14 result of that, we keep having material put on the next  
16:30:47 15 agenda, which makes that one -- we can't get to it. I would  
16:30:55 16 appreciate making an agenda that we could in all likelihood  
16:31:00 17 get over at one meeting, but that hasn't happened. It hasn't  
16:31:05 18 happened in three months, at least. And we keep seeing the  
16:31:11 19 same stuff over again. And to me, there's something wrong  
16:31:14 20 with the way the agenda is being put together.

16:31:19 21 CHAIR AMORIN: Deputy Director.

16:31:20 22 MS. SUYAMA: We have been trying to look at what is  
16:31:23 23 on the commission's agenda, but recently the commission has  
16:31:28 24 been taking more than five hours on any one particular item.  
16:31:32 25 And for that reason, the Hyatt Regency was not put on this

16:31:36 1 agenda because we had one critical, large project, which was  
16:31:40 2 SVO Lot 3.

16:31:42 3           What happens when you keep on deferring things  
16:31:45 4 because of nonaction is that it starts jamming up your  
16:31:49 5 schedule in the sense that applications are scheduled for  
16:31:53 6 public hearing way in advance of the next meeting. And then  
16:31:57 7 we have conflicts of public hearings that have been scheduled  
16:32:00 8 as well as old items that the commission needs to dispose of,  
16:32:04 9 and that's where the problem has happened in terms of why the  
16:32:08 10 commission has not been able to complete the agenda.

16:32:12 11           We've tried to be more cautious of that and,  
16:32:15 12 therefore, we're trying -- if we have a major application on  
16:32:18 13 the agenda, trying not to schedule another major application  
16:32:23 14 at the same time. And that's why we've been trying to stagger  
16:32:28 15 things where Hyatt wasn't here today, so Lot 3 was. Probably  
16:32:31 16 the next meeting Hyatt Regency will be coming back and then we  
16:32:37 17 scheduled the Maui Lu project 'til March. So that's what  
16:32:41 18 we've been doing, trying to judge your schedule so at least  
16:32:45 19 you could come to some conclusion.

16:32:47 20           CHAIR AMORIN: Thank you, Deputy Director.

16:32:49 21           And for myself, when I took the chair's position in  
16:32:53 22 April of last year, I was told it was going to be a very  
16:32:56 23 intense year and we were prepared for it. The only thing I  
16:33:00 24 can say to the commissioners, I want to thank you very much.  
16:33:03 25 It has been a challenging year. And we never know on any

16:33:06 1 agenda item how long it will be because of the large  
16:33:12 2 developments and the testimony. But you, Commissioners, you  
16:33:17 3 have been so thorough, and the applicant, also, because it's  
16:33:23 4 been all very important. Thank you.

16:33:25 5 Commissioner Iaconetti, followed by Commissioner  
16:33:28 6 Hedani.

16:33:29 7 MEMBER IACONETTI: Well, I think the Deputy Planning  
16:33:34 8 Director said in a -- much better than I did that we're  
16:33:39 9 overburdening the agenda. And I think there's no reason why  
16:33:44 10 we can't limit the amount of material on the agenda so that we  
16:33:49 11 can actually expect to get over it. Yes, there been a lot  
16:33:52 12 more testimony on some of these very large and important  
16:33:55 13 developments, but, nevertheless, knowing that, let's limit the  
16:34:01 14 agenda to even more.

16:34:06 15 CHAIR AMORIN: Thank you.

16:34:07 16 Commissioner Hedani.

16:34:08 17 MEMBER HEDANI: Okay. I think that when I looked at  
16:34:15 18 today's -- when I looked at today's agenda, I thought that the  
16:34:20 19 agenda was light, that one major project and we had a lot of  
16:34:22 20 minor issues. We should have been able to bang out the entire  
16:34:26 21 agenda and go home early by 3 o'clock. The fact that we took  
16:34:31 22 an hour and a half to go over a four-lot subdivision and the  
16:34:34 23 fact that we took over an hour and a half to go over a 16-lot  
16:34:38 24 subdivision, both of which -- from my perspective, many of the  
16:34:42 25 items that were in those projects could have been done



16:34:45 1 administratively, is to some degree a problem. Because while  
16:34:51 2 we're being thorough, I think we're getting to the point of  
16:34:55 3 nitpicking agenda items to the point where we beat the project  
16:34:59 4 to death and that's why we can't get our job done, that's why  
16:35:04 5 we can't keep to our agendas and that's why we're not  
16:35:08 6 accomplishing as much. That's my personal perspective.

16:35:11 7 CHAIR AMORIN: Thank you, Commissioner Hedani, for  
16:35:14 8 your perspective on this.

16:35:17 9 Any other comments? Commissioner Mardfin.

16:35:20 10 MEMBER MARDFIN: When we were on break, I found a  
16:35:23 11 note, I think we all have it, from Angie Hoffman, Haiku,  
16:35:28 12 maybe, talking about Hawaiian Wildlife Fund. She's a marine  
16:35:35 13 naturalist for them. She's concerned about the coral reef,  
16:35:38 14 the same issue I was raising. She says that although this is  
16:35:44 15 not definite proof of what would happen if this injection well  
16:35:48 16 is allowed, it's indicative of the threat. I think there are  
16:35:50 17 two separate issues here and I'm not sure she was here for the  
16:35:54 18 testimony that was given. There's one injection well for the  
16:35:58 19 saltwater going back in for the desalinization for potable  
16:36:03 20 water, and the other one seems to be the Lahaina injection  
16:36:08 21 well where sewage would go and go out if insufficient water is  
16:36:12 22 brought back.

16:36:14 23 CHAIR AMORIN: Commissioner Mardfin, just to  
16:36:19 24 interject, she is on the list as a testifier to come up and  
16:36:23 25 she's just handing out her material.

16:36:25 1 MEMBER MARDFIN: Oh, I'm sorry.

16:36:27 2 CHAIR AMORIN: Commissioner Hiranaga.

16:36:29 3 MEMBER HIRANAGA: I apologize for returning a little  
16:36:32 4 late from the break and I wasn't sure what Commissioner Hedani  
16:36:36 5 was talking about. Are we still talking about the SVO  
16:36:41 6 application?

16:36:41 7 CHAIR AMORIN: Yes, yes. We were just checking to  
16:36:43 8 make sure we can be available to 5:30 to have a quorum. Most  
16:36:49 9 of us will be here 'til 5:30.

16:36:53 10 MEMBER HIRANAGA: I have, I guess, three questions.  
16:36:56 11 Commissioner Hedani mentioned that the applicant was going to  
16:36:57 12 participate in the expansion of capacity at the sewage  
16:37:01 13 treatment plant in Lahaina. And by participating in expansion  
16:37:05 14 of capacity, is that the construction of the transmission line  
16:37:08 15 for R1 or are you going to be participating in the expansion  
16:37:13 16 of treatment ability? Just a clarification.

16:37:18 17 CHAIR AMORIN: Commissioner Hiranaga, before we  
16:37:20 18 start with that question to the applicant, we were in the  
16:37:25 19 midst of deferring the rest of our agenda and then we'll just  
16:37:30 20 get right on with that.

16:37:33 21 Deputy Director.

16:37:34 22 MS. SUYAMA: We had recommended that the items from  
16:37:36 23 D onward of your agenda be deferred to the next meeting  
16:37:41 24 because of the time that's involved just dealing with the SVO  
16:37:45 25 application for the rest of the afternoon.

16:37:47 1 CHAIR AMORIN: Commissioner Starr.

16:37:48 2 MEMBER STARR: Yeah. I understand that we will be

16:37:51 3 adjourning at 5:30. I believe that we'll be lucky to get

16:37:58 4 through this item. So with that in mind, I'll follow Deputy

16:38:03 5 Director's lead and move that we defer items D-1 through F.

16:38:13 6 CHAIR AMORIN: Do we have a second?

16:38:19 7 MEMBER PAWSAT: Second.

16:38:20 8 CHAIR AMORIN: Okay. We have a motion on the floor

16:38:21 9 by Commissioner Starr, seconded by Commissioner Pawsat to

16:38:24 10 defer items on our agenda today, Item D-2 through to F.

16:38:32 11 Through G, I'm corrected to G. All those in favor?

16:38:36 12 MEMBER STARR: Let me --

16:38:39 13 CHAIR AMORIN: Commissioner Starr.

16:38:39 14 MEMBER STARR: Yeah. Just if we do have time,

16:38:40 15 perhaps we might allow -- If there's anyone here to testify

16:38:43 16 for those items, they might not come back next time. If we

16:38:47 17 have time.

16:38:48 18 CHAIR AMORIN: Yes, that should be okay. Thank you

16:38:49 19 very much.

16:38:50 20 All those in favor?

16:38:52 21 (Chorus of ayes.)

16:38:55 22 CHAIR AMORIN: Any opposed?

16:38:57 23 (No audible response.)

16:38:58 24 CHAIR AMORIN: Motion carried.

16:39:00 25 Going back to Commissioner Hiranaga on the

16:39:01 1 questioning. Karlynn.

16:39:01 2 MS. KAWAHARA: To respond to Commissioner Hiranaga's  
16:39:05 3 first question, we are working with the County of Maui and  
16:39:07 4 Intrawest to determine what the scope of those improvements  
16:39:11 5 are needed for the expansion of the R1 water service. So  
16:39:15 6 transmission may be part of it. I don't know that the entire  
16:39:18 7 scope of work has been determined yet. But, again, Starwood  
16:39:21 8 has committed to paying their fair share of what improvements  
16:39:24 9 are needed to expand the R1 water capacity at the Lahaina  
16:39:30 10 Wastewater Treatment Facility.

16:39:30 11 MEMBER HIRANAGA: Distribution capacity or treatment  
16:39:33 12 capacity?

16:39:33 13 MS. KAWAHARA: Again, I think it will probably be  
16:39:36 14 both. Again, I'm not sure what the final scope will be, but  
16:39:39 15 from what I gathered from I think it was Commissioner Hedani  
16:39:41 16 has said and what Deputy Director Suyama, who I know has met  
16:39:47 17 with the Department of Environmental Management, has said,  
16:39:50 18 there is a need to expand capacity as well, so -- I don't know  
16:39:53 19 that the entire scope has been figured out yet, though.

16:39:56 20 MEMBER HIRANAGA: So you know there's a need, but  
16:39:59 21 you don't know what your participation will be?

16:40:02 22 MS. KAWAHARA: Right. And it's not just us, it's  
16:40:05 23 Intrawest as well and I believe there may be other Kaanapali  
16:40:08 24 projects that will be required to participate.

16:40:11 25 MEMBER HIRANAGA: Another question I have regarding

16:40:13 1 your desalination process, based upon your presentation, the  
16:40:18 2 only byproduct that's created is, I guess, brine which is 4.3  
16:40:23 3 percent of a total water being processed; is that correct?

16:40:30 4 MS. KAWAHARA: I will ask Ron Swenson, the  
16:40:33 5 desalinization consultant, to respond to that.

16:40:37 6 MR. SWENSON: Ron Swenson, Critchfield Pacific. Can  
16:40:41 7 you ask the question again?

16:40:42 8 MEMBER HIRANAGA: What is the byproduct that is  
16:40:44 9 created by the desal process? You mentioned 4.3 percent is  
16:40:50 10 brine.

16:40:51 11 MR. SWENSON: What the desal process does is it  
16:40:54 12 pulls the salt out of the seawater and we're mixing that back  
16:40:59 13 with the heat rejection water for a total increase of 4.5 to 5  
16:41:05 14 percent of salt in parts per million back into the 600-foot  
16:41:11 15 return well.

16:41:13 16 MEMBER HIRANAGA: So you're increasing the salinity  
16:41:16 17 of the water that was pumped in 4.3 percent in salinity based  
16:41:24 18 upon what -- the brine that's pulled out of the filtration?

16:41:27 19 MR. SWENSON: Yeah. The desalinization process is a  
16:41:31 20 very small component of the heat rejection process. The heat  
16:41:35 21 rejection flow about three to 4,000 gallons a minute and the  
16:41:40 22 desalinization flows 380.

16:41:44 23 MEMBER HIRANAGA: Okay. One more question. Where  
16:41:47 24 is the Maui Highlands project? According to this letter from  
16:41:51 25 Mark Roy, a desal system was used for the Maui Highlands

16:41:55 1 project.

16:41:57 2 MS. KAWAHARA: Commissioner Hiranaga, Karlynn

16:42:02 3 Kawahara, Munekiyo & Hiraga. I believe that the Maui

16:42:04 4 Highlands project is the residential project on -- adjacent to

16:42:08 5 the Elleair Golf Course in the Kihei area.

16:42:13 6 MEMBER HIRANAGA: Is the condominium project under

16:42:14 7 construction?

16:42:15 8 MS. KAWAHARA: I believe it's, yeah, currently under

16:42:17 9 construction.

16:42:18 10 MEMBER HIRANAGA: One more question.

16:42:19 11 CHAIR AMORIN: Commissioner Hiranaga.

16:42:21 12 MEMBER HIRANAGA: I found this letter on my desk

16:42:24 13 dated January 18th from Councilperson Baisa. And I guess we

16:42:29 14 all got copies of it. What impact does this letter have on

16:42:33 15 our deliberations regarding timeshares?

16:42:37 16 CHAIR AMORIN: Deputy Director.

16:42:39 17 MS. SUYAMA: All Councilwoman Baisa is saying is

16:42:45 18 that there is a proposal to limit timeshares that is in the

16:42:49 19 Council Planning Committee. However, that has not been

16:42:53 20 adopted by the council, it's still under discussion purposes;

16:42:56 21 and, therefore, it does not affect your decision making

16:42:59 22 because it has not been put into law.

16:43:01 23 MEMBER HIRANAGA: So we should ignore it?

16:43:03 24 MS. SUYAMA: Basically it's just an informational

16:43:07 25 letter coming from the council saying that they're considering

16:43:09 1 this, but the way we usually enforce criteria is based upon  
16:43:18 2 the law that's enacted or rule and regulation that is  
16:43:22 3 currently in action, not something that may or may not be  
16:43:25 4 adopted by the council.

16:43:27 5 CHAIR AMORIN: Commissioner Starr.

16:43:29 6 MEMBER STARR: Yeah. I took it differently. I took  
16:43:32 7 it as a request not to okay the thing until they have had a  
16:43:37 8 chance to act on their ordinance.

16:43:42 9 CHAIR AMORIN: Any more questions for the applicant?  
16:43:47 10 Commissioner Mardfin.

16:43:49 11 MEMBER MARDFIN: This is not exactly for the  
16:43:51 12 applicant. During the break I spoke to --

16:43:56 13 CHAIR AMORIN: Mike?

16:43:57 14 MEMBER MARDFIN: Mike.

16:43:58 15 CHAIR AMORIN: Or Paul?

16:44:00 16 MEMBER MARDFIN: No, Mike. Let me get -- Can you  
16:44:03 17 again repeat what I thought I heard you say about the amount  
16:44:06 18 of sewage going down to Lahaina and the amount that they're  
16:44:10 19 scheduled to bring back?

16:44:12 20 CHAIR AMORIN: Public Works.

16:44:14 21 MEMBER MARDFIN: I'm sorry, I should have mentioned  
16:44:20 22 that.

16:44:22 23 MR. MIYAMOTO: (Pause - referring.) Madam Chair,  
16:44:24 24 the discussion was focused on the earlier report, the October  
16:44:29 25 23rd report, some numbers that were provided in that report by

16:44:33 1 planning staff. It indicated that they were going to generate  
16:44:36 2 about -- I think it's about 121,000 gallons of sanitary sewer  
16:44:45 3 volume. In a previous page they estimated about -- for that  
16:44:48 4 site they estimated utilizing about 60,000 of R1 water for  
16:44:54 5 irrigation. So I was just showing in staff's report what they  
16:44:58 6 had.

16:44:58 7 MEMBER MARDFIN: So they're only -- For every two  
16:45:02 8 gallons that they send down, they're only going to bring one  
16:45:07 9 gallon back, according to plan?

16:45:09 10 MR. MIYAMOTO: Basically that's what's shown in the  
16:45:12 11 report, the October report. On page 7 of 67 it identifies  
16:45:18 12 Water. It says Potential Mitigation -- Potential Impacts and  
16:45:23 13 Mitigation Measures, and talks about how much potable water  
16:45:27 14 they're going to utilize. And it identifies 60,000 gallons as  
16:45:32 15 landscape irrigation and on the following page, page 8, it  
16:45:37 16 identifies -- I take back, sorry, page 9 of 67 under Sewer it  
16:45:41 17 identifies potential impact and mitigation measures, an  
16:45:42 18 average sanitary sewer volume of 120,950 gallons per day  
16:45:50 19 projected.

16:45:51 20 CHAIR AMORIN: Thank you.

16:45:51 21 Any more questions for the applicant or staff?  
16:45:56 22 Commissioner Mardfin.

16:45:58 23 MEMBER MARDFIN: Totally different issue. And I  
16:46:05 24 know it's addressed in there partially. I just want some  
16:46:08 25 clarification. Has -- Did OHA and/or Hawaiian practitioners



16:46:13 1 have any comments on this project, whether it would interfere  
16:46:17 2 with any traditional practices, uses, anything of the sort?  
16:46:22 3 I'm not asking about whether they found EV on the land,  
16:46:26 4 because I know there are conditions on that already, but  
16:46:29 5 cultural practices and that sort of thing.

16:46:32 6 CHAIR AMORIN: Karlynn.

16:46:32 7 MS. KAWAHARA: I believe the Planning Department  
16:46:33 8 sent the SMA application for review to the Office of Hawaiian  
16:46:37 9 Affairs. And if I remember correctly, I do not believe that  
16:46:41 10 they had any comments.

16:46:42 11 Additionally, I would like to note that Starwood has  
16:46:45 12 on its own created the Cultural Focus Group, as we talked  
16:46:48 13 about in our presentation, which is made up of prominent  
16:46:50 14 members of the Native Hawaiian community. So they are also  
16:46:54 15 advising Starwood on the project as well. So (pause) --

16:47:00 16 MEMBER MARDFIN: Thank you.

16:47:02 17 CHAIR AMORIN: Thank you.

16:47:03 18 Commissioner Guard.

16:47:05 19 MEMBER GUARD: Sorry for my brief recess.

16:47:09 20 Who would I talk to about this open space rec. area?  
16:47:16 21 A few members of the community have -- they used to use that  
16:47:21 22 as like the last stronghold for privacy on that whole side.  
16:47:25 23 And people from that side -- obviously, they like the open  
16:47:30 24 space, but it's kind of a big inconvenience for them to park  
16:47:35 25 up on the highway and walk all the way down. I don't know if

16:47:38 1 they could make a turn-around area. If this thing goes  
16:47:41 2 through, I would like to see just -- maybe no parking, but  
16:47:44 3 something where you could turn around, drop coolers off and  
16:47:48 4 possibly even have access for, say, like a canoe trailer or  
16:47:53 5 something for either long-distance races or Native Hawaiian  
16:47:58 6 cultural practices of the voyaging canoe that one of these  
16:48:03 7 people had brought in as an endorsement previously. Because  
16:48:10 8 Canoe Beach, they're as a resulting to run out of -- it's  
16:48:14 9 turning into a commercial park as well. So maybe this ten  
16:48:19 10 acres could be the noncommercial spot that Hanakao was meant  
16:48:30 11 to be that somehow got lost in the shuffle that they're  
16:48:30 12 allowing it to become a commercial enterprise zone as well.

16:48:30 13 MS. KAWAHARA: To answer Commissioner Guard's  
16:48:35 14 question, there is a limited amount of improvements  
16:48:37 15 essentially that we can do on that park. Again, this is based  
16:48:40 16 on the settlement agreement of the overall subdivision. It  
16:48:44 17 was meant to be an open space recreational area and I believe  
16:48:48 18 that that is, you know, essentially how it has to be in  
16:48:53 19 perpetuity. There are, you know, documents that have been  
16:48:56 20 signed. And perhaps John Rapacz could provide further  
16:49:01 21 expansion on it, if you would like, but my understanding is  
16:49:03 22 that the uses in that 10-acre open space are limited. We had  
16:49:07 23 to get permission from the intervenors in order to get the  
16:49:11 24 comfort station built because they considered that a  
16:49:15 25 structure. But they were fine with it because it was a public

16:49:20 1 service, so --

16:49:21 2 MEMBER GUARD: Or even an open access that if  
16:49:23 3 someone needed to, they could -- with enough manpower, you  
16:49:27 4 could just push a trailer down with your canoe instead of  
16:49:31 5 having to carry, say, a 400-pound canoe from the highway down  
16:49:36 6 becomes a burden. And then for people that wanted to enjoy  
16:49:39 7 some recreational fishing, et cetera, it might be easier to  
16:49:43 8 get stuff down there.

16:49:45 9 MS. KAWAHARA: A last comment on that open space  
16:49:48 10 area, there is a 100-parking stall parking lot on that site  
16:49:54 11 additionally. And I believe the distance from the parking lot  
16:49:57 12 to the shoreline I thought was -- and someone can correct me  
16:50:04 13 if I'm wrong -- about 150 feet.

16:50:07 14 MEMBER GUARD: No.

16:50:09 15 MS. KAWAHARA: More? 200?

16:50:12 16 MEMBER GUARD: Looks like a thousand feet or so with  
16:50:15 17 the 150-foot setback.

16:50:15 18 MS. KAWAHARA: Sorry. I've been corrected. It's  
16:50:17 19 600 feet.

16:50:19 20 MEMBER GUARD: So you're talking about three  
16:50:20 21 football fields, which isn't huge, but all of the guests,  
16:50:24 22 obviously, have an easier time to get in to use the ocean than  
16:50:26 23 the general public does.

16:50:30 24 CHAIR AMORIN: Any more questions, Commissioners?

16:50:33 25 Seeing none, at this time I would like to open up

16:50:36 1 for public testimony on this item Part B. I have a list here.

16:50:47 2 Lucienne deNaie, did you want to speak on this item,

16:50:52 3 Part B, or --

16:50:54 4 MS. deNAIE: Yes, ma'am.

16:50:55 5 CHAIR AMORIN: Thank you.

16:50:56 6 MS. deNAIE: Thank you very much. My name is

16:51:06 7 Lucienne deNaie and I'm a board member of Maui Tomorrow.

16:51:10 8 And as I mentioned, I've tracked this particular

16:51:14 9 area for some time. In fact, one of the saddest things,

16:51:18 10 sitting here today and just thinking about that reef out

16:51:22 11 there, because ten years ago when we were sitting in front of

16:51:26 12 the Planning Commission, person after person came up to say

16:51:29 13 what a beautiful reef it was, how they and their children

16:51:33 14 enjoyed snorkeling there. Cultural practitioners talked about

16:51:38 15 the abundance of fish and the health of the coral. There was

16:51:43 16 so much wonderful manao shared.

16:51:47 17 And I attended a presentation about five days ago by

16:51:52 18 Russell Sparks where he explained that this is one of the most

16:51:56 19 impacted reefs on Maui right now, this Ma'alaea and Honolua

16:52:02 20 Bay, and that a tiny percentage of the coral still remains

16:52:07 21 healthy and alive. And you just have to ask yourself, What

16:52:12 22 happened?

16:52:13 23 And when I was at the hearing in ten years ago and

16:52:18 24 folks said, You know, when you have this kind of development

16:52:21 25 along the shoreline, it changes things. It changes the reefs.

16:52:25 1 Well, no one ever had any proof of it. In those days  
16:52:29 2 injection wells didn't have any impacts on the reefs, either.  
16:52:34 3 It took the newest study that Mr. Sparks was talking about to  
16:52:39 4 realize it takes three years for the effluent from injection  
16:52:43 5 wells to make its way to reefs. No, they don't see it right  
16:52:47 6 away. They don't see it the first year. They don't see it  
16:52:48 7 the second year. They see it three years later.

16:52:52 8 It astounds me that a green development, a LEEDS  
16:52:56 9 certified development would not want to do a supplemental EIS  
16:53:01 10 or an EA voluntarily to find out what kind of science  
16:53:06 11 experiment is going to be going on here. We do not have power  
16:53:11 12 plants, private power plants doing desal along our ocean in  
16:53:18 13 every community. We don't have any. This is an experiment.  
16:53:23 14 And I really urge you to ask for as much information as  
16:53:29 15 possible.

16:53:30 16 The EIS done in 1988, perhaps it was only confined  
16:53:37 17 to the request for the variance for the shoreline setback, but  
16:53:44 18 the Chapter 343 process, the trigger is just why it's done.  
16:53:49 19 The content is about everything that could concern that  
16:53:55 20 project. The trigger is just why we do it, but the content is  
16:53:59 21 what we want to find out for it. An EA or an EIS or a  
16:54:06 22 supplemental EIS is nothing to be ashamed of. It's a document  
16:54:11 23 that gives us information we need. Look how much time you  
16:54:14 24 guys have spent talking here trying to pry out the  
16:54:18 25 information. You could have read this in a supplemental EIS.

16:54:22 1 You could have read it and had it reviewed. It just -- It  
16:54:26 2 astounds me.

16:54:27 3 I just want to say when I was a kid, there was a  
16:54:30 4 great surf spot right by the power plant in San Diego County.  
16:54:35 5 And it was great because hot water came out of the power plant  
16:54:40 6 because they used it to cool their, you know, generators. And  
16:54:47 7 it -- there was an outfall out into the ocean. And it was so  
16:54:57 8 nice in the wintertime to surf in those nice warm waves. But  
16:54:57 9 it was also the biggest kelp bed you ever wanted to see you  
16:54:57 10 along that whole coast, and I surfed all up and down the  
16:55:01 11 coast.

16:55:01 12 I wonder if the hot brine is going to have any  
16:55:04 13 effect on the algae. Wouldn't it be nice to find out? I  
16:55:08 14 don't know. I'm not a scientist. Perhaps there's no problem,  
16:55:11 15 but it would really, really be nice to find out.

16:55:15 16 Also, I'm a little confused because I just heard a  
16:55:18 17 presentation about wastewater use in Honolulu at the recent  
16:55:22 18 water conference at MCC, and their water director told us that  
16:55:27 19 they heavily reuse their treated effluent. Maybe it's not R1,  
16:55:32 20 maybe it's R2, but they're using the majority of it and  
16:55:36 21 injecting very little. And because of that, although  
16:55:39 22 population has grown, their water use has grown very little in  
16:55:44 23 the last two years.

16:55:46 24 CHAIR AMORIN: Lucienne, your three minutes are up.  
16:55:50 25 Conclude in 30 seconds.

16:55:51 1 MS. deNAIE: Thank you.

16:55:52 2 At any rate, we're the best, we should ask for the  
16:55:54 3 best. Thank you.

16:55:56 4 CHAIR AMORIN: Commissioner Starr.

16:55:57 5 MEMBER STARR: Lucienne, I know you've been involved  
16:55:59 6 in the 343 process since the beginning. What --

16:56:05 7 MS. deNAIE: I'm not that old.

16:56:09 8 MEMBER STARR: It's not that old. What -- Can you  
16:56:11 9 give us some opinion as far as the triggers and whether -- you  
16:56:18 10 know, and why this would or would not require either to have a  
16:56:21 11 new EA or a supplemental, and what potentially could happen if  
16:56:28 12 not?

16:56:29 13 MS. deNAIE: Well, I've been involved with a number  
16:56:31 14 of organizations that have asked for environmental review on  
16:56:34 15 projects where we were told flat out by all the authorities,  
16:56:38 16 including the County Planning Department, pardon me, that no  
16:56:41 17 environmental review was needed. And we have won in court  
16:56:45 18 virtually every time because the triggers are pretty clear. A  
16:56:49 19 power plant is a trigger for environmental review in a  
16:56:53 20 shoreline district.

16:56:56 21 A supplemental EIS is needed if you're talking about  
16:56:59 22 a different project. Even if you're not going for the same  
16:57:03 23 permit review, if 10 to 20 years has passed, which is the case  
16:57:08 24 here, and you're really talking about a different set of  
16:57:12 25 circumstances, that's why Chapter 10, Section 10 is in our

16:57:18 1 laws, to provide for that. Not to provide for something  
16:57:21 2 that's, you know, just cut-and-dried, but for when things have  
16:57:26 3 substantial changes that actually need to be addressed.

16:57:29 4 In my opinion, you should ask for either a  
16:57:32 5 supplemental EIS or an EA to deal at least with the conditions  
16:57:39 6 of the desal plant and its injection wells and maybe some, you  
16:57:45 7 know, related sort of infrastructure.

16:57:48 8 MEMBER STARR: Could you give a couple of examples  
16:57:50 9 of projects that didn't have EA's and that legal action  
16:57:54 10 enforced them recently?

16:57:56 11 MS. deNAIE: Well, East Maui wells. County didn't  
16:58:00 12 think there was ever any reason in the world to ever say  
16:58:03 13 anything about the East Maui wells. And we wrote a few  
16:58:06 14 letters to them. This is back in, what, 1990, 1989. They  
16:58:12 15 produced a little report this big. We asked the court to make  
16:58:19 16 them do a decent EIS. The court agreed. We entered a consent  
16:58:27 17 decree. And a series of EIS's were produced and supplemental  
16:58:32 18 EIS's, because the EIS's did not match our consent decree.  
16:58:38 19 And finally we found out that the wells in Hamakua are  
16:58:39 20 polluted, dragged it out of the County, and the council voted  
16:58:43 21 not to use them. This is citizen action. Council was going  
16:58:46 22 to -- or the County was just going to send that water off for  
16:58:50 23 people to drink.

16:58:52 24 It is a shame that citizens have to do the  
16:58:54 25 government's work sometimes, but you're involved in doing the



16:58:58 1 government's work, so it's appreciated.

16:59:02 2 CHAIR AMORIN: Any more questions? Commissioner

16:59:04 3 U'u.

16:59:04 4 MEMBER U'U: You know, in regards to that H-Poko

16:59:08 5 well, I know some of the council members regret action

16:59:13 6 shutting it down.

16:59:15 7 MS. deNAIE: Well, the fact is Mr. U'u, it did have

16:59:18 8 pollution problems and not just one contaminants, but a

16:59:25 9 variety of contaminants that we don't know the effect of the

16:59:30 10 variety of them all working together. And the council,

16:59:32 11 whether they regret it or not, did vote to shut it down and

16:59:36 12 the County finally did admit that, you know, it needed

16:59:41 13 treatment. They entered into a consent agreement with Shell

16:59:46 14 Chemical as a result of our original lawsuit. I think the

16:59:47 15 public benefited from our original lawsuit, so --

16:59:49 16 MEMBER U'U: That is a viewpoint, but in Upcountry

16:59:52 17 we still have 814 on the water meter list. So we're back to

16:59:55 18 square one.

16:59:58 19 CHAIR AMORIN: Any more questions for the testifier?

17:00:00 20 Seeing none, thank you, Lucienne.

17:00:04 21 Next on my list, Angie Hoffman.

17:00:07 22 MS. deNAIE: She's not here.

17:00:09 23 UNIDENTIFIED SPEAKER: Her testimony was given in

17:00:11 24 her paper.

17:00:12 25 CHAIR AMORIN: Okay. Thank you.

17:00:13 1 Next, Dick Mayer.

17:00:17 2 MR. MAYER: Thank you. My name is Dick Mayer. I am  
17:00:46 3 the vice chair of the General Plan Advisory Committee. And I  
17:00:50 4 would like to make you aware of a letter -- I'm not speaking  
17:00:53 5 for the GPAC any more than you folks would be allowed to speak  
17:01:00 6 for the Planning Commission, but I do want to let you know  
17:01:03 7 about a letter that the General Plan Advisory Committee  
17:01:12 8 approved at its last meeting 12 days ago on January 10th. And  
17:01:12 9 it was addressed to among others, the mayor, the County  
17:01:12 10 Council, the Planning Department, your Planning Commission and  
17:01:15 11 the State Land Use Commission.

17:01:16 12 It's a request that you be very cautious in going  
17:01:21 13 ahead and approving additional projects. The concern came up  
17:01:25 14 to the membership on the GPAC. And we're an advisory body, we  
17:01:30 15 don't legislate, but we're now in the process of preparing a  
17:01:34 16 new islandwide plan and you'll be getting that in due course.  
17:01:38 17 And it will take a very comprehensive look -- If you follow  
17:01:42 18 along with me -- I'm going to read the letter in a minute.  
17:01:45 19 Please let me just give you an introduction before you go  
17:01:46 20 ahead and read it. Many of you just went ahead.

17:01:48 21 And you will -- We're taking a comprehensive look at  
17:01:52 22 the water, at the roads, at the housing, all the various  
17:01:55 23 factors. We realize that the County already has a very large  
17:01:58 24 number -- And we ask the Planning Department and we have a  
17:02:00 25 list here of all the entitled projects. These are projects

17:02:06 1 that all they will need is a building permit. There are  
17:02:09 2 16,000 plus units on this island that have already been  
17:02:12 3 approved, of which 4,000 plus are located in West Maui.  
17:02:20 4 There's no shortage of work that can be done by the  
17:02:22 5 construction unions, by the contractors, et cetera. And we  
17:02:29 6 asked for this information so that we could make a  
17:02:33 7 recommendation to you and to the others, please hold back on  
17:02:36 8 the approval of projects that are large that are going to have  
17:02:40 9 major impacts.

17:02:41 10           So we went ahead and wrote the letter, and I want  
17:02:44 11 you just to read with me. "Our committee will have an  
17:02:46 12 opportunity" -- I'm reading now the second paragraph -- "to  
17:02:47 13 examine past trends and cumulative impact with the many  
17:02:51 14 changes," and we go ahead and then describe some of those  
17:02:53 15 things we'll be looking at.

17:02:54 16           Skipping down to the next paragraph, "Currently  
17:02:56 17 there are many developers who are actively trying to gain  
17:02:59 18 approval for their large projects before the General Plan  
17:03:02 19 Advisory Committee has completed the General Plan process,  
17:03:05 20 including an in-depth evaluation of Maui's needs,  
17:03:09 21 infrastructure, carrying capacity, et cetera. On an almost  
17:03:12 22 weekly basis we read about proposed major projects from West  
17:03:15 23 Maui to South Maui, Upcountry to Central Maui. We empathize  
17:03:20 24 with your dilemma," Planning Commissioners, "in being  
17:03:23 25 approached by developers who ask you to approve their specific

17:03:25 1 project. We know that you are interested in trying to meet  
17:03:28 2 the needs of our residents. You may even feel that you must  
17:03:30 3 make decisions granting approvals and entitlements long before  
17:03:35 4 adequate infrastructure is funded and built. And,  
17:03:37 5 therefore" -- I think this is the operable part of our  
17:03:39 6 statement -- "the Maui GPAC recommends that until the work of  
17:03:43 7 the Maui GPAC is completed with the adoption of the Maui  
17:03:47 8 Island Plan, new, not entitled projects and subdivisions in  
17:03:50 9 all categories (residential, commercial, industrial, hotel,  
17:03:54 10 agricultural, et cetera) shall not be approved except for,"  
17:03:57 11 and we give three possible areas which you might approve,  
17:04:02 12 "family housing subdivisions (if and only if enforceable  
17:04:07 13 provisions against subsequent sale of units to nonfamily  
17:04:08 14 members are included), residential projects of 100-percent  
17:04:11 15 affordable homes or rentals, and public facilities such as  
17:04:14 16 schools, roads and parks."

17:04:16 17 CHAIR AMORIN: Dick, your three minutes are up. Can  
17:04:19 18 you conclude in 30 seconds?

17:04:22 19 MR. MAYER: I will.

17:04:23 20 As you can see on the statement, and it's a strong  
17:04:24 21 statement by the -- it was voted on by a vote of 14 to 7 12  
17:04:28 22 days ago asking you all to be very, very careful in approving  
17:04:33 23 large projects, because there are cumulative impacts from all  
17:04:36 24 the projects. And I'll just mention one to give an example of  
17:04:39 25 what we're talking about. The area that you talk about the

17:04:40 1 sewer plant, for example, already has been approved as Kapalua  
17:04:45 2 Mauka, and that's online to go in. We also have the approval  
17:04:49 3 of Huaihua by your commission and forwarded to the council.  
17:04:53 4 Another block of 1,100 units going into the sewer plant. What  
17:04:58 5 will be the cumulative impact of all of these things? And  
17:04:59 6 that's what the GPAC will be looking at and you will also be  
17:05:02 7 looking at the island plan in the very near future. So I urge  
17:05:06 8 you to be very cautious and this letter, I hope, reinforces  
17:05:10 9 that.

17:05:10 10 Any questions? Commissioner Hiranaga.

17:05:14 11 MEMBER HIRANAGA: Mr. Mayer, currently how far  
17:05:18 12 behind schedule are you on your GPAC review?

17:05:22 13 MR. MAYER: The Planning Department says that they  
17:05:24 14 will get us the Maui Island Plan probably sometime in February  
17:05:28 15 or March, and then we will have six months to review it, which  
17:05:32 16 would take us up to probably Labor Day, thereabouts, or  
17:05:35 17 something of that sort. We will then be transmitting that  
17:05:38 18 document to you. You'll probably have the period roughly from  
17:05:41 19 October to January of next year to look at it and then --

17:05:44 20 MEMBER HIRANAGA: My question was: How much -- How  
17:05:46 21 delayed are you to this point from the original schedule  
17:05:50 22 provided by the Long Range Planning Department? They haven't  
17:05:55 23 delivered to you that --

17:05:56 24 MR. MAYER: They haven't delivered that and --

17:05:58 25 MEMBER HIRANAGA: It was due in December.

17:06:01 1 MR. MAYER: There were many dates. We had one date  
17:06:03 2 after another after another. Now they're saying that they  
17:06:05 3 will be getting it to us, as I said, in about a month and a  
17:06:08 4 half.

17:06:08 5 MEMBER HIRANAGA: So they're, what, four months  
17:06:10 6 behind now? Six months behind?

17:06:10 7 MR. MAYER: Oh, we could say a year behind.

8 MEMBER HIRANAGA: A year behind?

17:06:12 9 MR. MAYER: I mean, anywhere from a year to --  
17:06:13 10 depending what deadline you want to consider.

17:06:17 11 MEMBER HIRANAGA: So it could -- this process could  
17:06:19 12 be delayed for a year or more?

17:06:21 13 MR. MAYER: Well, it's going to -- Even if we got  
17:06:24 14 today, it would take about a year and a half, probably, to get  
17:06:27 15 it finally approved. And that's why we asked to see, you  
17:06:34 16 know, if we did stop, would we be stopping construction on the  
17:06:37 17 island? And these 16,000 units -- And I can give you the  
17:06:41 18 study here. Your Planning Department Long Range Division will  
17:06:41 19 be gladly able to provide this to you. It was issued just  
17:06:43 20 last week. It would indicate -- And that does not include  
17:06:46 21 ohanas. It doesn't include all the vacant lots on Maui. It  
17:06:50 22 doesn't include any project of less than six units in it. It  
17:06:53 23 doesn't include any agricultural subdivisions. These are just  
17:06:57 24 projects that have gone through all the entitlement phases, as  
17:07:01 25 the wording states in here, that can go out and get a building

17:07:04 1 permit now. So there's no shortage of potential units to be  
17:07:08 2 built.

17:07:08 3 CHAIR AMORIN: Commissioner Hiranaga.

17:07:10 4 MEMBER HIRANAGA: Just a question for staff. My  
17:07:12 5 understanding is once the plan is delivered to the council,  
17:07:16 6 there is no time limit for them to enact the plan.

17:07:22 7 MS. SUYAMA: They do have a time limit.

17:07:24 8 MEMBER HIRANAGA: It's one year?

17:07:25 9 MS. SUYAMA: One year after submittal, transmittal.

17:07:28 10 MEMBER HIRANAGA: What happens if they don't approve  
17:07:31 11 or disapprove after one year, what's the penalty?

17:07:34 12 MS. SUYAMA: There is no penalty.

17:07:36 13 MEMBER HIRANAGA: The last plan, which I believe was  
17:07:39 14 supposed to be updated in 1980, finally got approved in '92.

17:07:44 15 MR. MAYER: '91 was the last general plan.

17:07:47 16 MEMBER HIRANAGA: It was 11 years behind.

17:07:49 17 MS. SUYAMA: For that reason, that's why when they  
17:07:51 18 did redid the general plan process, they put a time limit on  
17:07:55 19 the council because originally the Planning Commission and the  
17:07:58 20 Planning Department had time limits, but the council had no  
17:08:01 21 time limits. So this time when they reviewed the process,  
17:08:05 22 they put a time limit on themselves. However, there is no --  
17:08:08 23 I mean, if they don't meet the time limit, there's no --

17:08:12 24 MEMBER HIRANAGA: Recourse.

17:08:13 25 MS. SUYAMA: -- recourse.

17:08:14 1 MEMBER HIRANAGA: Let's hope it doesn't take 11  
17:08:17 2 years like last time.

17:08:18 3 MR. MAYER: I don't think -- 11 years was not good.  
17:08:20 4 There was one in 1980 and the last one was approved about a  
17:08:22 5 year late in 1991, and that's the one we're working on right  
17:08:25 6 now, the general plan.

17:08:27 7 CHAIR AMORIN: Commissioner U'u.

17:08:28 8 MEMBER U'U: Just a comment on your 16,000 approved  
17:08:32 9 projects. I remember the past administration coming up here  
17:08:36 10 also with statistics or graphs on how they're going to build  
17:08:41 11 affordable homes and saying it's going to be a huge impact and  
17:08:48 12 they're going to be making affordable homes and here's the  
17:08:51 13 graph and here's the scale. And we're in the same boat as we  
17:08:54 14 were last year even with those approved projects, supposedly,  
17:08:58 15 which is the affordable homes. So we cannot take that, to me,  
17:09:02 16 as a guideline and say it's the bible and we're going to have  
17:09:07 17 to follow it, because it's been said in the past -- people  
17:09:11 18 have been giving us graphs in the past to tell us that there  
17:09:15 19 is affordable housing and to date we have fallen short in  
17:09:20 20 supply.

17:09:21 21 CHAIR AMORIN: Any more questions? Commissioner  
17:09:24 22 Hedani.

17:09:25 23 MEMBER HEDANI: Dick, since you're testifying on  
17:09:27 24 this particular item and if you're testifying on behalf of the  
17:09:31 25 GPAC, is what you're telling the commission that we should



17:09:34 1 defer action on this project because we should wait for the  
17:09:38 2 GPAC to make a decision?

17:09:39 3 MR. MAYER: I can't speak for the GPAC. I'm not  
17:09:43 4 authorized in any way and I don't want to make that -- I do  
17:09:46 5 want to let you know what the letter was that GPAC did pass.  
17:09:49 6 And it was addressed to you and I wanted you to have it as  
17:09:52 7 soon as possible. I don't know how long the bureaucracy would  
17:09:55 8 have taken to get that letter eventually to you at what  
17:09:57 9 meeting. It was passed 12 days ago.

17:09:59 10 So the letter itself is self-explanatory and I think  
17:10:02 11 it's basically, as the statement says, the Maui GPAC  
17:10:06 12 recommends that until the work," et cetera, so the wording  
17:10:08 13 is --

17:10:09 14 MEMBER HEDANI: So in this particular case, when I  
17:10:12 15 read the letter that you delivered to us, the operative word  
17:10:15 16 that I see "new not entitled." In this particular case, the  
17:10:18 17 property has been entitled for over 30 years.

17:10:22 18 MR. MAYER: I think entitlement that we looked at  
17:10:26 19 was complete entitlement, for example --

17:10:28 20 MEMBER HEDANI: Zoning, urbanization for the  
17:10:30 21 property was granted in the 1960s.

17:10:32 22 MR. MAYER: But an SMA permit is a form of  
17:10:36 23 entitlement, which they don't have and that's why they're  
17:10:37 24 before you now. And I think that's why I'm presenting that  
17:10:40 25 now.

17:10:40 1 MEMBER HEDANI: I think we disagree on what an  
17:10:42 2 entitlement is.

17:10:43 3 MR. MAYER: Well, my understanding was that  
17:10:45 4 entitlement would mean that once they have completed all their  
17:10:49 5 entitlements, they would then be allowed to build. Until they  
17:10:52 6 have all their entitlements, of which an SMA permit is one,  
17:10:56 7 they don't have their entitlements. In other words, they  
17:10:59 8 could not go out tomorrow to get a building permit, so they're  
17:11:01 9 not entitled, that's my understanding.

17:11:03 10 MEMBER HEDANI: So are you saying that we should  
17:11:05 11 deny this project on the basis of what you're recommending?

17:11:09 12 MR. MAYER: I'm saying that this is a letter that  
17:11:11 13 the GPAC is sending to you that is not meant for this project  
17:11:14 14 or Palauea, which was supposed to be on your agenda today, or  
17:11:19 15 any other particular project; but, rather, a cautionary note  
17:11:23 16 that there are so many projects already underway on the  
17:11:26 17 island, as we all know, that please be cautious, I think is  
17:11:29 18 what the GPAC is saying to you, on all of these projects  
17:11:32 19 before you go ahead because there's a cumulative impact of all  
17:11:36 20 them. There's many of them that have been approved --

17:11:38 21 MEMBER HEDANI: Thank you.

17:11:39 22 CHAIR AMORIN: Any more questions for the testifier?

17:11:41 23 Seeing none, thank you, Dick.

17:11:42 24 MR. MAYER: Thank you all and best wishes on your  
17:11:45 25 decision.

17:11:45 1 CHAIR AMORIN: Any other individual in the audience  
17:11:47 2 who wishes to step forward and speak on this agenda item?

17:11:55 3 Seeing none, public testimony is closed.

17:11:55 4 Commissioners, any more questions for the applicant  
17:11:58 5 or staff? Commission Iaconetti.

17:12:03 6 MEMBER IACONETTI: I don't have a question for  
17:12:05 7 staff. I simply want to make a comment.

17:12:15 8 THE REPORTER: Microphone.

17:12:17 9 MEMBER IACONETTI: I'm sorry. As I have said  
17:12:20 10 before, the entire area is becoming -- that entire shoreline  
17:12:26 11 area has become a mass of concrete with small pieces of land  
17:12:36 12 that they're supposed to be able to see the ocean from or to  
17:12:41 13 from the -- from the highway. But walking along the beach and  
17:12:46 14 trying to see the area mauka is almost impossible unless you  
17:12:53 15 happen to get past one of the small areas that has been left  
17:13:00 16 undeveloped.

17:13:05 17 No criticism of the architecture; however, those  
17:13:11 18 buildings are all concrete masses that are most -- that look  
17:13:20 19 terrible to me. And I've been driving that area for  
17:13:26 20 fifty-some years. I think it's a shame that we have allowed  
17:13:30 21 as much building as we have along there. I think it's a shame  
17:13:34 22 that we are developing as many timeshares along there.

17:13:53 23 You know, medically speaking, there is a -- there's  
17:14:01 24 a committee that determines whether or not there's a need for  
17:14:07 25 more medical facilities, more hospitals, more doctors'

17:14:12 1 offices. I don't know why this is relegated just to the  
17:14:18 2 medical profession. I think we've got more than enough  
17:14:23 3 timeshares at the present time. I don't think we need more.  
17:14:27 4 What we ought to have is just a certificate of need for  
17:14:31 5 timeshares. We don't need more timeshares. We certainly  
17:14:37 6 don't need more concrete along Kaanapali's shores.

17:14:43 7           What's happened to that area is unbelievable. I  
17:14:51 8 respect the number of Native Hawaiians that have stepped up  
17:14:58 9 and said, yeah, this is a great project. Why I have a hard  
17:15:02 10 time understanding, but I have a lot of respect for them and I  
17:15:07 11 have a lot of respect for the developer. But there comes a  
17:15:15 12 time when you don't need more development. It isn't doing  
17:15:20 13 anything for the community.

17:15:27 14           I have not spoken much along the -- during the  
17:15:34 15 presentation simply because I am diametrically opposed to this  
17:15:41 16 development. And I just hope that those of you that have the  
17:15:47 17 opportunity drive by there and look at what's happened to  
17:15:53 18 North Beach. It is one large concrete structure after  
17:15:59 19 another. You don't see the ocean unless you happen to stop  
17:16:03 20 long enough. And certainly walking along the beach, you don't  
17:16:06 21 see the mountains.

17:16:08 22           And I intend to vote against this if the motion ever  
17:16:14 23 comes up to approve it. Thank you.

17:16:16 24           CHAIR AMORIN: Commissioner Starr.

17:16:18 25           MEMBER STARR: Madam Chair, I move to deny this

17:16:23 1 application based on insufficiency of disclosure as provided  
17:16:30 2 in Chapter 343 and also under the Hawaii Administrative Rules  
17:16:38 3 Title 11, Chapter 200, both of which -- both of which cover  
17:16:44 4 the requirements for environmental assessments and  
17:16:49 5 supplemental EIS's.

17:16:53 6 CHAIR AMORIN: Do we have a second?

17:16:54 7 MEMBER IACONETTI: I'll second it.

17:16:56 8 CHAIR AMORIN: We have a motion on the floor to deny  
17:16:58 9 and seconded by Commissioner Iaconetti. Discussion?  
17:17:04 10 Commissioner Guard, followed by Commissioner Mardfin.

17:17:09 11 MEMBER GUARD: I'll go along with that motion and I  
17:17:11 12 would like to give the developers some things that I would  
17:17:15 13 like to see when it comes back. On Doc Iaconetti's, I think  
17:17:20 14 this beach deserves a little more elegance versus just a  
17:17:25 15 concrete mass. If you want to build a building, let's create  
17:17:29 16 a landmark out there. I mean, this is a beautiful, beautiful  
17:17:32 17 area and I don't think if you were stuck on the highway and  
17:17:35 18 looked to the left driving out towards Kapalua or out to Doc's  
17:17:41 19 house, you would not necessarily know you were in Hawaii. And  
17:17:45 20 that is sad. The people probably working in there can give  
17:17:49 21 you that sense, but I think this could use a nice classic  
17:17:54 22 Hawaiian theme. And maybe the architect did his job of  
17:17:58 23 maximizing the per unit revenue.

17:18:01 24 And I would like to -- I don't know what -- I would  
17:18:03 25 like to know what Lot 1's and Lot 2's developments, what those

17:18:09 1 units sell for. Are they a one week? Are they a two-week  
17:18:11 2 thing? I mean, to my estimation, to my estimate, we're  
17:18:14 3 looking at a half billion dollar project. And when you look  
17:18:17 4 at that, a lot of these numbers that they throw out there,  
17:18:22 5 like 40,000 a unit, it really becomes trivial.

17:18:28 6 I think there's a -- there is a difference. Their  
17:18:31 7 legal counsel mentioned that there's not a difference between  
17:18:33 8 how they want to use it for hotel or a condo or a timeshare.  
17:18:39 9 I've heard in the past that I believe there's a higher  
17:18:42 10 percentage of occupancy in a timeshare than there is in a  
17:18:45 11 hotel or a condo that was initially proposed. I see them down  
17:18:50 12 in Wailea with Wailea Points that you can't rent out. Owners  
17:18:55 13 can come for one month out of the year and they probably pay  
17:18:58 14 the same amount of taxes as these guys do on a timeshare that  
17:19:03 15 will be occupied, I'm assuming, over 90 percent of the time  
17:19:07 16 because they're paying good money for these.

17:19:10 17 Something that's going to guarantee noncommercial  
17:19:12 18 activity in this park. Possibly someone in there can -- as  
17:19:17 19 you -- there's a greeter station in there. That every park  
17:19:22 20 that we talk about, no one wants to provide beach parking  
17:19:31 21 because it gets overrun with kayak tours or scuba tours doing  
17:19:31 22 beach launches. And that's already happening at Hanakao.  
17:19:35 23 And the people that created Kaanapali South and there was  
17:19:42 24 probably an SMA at one point one day then that said Hanakao  
17:19:44 25 is going to be for the general public because all of these

17:19:47 1 other beaches are going to the tourists. And now the same  
17:19:51 2 people are coming to me, my good friends I see all the time,  
17:19:56 3 discouraged with how this works because they're losing their  
17:19:59 4 one park that they have left out there. They can't even park  
17:20:03 5 to go after work to go try to hop in a canoe for an hour when  
17:20:07 6 they've just had to deal with people all day long. And can't  
17:20:11 7 even find a parking space because of a kayak tour or a  
17:20:16 8 parasail tour. Give us some real assurances of that.

17:20:18 9           And then another issue is if it changed in 1988 when  
17:20:22 10 they did the original SMA and then the requirements got  
17:20:26 11 stricter in 1997, maybe it's time for this commission today to  
17:20:30 12 start getting stricter and stop approving what they want us to  
17:20:34 13 approve on the first go-around.

17:20:36 14           I mean, I -- It is too bad that it comes to this,  
17:20:40 15 but with Starwood being a publicly traded company, we don't  
17:20:44 16 know, this could be some part of the United Arab Emirates in a  
17:20:49 17 year or two when they buy out the next major corporation. We  
17:20:54 18 don't know who the owners are and we don't know if they have  
17:20:57 19 Maui as their primary interest.

17:21:00 20           CHAIR AMORIN: Commissioner Mardfin.

17:21:03 21           MEMBER MARDFIN: A month and a half ago I was before  
17:21:05 22 the County Council for a grilling on my nomination to this  
17:21:13 23 body. And one of the things I promised, I said I would try to  
17:21:18 24 be fair and balanced. And I think that I haven't broken my  
17:21:23 25 promise yet. I've heard the arguments about the traffic plan

17:21:28 1 and I thought that the mitigation seemed appropriate to me.  
17:21:35 2 On the full SMA, I've gotten some testimony that seems to be a  
17:21:40 3 bit conflicting from what the report says on pages -- I think  
17:21:44 4 it was 5 and 9 or 7 and 9 or whatever it was, and what I was  
17:21:50 5 told by people coming up.

17:21:54 6 I feel uncomfortable voting -- I would feel  
17:21:57 7 uncomfortable voting approval for the project with that  
17:22:01 8 uncertainty as to what actually will happen with the effluent,  
17:22:06 9 the injection wells and that sort of thing. The developer has  
17:22:10 10 partially allayed my concerns, but not totally. I'm glad the  
17:22:15 11 motion was made basically to ask for a -- I think the intent  
17:22:19 12 was to ask for a supplemental EIS before it comes back. In  
17:22:23 13 other words, deny it at this stage, but to request a  
17:22:26 14 supplemental EIS to come back to us so that we're not totally  
17:22:30 15 saying no at this stage. And so I intend to vote in favor of  
17:22:36 16 the motion to ask for more information.

17:22:40 17 CHAIR AMORIN: Commissioner Hiranaga, followed by  
17:22:44 18 corporation counsel.

17:22:45 19 MEMBER HIRANAGA: Clarification. The motion was to  
17:22:50 20 deny the application, not to defer. So I just want to caution  
17:22:55 21 the commissioners to know what they're voting about. Because  
17:22:58 22 if you deny the application, it does not mean that they can  
17:23:02 23 come back to us. So deny and deferral are two different  
17:23:06 24 things.

17:23:07 25 Second, I have some concerns about the desalination



17:23:12 1 plant in -- and it's primarily because I'm not that familiar  
17:23:17 2 with it. You mentioned that Maui Highlands has a desal  
17:23:22 3 facility. Are they drawing their water from brackish wells or  
17:23:29 4 from the ocean? Because in this letter from I guess it's  
17:23:35 5 Munekiyo & Hiraga, they said Maui Highlands is on a desal  
17:23:41 6 program, so I was just wondering: What is their water source?

17:23:44 7 MS. KAWAHARA: According to -- Karlynn Kawahara,  
17:23:48 8 Munekiyo & Hiraga. According to Ron Swenson from Critchfield  
17:23:51 9 Pacific, it's brackish water that they are drawing their water  
17:23:53 10 from; whereas in the Lot 3 Project we're not. We're going  
17:23:55 11 beyond the brackish water, my understanding is, and we're  
17:23:57 12 going straight to pure saltwater.

17:24:00 13 MEMBER HIRANAGA: Ocean water.

17:24:02 14 MS. KAWAHARA: Right. Saltwater, yeah.

17:24:06 15 MEMBER HIRANAGA: They have injection wells also at  
17:24:08 16 Maui Highlands? What happens with the water that -- the  
17:24:11 17 residual water, or is it all used for potable sources?

17:24:15 18 MS. KAWAHARA: I'll ask Ron Swenson to respond to  
17:24:18 19 that question.

17:24:18 20 CHAIR AMORIN: Commissioner Hiranaga, a point of  
17:24:21 21 order. We're doing deliberation between the commissioners, so  
17:24:24 22 are you now questioning again the applicant?

17:24:26 23 MEMBER HIRANAGA: I guess to understand -- I have  
17:24:29 24 concerns and by answering these questions it will help me make  
17:24:33 25 a decision based on the motion at hand. I thought the motion

17:24:37 1 was premature because I had not completed my questions.

17:24:40 2 CHAIR AMORIN: Okay. The chair will understand and  
17:24:42 3 you can direct your question.

17:24:43 4 MEMBER HIRANAGA: Thank you.

17:24:44 5 MR. SWENSON: Ron Swenson, Critchfield Pacific. I  
17:24:48 6 believe that's brackish water they're drawing at Maui  
17:24:51 7 Highlands. And in a typical desalination only project, you  
17:24:55 8 inject brine. We do not have a typical desalination project.  
17:25:02 9 We have a very large heat rejection system that has been  
17:25:07 10 proven not to affect the environment. And our desalination is  
17:25:13 11 a small percentage of it. So our return water is not  
17:25:18 12 classified as brine.

17:25:20 13 MEMBER HIRANAGA: Okay. One last question. The  
17:25:23 14 applicant mentioned a matching -- or a fund for the medical  
17:25:31 15 facility voluntary to the potential occupants of this  
17:25:35 16 facility. Will the developer also be matching those funds, or  
17:25:39 17 is it just totally a voluntary fund? You assume 35-percent  
17:25:45 18 participation generating X amount of amount. Is the developer  
17:25:50 19 going to be matching those contributions or is it just  
17:25:53 20 stand-alone voluntary contribution from potential occupants?

17:25:57 21 MS. KAWAHARA: I'll have Dennis Ebrill from SVO  
17:26:01 22 Pacific respond to that.

17:26:02 23 MR. EBRILL: Dennis Ebrill. The current plan, and  
17:26:06 24 it's in the initial stages of discussions, was to have a  
17:26:08 25 voluntary program whereby when the annual assessments are

17:26:13 1 mailed out to the occupants of Lots 1, 2 and 3, that it would  
17:26:18 2 include this program to opt into the contributions for the  
17:26:26 3 West Maui Medical Association. There was no plan and we  
17:26:29 4 haven't gone far enough in our discussions with the  
17:26:33 5 individuals involved in the promotion of the West Maui Medical  
17:26:36 6 Facility to fund anything in addition to that, but that's  
17:26:41 7 something that we could take a look at.

17:26:43 8 MEMBER HIRANAGA: A serious look at?

17:26:45 9 MR. EBRILL: Absolutely.

17:26:47 10 MEMBER HIRANAGA: All right. I'm done.

17:26:49 11 CHAIR AMORIN: Okay. Corporation counsel, and then  
17:26:50 12 followed by Commissioner Guard.

17:26:52 13 MR. GIROUX: In the context that this is a motion to  
17:26:58 14 deny, I think I would be asking the body if they would want to  
17:27:00 15 go into executive session to go over its duties and  
17:27:04 16 liabilities at this stage.

17:27:06 17 MEMBER HEDANI: So moved.

17:27:08 18 MEMBER U'U: Second.

17:27:09 19 CHAIR AMORIN: Motion on the floor to go into  
17:27:11 20 executive session by Commissioner Hedani, seconded by  
17:27:15 21 Commissioner U'u. Any discussion?

17:27:19 22 All those in favor?

17:27:20 23 (Chorus of ayes.)

17:27:23 24 CHAIR AMORIN: Any opposed?

17:27:24 25 We have two opposed. Hands in favor?

17:27:33 1 One, two, three, four in favor. One, two, three,  
17:27:39 2 four, five in favor. Motion carries.

17:27:42 3 MR. GIROUX: You need two-thirds of the --

17:27:45 4 CHAIR AMORIN: We need two-thirds. We have  
17:27:47 5 two-thirds. It failed?

17:27:49 6 MEMBER HIRANAGA: An abstention is considered an  
17:27:52 7 aye. You found two nays and --

17:27:57 8 CHAIR AMORIN: Okay. We have two opposed.

9 MEMBER HIRANAGA: Three.

17:28:00 10 CHAIR AMORIN: Three opposed.

17:28:04 11 MEMBER HIRANAGA: Three nays.

17:28:08 12 CHAIR AMORIN: And six in favor. Chair votes in  
17:28:14 13 favor. Okay. It passes.

17:28:25 14 (Executive Session: 5:28-5:54)

17:53:57 15 CHAIR AMORIN: The Maui Planning Commission meeting  
17:54:20 16 of January 22nd, 2008, is back in session. (Gavel.) At this  
17:54:28 17 point we have a motion on the floor to deny. Any more  
17:54:31 18 discussion, Commissioners? Commissioner Hedani.

17:54:34 19 MEMBER HEDANI: Personally, I'm going to be voting  
17:54:37 20 against the motion. I feel that the applicant has come up  
17:54:40 21 with a credible plan for addressing impacts from a traffic  
17:54:44 22 standpoint. I don't believe that the project will have a  
17:54:48 23 significant effect on the conditions of the waters fronting  
17:54:54 24 the project. I believe they have been entitled to zoning for  
54:59 25 that particular parcel since the 1960s and that they are

17:55:07 1 entitled to develop the project if they can prove that they  
17:55:12 2 have met their requirements for an SMA permit. Personally, I  
17:55:17 3 believe they have met those requirements for an SMA permit.  
17:55:20 4 And on that basis, I'll be voting against the motion.

17:55:27 5 CHAIR AMORIN: Okay. Commissioner Mardfin.

17:55:32 6 MEMBER MARDFIN: While I earlier said I was going to  
17:55:33 7 vote in favor of the motion, counsel has explained the  
17:55:36 8 implications of the specific wording of the motion. And while  
17:55:43 9 I don't agree with Commissioner Hedani that the case has been  
17:55:47 10 proven for, I do plan to vote against the particular motion to  
17:55:52 11 deny.

17:55:55 12 CHAIR AMORIN: Any more discussion?

17:55:58 13 All those in favor of the motion to deny?

17:56:03 14 We have one. We have two.

17:56:11 15 And those opposed to the motion?

17:56:12 16 One, two, three, four, five, six.

17:56:16 17 Motion dies.

17:56:18 18 MEMBER MARDFIN: Chair.

17:56:19 19 CHAIR AMORIN: Commissioner Mardfin.

17:56:21 20 MEMBER MARDFIN: I would like to propose a motion to  
17:56:24 21 defer this decision and to request that the developers provide  
17:56:31 22 additional information on injection wells, on sewage and the  
17:56:38 23 impact of nutrients on the coral algae -- coral reefs and  
17:56:45 24 algae, that they provide additional information on view  
17:56:49 25 plains, on park access and my fellow commissioners may add a

17:56:53 1 few others to this. In particular, I hope they will confer  
17:56:58 2 with the Department -- Hawaii Division of Aquatic Resources to  
17:57:03 3 help answer some of the questions that I have earlier raised.

17:57:06 4 CHAIR AMORIN: Do we have a second on the motion?

17:57:09 5 MEMBER PAWSAT: Second.

17:57:10 6 CHAIR AMORIN: We have a motion on the floor by  
17:57:12 7 Commissioner Mardfin to defer this project, and seconded by  
17:57:17 8 commissioner Pawsat. Discussion? Commissioner Starr.

17:57:21 9 MEMBER STARR: Yeah. I'll be voting in favor of the  
17:57:23 10 motion, although I do feel that the correct process and one  
17:57:27 11 that will likely one way or another be followed would be for  
17:57:31 12 them to provide a proper disclosure document in line with  
17:57:37 13 Section 343.

17:57:40 14 CHAIR AMORIN: Any more discussion?

17:57:43 15 MR. RAPACZ: Madam Chair, if I could.

17:57:46 16 CHAIR AMORIN: Yes.

17 17 MR. RAPACZ: I hate to interrupt at this point, but  
17:57:47 18 I would --

17:57:47 19 CHAIR AMORIN: State your name.

17:57:49 20 MR. RAPACZ: I'm sorry. John Rapacz on behalf of  
17:57:49 21 Starwood. I wanted to clarify a couple of commitments that  
17:57:53 22 Starwood had made and just wanted to be sure the commissioners  
17:57:57 23 understand those before there's a vote on the motion, if  
17:58:00 24 that's possible.

17:58:01 25 CHAIR AMORIN: Thank you.

17:58:01 1 MR. RAPACZ: Thank you. First of all, we wanted to  
17:58:04 2 be clear that on the question of wastewater and whether we are  
17:58:08 3 ultimately going to be producing more wastewater than we would  
17:58:15 4 be using for the R1 water, we have agreed to a net zero on  
17:58:16 5 that. We will use the same amount of R1 water as we produce  
17:58:22 6 in wastewater going out, so it would be a balance.

17:58:27 7 CHAIR AMORIN: Thank you.

17:58:28 8 Any more discussion, Commissioners?

17:58:30 9 MR. RAPACZ: I'm sorry. I had a couple other items,  
17:58:34 10 but I saw the commissioner's hands so I hesitated.

17:58:39 11 CHAIR AMORIN: Commissioner Mardfin, did you have  
17:58:43 12 your hand up?

17:58:43 13 MEMBER MARDFIN: Yeah. What you tell us is not the  
17:58:46 14 governing issue, at least in my position. We want additional  
17:58:47 15 studies. We want more information. We want to find out what  
17:58:49 16 other studies have been done. We want other resources  
17:58:52 17 consulted. It's not something you can solve in five minutes  
17:58:56 18 or half an hour or 18 hours. It's something that needs -- I  
17:59:00 19 believe I need more information before I can make a rational  
17:59:04 20 decision.

17:59:05 21 MR. RAPACZ: Okay. And that would be -- My next  
17:59:07 22 point was that we would commit to ongoing water quality  
17:59:12 23 monitoring and study on the effect of the return wells for as  
17:59:16 24 long as they're in operation, no limit to that and to the  
17:59:18 25 satisfaction of the Department of Environmental Management.

17:59:23 1 On the --

17:59:23 2 MEMBER IACONETTI: Point of order.

17:59:25 3 CHAIR AMORIN: Commissioner Iaconetti.

17:59:27 4 MEMBER IACONETTI: I think this discussion, although  
17:59:30 5 appreciated, is totally out of order. We've got a motion on  
17:59:33 6 the floor. We're not asking for more testimony at this time.  
17:59:36 7 I think if there's anything dealing with the motion itself,  
17:59:40 8 fine, but I don't think we need more testimony from the  
17:59:43 9 developer.

17:59:43 10 CHAIR AMORIN: Okay. Thank you, Commissioner  
17:59:46 11 Iaconetti.

17:59:47 12 We're still in deliberation on the motion. We have  
17:59:49 13 any more discussion or comments? Commissioner Guard.

17:59:52 14 MEMBER GUARD: Yeah. I'll vote in favor of the  
17:59:55 15 motion. Instead of looking at only this case study, there was  
17:59:59 16 the three on the Big Island. I would like to know the outcome  
18:00:03 17 of what's been happening at Kukio and a few of those other  
18:00:07 18 developments because some of those areas -- I've talked to  
18:00:09 19 people that they feel over there the clarity of the water has  
18:00:15 20 been degraded. Whether that's actually from the injection  
18:00:18 21 wells around the area or -- I know the net zero, that's  
18:00:22 22 great -- or if it's from the desal at Kukio, I don't know and  
18:00:28 23 I'm not an expert and I'm uncomfortable putting our first one  
18:00:29 24 that close to the ocean on Maui.

18:00:31 25 And then I think it's a pretty easy one to address,



18:00:35 1 is the -- some way to mitigate commercial activity on that  
18:00:40 2 10-acre park and a few of the other items that I looked at. I  
18:00:44 3 would like to know the timeshare percentage of occupancy  
18:00:48 4 versus hotel or owner -- or investment condominiums on that  
18:00:53 5 side. And that may -- that may give light to why there was  
18:00:57 6 changes in the '88 SMA and the 1997 SMA.

18:01:01 7 CHAIR AMORIN: Thank you, Commissioner Guard.

18:01:03 8 We have comment from Staff Planner Paul Fasi.

18:01:09 9 MR. FASI: The Planning Department would like to  
18:01:11 10 request that you -- from the commissioners if you could submit  
18:01:15 11 specific items of information that you want and forward it to  
18:01:20 12 the Planning Department so then I can forward it to the  
18:01:22 13 applicant, so the next time this comes before you, your  
18:01:25 14 specific questions will be answered, all questions, regardless  
18:01:32 15 of what they cover, and please be specific. Thank you.

18:01:36 16 CHAIR AMORIN: Commissioner Hiranaga.

18:01:38 17 MEMBER HIRANAGA: Two questions. I just wanted  
18:01:42 18 confirmation that what the planner is requesting is allowable,  
18:01:46 19 that the commissioners e-mail or however provide private  
18:01:51 20 communication to staff. Confirmation that that is --

18:01:55 21 MS. SUYAMA: It is not proper. What you need to do  
18:01:58 22 as part of your motion for deferral inform the applicant what  
18:02:03 23 information you are seeking in order to make your decision.

18:02:06 24 MEMBER HIRANAGA: The other -- I'm not opposed to  
18:02:09 25 the motion to defer, but I want it to be clear that I'm not

18:02:13 1 asking for new studies to be done, but we want additional  
18:02:17 2 information to be provided. I think there's a difference, you  
18:02:22 3 know, saying you want a study done versus you want more  
18:02:26 4 information that's currently available. Because they're  
18:02:29 5 saying that based upon this current information, they feel  
18:02:32 6 they've met the requirements and they provide -- they're  
18:02:35 7 willing to provide monitoring to see if that, in fact, occurs.  
18:02:39 8 So I just kind of want clarification from your motion, are you  
18:02:42 9 requesting new studies or additional information?

18:02:45 10 CHAIR AMORIN: Commissioner Mardfin, that was  
18:02:47 11 directed to you.

18:02:48 12 MEMBER MARDFIN: At least on my part, an offer of  
18:02:56 13 continuing to monitor 15 years in the future doesn't satisfy  
18:03:00 14 me because if we're approving the wrong thing, we're approving  
18:03:04 15 the wrong thing, no matter what the studies show down the  
18:03:07 16 line. What -- I want to make sure before the fact that we  
18:03:11 17 have sufficient information to make a knowledgeable decision.  
18:03:15 18 If that requires new studies, it requires new studies. If it  
18:03:19 19 doesn't, if there's sufficient -- I don't know what is out  
18:03:22 20 there and whether it's sufficient or not.

18:03:24 21 CHAIR AMORIN: Commissioner Starr, followed by  
18:03:26 22 Commissioner Hiranaga.

18:03:27 23 MEMBER STARR: I was -- I definitely want a study to  
18:03:30 24 be done. If one exists, that would be fine, I'd be happy to  
18:03:33 25 see it. But if one does not exist, I would like one to be

18:03:38 1 done regarding the potential effects of the mixture of the  
18:03:43 2 byproducts, sewage byproducts that are put into the injection  
18:03:50 3 well from the sewage treatment plant and their interaction  
18:03:53 4 with hot and salty water and any other trace elements that may  
18:04:04 5 be in the discharge from the co-generation and de-salinization  
18:04:13 6 plant.

18:04:13 7 CHAIR AMORIN: Thank you.

18:04:15 8 Commissioner Hiranaga.

18:04:17 9 MEMBER HIRANAGA: Again, I just want clarification  
18:04:19 10 that in order to -- If this motion is approved and deferred,  
18:04:26 11 in order to bring it back to the agenda, that certain requests  
18:04:30 12 are fulfilled. Now, are these requests that they initiate a  
18:04:35 13 study? Because a study takes, like I said, years. Or are you  
18:04:39 14 requesting additional information in order to make a  
18:04:43 15 determination whether a study may be required or not? I'm  
18:04:47 16 just wanting clarification. Are you asking for more current  
18:04:50 17 information or are you asking for new information in order to  
18:04:54 18 bring this matter back to the agenda?

18:04:58 19 CHAIR AMORIN: Commissioner Mardfin.

18:04:59 20 MEMBER MARDFIN: I don't know the answer to that  
18:05:01 21 because I don't know what studies are out there. I'm not -- I  
18:05:06 22 don't -- It may require a new study if sufficient on-point  
18:05:11 23 studies haven't been done; namely, the effect on the Lahaina  
18:05:16 24 injection wells and that sort of thing. Maybe it is, maybe it  
18:05:19 25 isn't. I'm concerned about mitigating adverse effects. From

18:05:24 1 my own case, sewage, but we have a lot of other issues. And  
18:05:28 2 it's the same thing, we're concerned with mitigating --  
18:05:31 3 methods of mitigating this. I agree long-term studies would  
18:05:35 4 be necessary after -- If it gets approval, we'd want to see  
18:05:40 5 continuing long-term studies to make sure that what they  
18:05:43 6 suggested in advance turns out to be the case in retrospect.  
18:05:47 7 But I can't even vote to approve it until I have sort of the  
18:05:52 8 best scientific knowledge that there is on what the impacts --  
18:05:55 9 that we can forecast what the impacts would be.

18:05:58 10 CHAIR AMORIN: Commissioner Pawsat, followed by  
18:06:00 11 Commissioner Hiranaga.

18:06:02 12 MEMBER PAWSAT: Yeah. Just, you know, at the  
18:06:05 13 airport there's a living coral exhibit, fish exhibit I was  
18:06:09 14 looking at. And I was looking at it and, ironically, of  
18:06:13 15 course, the living coral exhibit, it's dead. So, I mean --  
18:06:16 16 And that's in a little tank. So I think this issue of coral  
18:06:21 17 health is probably really complex and things like that.

18:06:24 18 And I don't know if it's fair to -- Because this has  
18:06:27 19 been a cumulative impact, you take the cumulative impact and  
18:06:31 20 transfer that all on to Starwood to be responsible for studies  
18:06:36 21 and things like this. I think this is -- At some point  
18:06:40 22 there's going to have to be, again, a countywide effort to,  
18:06:44 23 you know, repair all the reefs.

18:06:47 24 And so it might be helpful maybe instead of -- in  
18:06:51 25 addition to, you know, they're saying they'll monitor, but

18:06:54 1 some sort of proposal or ideas of how -- We can just assume  
18:06:58 2 that there is damage. And so how Starwood and, again, other  
18:07:04 3 property owners along that area, how they are going to  
18:07:08 4 participate in restoring the health of our reefs. Instead of  
18:07:13 5 saying, Okay. We aren't going to do this anymore, How are you  
18:07:18 6 going to help make it better? And so -- And maybe they can  
18:07:21 7 come up with some sort of plan.

18:07:22 8           And maybe it's not just you, maybe you guys have to  
18:07:25 9 talk to other people as well and initiate that about how --  
18:07:30 10 once we know there is damage, how is it going to be fixed and  
18:07:34 11 how the County is going to participate in the fixing of the  
18:07:39 12 reefs as well. 'Cause, I mean, as long as the County -- The  
18:07:40 13 County is injecting water, everyone is injecting water, so I  
18:07:45 14 don't see how we can hold Starwood completely responsible for  
18:07:48 15 that.

18:07:49 16           CHAIR AMORIN: Thank you, Commissioner.

18:07:50 17           Commissioner Hiranaga.

18:07:52 18           MEMBER HIRANAGA: What are the ramifications if the  
18:07:55 19 applicants experts are wrong and we allow this to occur and  
18:08:02 20 it's built and they start to impact the environment? Is it  
18:08:07 21 basically statutory fines? What is the --

18:08:12 22           MS. SUYAMA: There is no statutory fines. We're  
18:08:15 23 basing the decision on the expertise of the applicant as well  
18:08:21 24 as corroborating expertise from both state, county and federal  
18:08:27 25 agencies, which -- in order for you to get both sides.

18:08:31 1 Because for the government, it's for regulatory, in which  
18:08:35 2 trying to ensure that the public interest is protected, you  
18:08:38 3 know, over what the applicant's interest may be.

18:08:43 4 I think the commission is getting confused as to  
18:08:46 5 what they want in terms of information in order to make their  
18:08:51 6 decision. And listening to all of the comments that's come  
18:08:55 7 from the commission, may I suggest -- This is what I get from  
18:08:58 8 the commission and what they want from the applicant:

18:09:01 9 One would be documentation that the sewage treatment  
18:09:05 10 plant injection wells combined with the proposed  
18:09:08 11 desalinization wells, that it will not impact the coral reefs  
18:09:14 12 and ocean water quality. I think that's one of the major  
18:09:17 13 problems that you are having.

18:09:19 14 Two, according to Mr. Guard, is an occupancy  
18:09:24 15 analysis between timeshares, hotel units and what is basically  
18:09:30 16 apartment uses and how that impacts traffic, because I think  
18:09:34 17 it was related to traffic when you were talking about impact  
18:09:36 18 on the occupancy rates.

18:09:38 19 And the third that I got is that -- more information  
18:09:42 20 on the impacts of views from the shoreline toward the highway,  
18:09:47 21 because you were not sure that, you know, the impacts -- of  
18:09:51 22 all of the impacts that may have entailed.

18:09:53 23 Those are the three major things that I think that  
18:09:56 24 you requested. And as part of the discussion, any other  
18:10:01 25 proposed mitigations that may be necessary based upon this

18:10:05 1 additional information. They have already proposed certain  
18:10:18 2 mitigation measures and there may be other mitigation measures  
18:10:18 3 that may be necessary based upon the information they transmit  
18:10:18 4 back to the commission. And I think those are the primary  
18:10:20 5 points that the commission had to make.

18:10:23 6 CHAIR AMORIN: Commissioner Hedani.

18:10:24 7 MEMBER HEDANI: I'm going to chime in. Since I  
18:10:31 8 never chime, I'm chiming in. I'll support the motion to defer  
18:10:35 9 in this particular case because it's ten after 6:00 and I  
18:10:40 10 can't see we're going to resolve this thing in the next five  
18:10:43 11 minutes. Personally, I would prefer to act on the SMA permit,  
18:10:47 12 if I had my druthers, because it's better to say yes or no,  
18:10:51 13 but saying maybe forever is not something that's acceptable  
18:10:56 14 from my perspective.

18:10:57 15 In this particular case, the concerns that we're  
18:11:00 16 addressing need to be taken into perspective. If they're  
18:11:04 17 generating 160,000 gallons of sewage into a sewage treatment  
18:11:09 18 plant that's injecting 8 million gallons of sewage into the  
18:11:13 19 ground, you have to take that percentage of their impact as  
18:11:16 20 the impact created by this particular project as it relates to  
18:11:20 21 the coral reef. Everybody in West Maui sending sewage to the  
18:11:25 22 sewage treatment plant affects the coral reef, according to  
18:11:31 23 Aquatic Resources in that paper that Mr. Mardfin shared with  
18:11:35 24 us today.

18:11:36 25 Their solution is not to close down the sewage

18:11:39 1 treatment plant. Their solution is to prevent the taking of  
18:11:44 2 herbivorous fish in the ocean outside of that area, a no  
18:11:49 3 fishing for herbivores, which would allow the fish to eat the  
18:11:54 4 algae which is being generated by the County sewage treatment  
18:11:58 5 plant.

18:11:59 6 I don't think it's the applicant's responsibility to  
18:12:02 7 correct the way the County operates its sewage treatment  
18:12:04 8 plant. I think that's the County's responsibility. And I  
18:12:06 9 think that wasting 8 million gallons of sewage by injecting it  
18:12:12 10 into the ground is something that's -- may have been  
18:12:15 11 acceptable in the past, but is probably not going to be  
18:12:18 12 acceptable in the future because it's a wasted resource.

18:12:22 13 But I'll be supporting the motion to defer until we  
18:12:25 14 can get answers to those questions.

18:12:28 15 CHAIR AMORIN: Commissioner Hiranaga.

18:12:30 16 MEMBER HIRANAGA: Just a question, clarification, so  
18:12:32 17 the motion is to defer or is the motion to defer subject to  
18:12:36 18 the conditions you stated? Or are you going to amend your  
18:12:40 19 motion to the request that the Deputy Director has stated?  
18:12:45 20 Just for clarification what the motion is.

18:12:49 21 CHAIR AMORIN: Commissioner Mardfin.

18:12:50 22 MEMBER MARDFIN: My motion was to defer subject to  
18:12:53 23 additional information. And I think the department has  
18:13:01 24 succinctly summarized the kind of information we're after.  
18:13:04 25 And I think the developer has -- from our discussion has a



18:13:09 1 pretty good idea of what we're looking for. We want to know  
18:13:12 2 the best science and the best mitigations so that we can make  
18:13:16 3 decisions.

18:13:17 4 MEMBER HIRANAGA: So the motion is just to defer,  
18:13:19 5 because they know why we're deferring?

18:13:21 6 MEMBER MARDFIN: To defer requesting additional  
18:13:24 7 information.

18:13:24 8 MEMBER HIRANAGA: They know what information we  
18:13:27 9 want.

18:13:27 10 MEMBER MARDFIN: Okay.

18:13:27 11 CHAIR AMORIN: Thank you.

18:13:28 12 Any more questions? Commissioner Hedani.

18:13:32 13 MEMBER HEDANI: One more item before I forget it  
18:13:34 14 because it'll be weeks before we bring this subject up again.  
18:13:36 15 A lot of times it's decisions by public groups or agencies  
18:13:40 16 such as the commission which create the problems that we're  
18:13:42 17 dealing with today.

18:13:43 18 In this particular case, it may have been well  
18:13:47 19 intended, but the reason that the buildings look so bad along  
18:13:53 20 the highway is because they were forced away from the ocean by  
18:13:58 21 people that were intending to protect the ocean views. And  
18:14:02 22 that's why where previous laws had a 40-foot setback from the  
18:14:07 23 ocean, in this particular case the entire North Beach property  
18:14:11 24 is set back 150 feet. That's half a football field away from  
18:14:16 25 the ocean.

18:14:17 1           When you have a long, narrow site and you push them  
18:14:20 2 back 150 feet from the edge of the ocean, you push all of the  
18:14:25 3 buildings right up to the highway, which is why the buildings,  
18:14:28 4 although they are set to the maximum -- or the minimum height  
18:14:32 5 that HM would allow, still appear massive, because of their  
18:14:38 6 proximity to the highway.

18:14:39 7           In this particular case, half of the entire site is  
18:14:44 8 left as open space with a view corridor towards the ocean. No  
18:14:48 9 other property anywhere dedicates half of their site for a  
18:14:53 10 view plain towards the ocean. If you count the entire lineal  
18:14:58 11 feet of their particular project dedicated to open space in  
18:15:03 12 perpetuity, that is not blocked by structures with a view  
18:15:07 13 toward the ocean, this project qualifies. And so from that  
18:15:11 14 perspective, it's the well meaning intended people that say,  
18:15:16 15 We're going to protect the ocean, that caused the  
18:15:18 16 architectural situation that you're dealing with here. That's  
18:15:22 17 my perspective.

18:15:24 18           CHAIR AMORIN: Thank you.

18:15:25 19           Commissioner Starr.

18:15:27 20           MEMBER STARR: I just want to say thank heavens that  
18:15:30 21 finally projects are being moved back so that the local people  
18:15:34 22 of Maui have a little bit of an opportunity to enjoy the  
18:15:38 23 shoreline and maybe protect it for future generations.

18:15:44 24           MEMBER HIRANAGA: Let's call for the vote.

18:15:45 25           CHAIR AMORIN: All those in favor of the deferral of

18:15:48 1 this project? A show of hands.

18:15:50 2 One, two, three, four, five, six. It's unanimous.

18:15:54 3 Motion is carried.

18:15:56 4 To the applicant, thank you very much for your  
18:15:58 5 patience. To the commissioners, thank you so much for staying  
18:16:01 6 late. This meeting is now adjourned. (Gavel.)

7 (The proceedings were adjourned at 6:16 p.m.)  
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C E R T I F I C A T E

STATE OF HAWAII )  
 ) SS.  
CITY AND COUNTY OF MAUI )

I, Sandra J. Gran, Certified Shorthand Reporter for the State of Hawaii, hereby certify that the proceedings were taken down by me in machine shorthand and was thereafter reduced to typewritten form under my supervision; that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings had in the foregoing matter.

I further certify that I am not attorney for any of the parties hereto, nor in any way concerned with the cause.

DATED this 7th day of February, 2007, in Maui, Hawaii.

*Sandra J. Gran*

Sandra J. Gran  
Hawaii CSR 424  
Notary Public for Hawaii  
My Commission Expires: 5/14/08

