

**MAUI PLANNING COMMISSION
REGULAR MINUTES
FEBRUARY 26, 2008**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Johanna Amarin at approximately 8:40 a.m., Tuesday, February 26, 2008, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

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

Ms. Amarin: Commissioner Starr.

Mr. Starr: As a commissioner and a member of the community, I've been invited to attend the Mayor's State of the County speech at 10:00 a.m. I believe all commissioners were invited to that and I believe that as part of government it's our duty to attend that to understand what the goals and directions of the county in the next year are, and as such, I'd like to recommend that a quarter to 10:00 we recess so we can attend the State of County speech. If you'd like me to make that as a motion I will. But I do feel that we – our presence was requested up there in chambers.

Ms. Amarin: Assistant Director you had any comments on that?

Ms. Suyama: It's basically the choice of the commission whether they determine that they are going to be attending the Mayor's State of the County address. For your information, both Jeff Hunt and myself will be attending but then we had made arrangements that the division head, Clayton Yoshida would take our place representing the department at the commission's meeting.

Ms. Amarin: Commissioner Starr.

Mr. Starr: I would consider it that an insult to the Mayor if we don't attend after being specifically invited. So, I for one, will be attending.

Ms. Amarin: Okay, you have made your comments and your choice. We could ask the rest of the commissioners when we have the whole body here and see what kind of consensus we have, but thank you. At this time though I'd like to ask if the commissioners will be here up until 5:00 p.m. for a full day? Thank you.

I will open up this time for public testimony. We have any members in the audience who wishes to speak on any of our agenda items at this time? At this time I'll pass this over to the Assistant Director for more comments on our agenda.

Ms. Suyama: Just to clarify, the first matter which is the public hearing that was scheduled for Kai Holu Association, Inc., that matter has been canceled and we did send out a renote in the Maui News as well as the other papers in the statewide which was published on February 22, 2008. This meeting has been rescheduled to April 8th at 1:00 p.m., in terms of public hearing. So if you are a public member that wishes to testify on the first item, which is the Kai Holu Association, it's just to inform you that that public hearing has been canceled.

Ms. Amorin: For the rest of our agenda items, I do have a list. The first name I have is Vernon Ta'a. Please state your name.

The following persons testified at the beginning of the meeting:

Mr. Vernon Ta'a - Item C-2, SVO Pacific, Inc., SMA
Mr. George Aikala - Item C-2, SVO Pacific, Inc., SMA
Mr. Ray Shimabuku - Item C-2, SVO Pacific, Inc., SMA
Ms. JoAnne Johnson - Item C-2, SVO Pacific, Inc., SMA
Mr. Joseph Pluta - Item C-2, SVO Pacific, Inc., SMA
Mr. Peter Iriarte - Item C-2, SVO Pacific, Inc., SMA
Mr. C. Mike Kido - Item C-2, SVO Pacific, Inc., SMA
Ms. Lisa Starr - Item C-1, 120 Hanna Highway, LLC, OSP and SMA
Ms. Jocelyn Perreira - Item C-1, 120 Hanna Highway, LLC, OSP and SMA
Mr. Ed Lindsey - Item C-2, SVO Pacific, Inc., SMA

The above persons testimony can be found under the item on which they testified.

The matter of the State of the County Address was brought up:

Ms. Suyama was replaced by Mr. Yoshida at 9:45 a.m.

Ms. Amorin: Commissioner Starr.

Mr. Starr: Yeah, I'd like to bring this up again. We've been asked to attend the Mayor's State of the County Address which begins in 10 minutes at Council Chambers and I do feel it is part of our duty to know what the Mayor intends for the state of the county.

Mr. Starr: For the upcoming year. So, I, for one, would like to go up there and attend.

Ms. Amorin: Commissioners, Commissioner Starr had made a earlier announcement and now that we have the full body here what is your consensus. He'll be excused to go to the State of the County Address that takes place in about 10 minutes. I feel an obligation as being here for this agenda item. I wanted to get your agenda, I mean your consensus. Did

you all want to go or do we have a motion on the floor? Commissioner Hedani.

Mr. Hedani: Madam Chair, I apologize for being late this morning. I thought we were starting at 9:00 a.m., so I took a shower, I ironed my shirt while everybody was here listening to the testimony, but I will show up at 8:30 in the future. I will have to leave at 5:00 this afternoon, so my preference would be for those that want to attend the speech to go ahead and attend and if we have a quorum to continue the commission meeting and provide copies of the text of the speech to the commissioners at a later date.

Ms. Amarin: Commissioner U'u.

Mr. U'u: Same here. I intend to stay until 5:00 following Hedani's lead, but I did show up before him.

Ms. Amarin: I know myself, feel an obligation I will remain here until 5:00 p.m. Commissioner Hiranaga.

Mr. Hiranaga: I, too, will be remaining here. I believe the Mayor's speech will probably be broadcast by Akaku and taped for future viewing. I feel that we have – it's unfortunate that these two meetings conflict but we do have an agenda, and we do have applicants that have been waiting for their opportunity. So I feel we should continue the meeting, if we have a quorum and those that feel the need to leave, should excuse themselves.

Ms. Amarin: Thank you Commissioner Hiranaga. Commissioner Guard.

Mr. Guard: I'll probably be staying here, but this – a couple of them with the Starwood, I would like Jonathan's input, so I probably wouldn't be set up for a vote until he returns.

Ms. Amarin: Thank you. Commissioner Pawsat.

Ms. Pawsat: I don't care.

Ms. Amarin: Okay, Commissioner Iaconetti.

Mr. Iaconetti: I intend to remain here because of the importance of what we're dealing with today. I think it's very unfortunate and impolite that we are not attending her State of the County speech, but we have other work to do here.

Ms. Amarin: Thank you Commissioner Iaconetti. Commissioner Starr, you're excused. Okay, getting on with our agenda. We're still in open – for public testimony. Next on our list Patty Nishiyama. Please come forward and state your name.

Mr. Starr was excused at 9:51 a.m.

The commission then continued with the public testimony of the following:

Ms. Patricia Nishiyama - Item C-2, SVO Pacific, Inc., SMA
Mr. Kimokea Kapahulehua - Item C-2, SVO Pacific, Inc., SMA
Ms. Robin Knox - Item C-2, SVO Pacific, Inc., SMA
Mr. Richard Brock - Item C-2, SVO Pacific, Inc., SMA

Their testimony can be found under the item on which they testified on.

Ms. Amarin: Do we have any other individual in the audience that wishes to speak up on any of our agenda items except the one that was canceled this morning? Seeing none, public testimony is now closed. Clayton

Mr. Clayton Yoshida: Thank you Madam Chairman, Members of the Commission, again, item B-1, has been rescheduled to April 8th. So moving to Item C-1.

Mr. Hiranaga: Madam Chair, I have a question regarding the Item 1, the Kai Holu Association.

Ms. Amarin: Yes, Commissioner Hiranaga, when we opened up our meeting this morning at about 8:40 a.m., our Assistant Deputy Director made mention that public hearing will be rescheduled to a later date as the applicant did not meet all of the notification requirements and so this item B-1 has been rescheduled to April 8th, at 1:00 p.m.

Mr. Hiranaga: I guess I have a generic question. It appears that we've had maybe two or three agenda items that for some reason did not meet the notification requirements and I'm just wondering if these were all common causes or each was caused by – it didn't seem to occur very often before and then all of a sudden the past two months or so it's happened like three times. So I'm just wondering are these all unique occurrences or is there common causes as to why the applicants aren't meeting these notification requirements.

Ms. Amarin: Clayton you have an answer to that?

Mr. Yoshida: Yes Madam Chair. I guess at the previous agenda for the two items that were public hearings that were canceled were because the applicant failed to mail out the notice at 30 days prior to the hearing which is a requirement and therefore, it would be a procedural defect.

In this particular case the department put the wrong date on the letter that the applicant sent to the neighbors within the 500-foot radius thus creating another procedural defect.

Mr. Hiranaga: So it's more coincidence? We've seen this frequently, recently.

Mr. Yoshida: Yes.

Ms. Amorin: Thank you for your question Commissioner Hiranaga. Continuing on with our agenda. Clayton.

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

- 1. KAI HOLU ASSOCIATION, INC. requesting an amendment to Condition No. 23 of the Special Management Area Use Permit for the Kai Holu Subdivision (formerly known as Kaunoa II Subdivision) to permit two (2) farm dwellings per lot when currently only one (1) farm dwelling is allowed for lands located in the County Agricultural District at TMK: 3-8-002: 101 to 117, Spreckelsville, Island of Maui. One of the two farm dwellings per lot shall not exceed 1,000 square feet of developable area. The current Condition No. 23 restricts the number of farm dwellings to one per lot. The subdivision is developed with 17 lots on 39.7 acres of land. (95/SM1-1000) (P. Fasi)**

The public hearing will be rescheduled to a later date as the applicant did not meet all of the notification requirements.

Mr. Yoshida: The first item under Unfinished Business is Paia Town Center request from 120 Hanna Highway LLC for a Offsite Parking Approval and a Special Management Area Use Permit for the proposed redevelopment of the Paia Town Center located at various TMKs in Paia. This is actually Colleen's project, but I'll summarize as best as I can and I believe the applicant's consultants have a power point presentation.

C. UNFINISHED BUSINESS

- 1. MS. GRACE CONDOS, Managing Member of 120 HANNA HIGHWAY LLC requesting an Offsite Parking Approval and a Special Management Area (SMA) Use Permit for the proposed redevelopment of the Paia Town Center TMK 2-6-004: 004, 025, 033, and 109, Paia, Island of Maui. (OSP 2006/0001) (SM1 2004/0006) (C. Suyama) (Public hearing conducted on March 14, 2006. The Maui County Council recently acted on other land use entitlement applications such as a zoning change.)**

Mr. Yoshida summarized the Maui Planning Department's Report.

Ms. Amorin: Commissioner U'u.

Mr. U'u: I was wondering if we could request a 10-minute break or a 5-minute break?

Ms. Amorin: Thank you Commissioner U'u. We're in recess for break. We'll reconvene at 10:30 a.m.

A recess was called at 10:20 a.m., and the meeting was reconvened at 10:34 a.m.

Ms. Amorin: ...is back in session. At this time, the applicant. You have the floor.

Mr. Bill Frampton: Thank you Madam Chair and Commission Members, my name is Bill Frampton. I'm here from Frampton and Ward and we are the representatives here on behalf of the landowner, 120 Hanna Highway LLC.

We're here today to share with you, we have a powerpoint slide if it's okay, we'd like to go over the powerpoint slide. Thank you Dave, if you could get the lights. What we're here, this is our fourth time, I'd like to let you know that we're here for this project. The three previous times related to the first time was for the draft Environmental Assessment, this body reviewed that document and had comments. The second time was for our final Environmental Assessment when the Finding of No Significant Impact was determined. And then the third time was related to our change in zoning and community plan application for those changes. What happened at that meeting was this body had a public hearing, heard the project, discussed it, however you deferred on the SMA portion of the project as well as the offsite parking until the zoning and the community plan amendments were adopted and changed which they just were this past February as Clayton mentioned.

So what we're here for today again is to respectfully request the approval of the SMA Use permit as well as Offsite Parking in order to do the master plan for Paia Town Center. A little background, mentioned earlier we had a member from the Paia Mainstreet Association as well as Jocelyn Perreira from Wailuku Mainstreet Association. The significance there for us was the importance knowing where this project sat right in the heart of Paia Town and it was extremely important from very early to go and meet with this group and work with the community to help insure that we come up with a compatible project that works. And this started back in 2003 and went all the way through up until this past November 2007. It was, actually a really full process.

The other, go back one slide Dean please. The other thing I wanted to note was the early consultation as part of the environmental assessment process and then again, the bottom portion is the public hearings we've had again with the Planning Commission, the Urban Design Review Board and the County Council.

So this is the regional location map. Again, I think a lot of us would be familiar with the Paia Town. Our project sits right at the core of Paia Town. It's in a very important location, sensitivity to design and scale was going to be very important as we go into several slides.

The Paia-Haiku Community Plan is what you can see – I just want to point out, the three parcels, portion of 04, 109 and 25 are all part of this large Paia Town Center. Those are the three parcels that required the community plan amendment from single family, go ahead and hit the slide, which we just got, and then the next slide shows the zoning map, the same three parcels were interim zoned. They were not ever part of the comprehensive zoning act in Paia and we tried to research why and we never were able to determine why that happened. But we did go ahead and change it, establish zoning for that property to be consistent in order to proceed with the project.

The property consists of four tax map keys that are all contiguous totaling about 75,000 square feet or 1.7 acres of land. The existing conditions are important to understand. The property has right now five commercial buildings, four of which are – five buildings I'm sorry, four of which are the commercial buildings. One's a single family residence, it's in the back corner. The uses include restaurants, various services offices, retails, and a question was brought up earlier that we'll cover later is the access in and out into the property. That's something that you'll see in our site plan how we addressed it.

And the most significant component of this property right now is the existing dirt gravel parking area that's in the back. It's a really – there's minimal lighting, minimal landscaping, it's a very shady area. There's lots of criminal activities that take place back there and it's something that the landowner from back in 2003 when he acquired the property, the first thing he wanted to do was can't we just come in and pave it, landscape it and light it. And we explained to him you couldn't do something just that fast one, because you're in the SMA and two, he had the inconsistent zoning issues, but we also were able to step back and we brought on a team an architect and engineers and came up with the master plan rather than just go out and just pave it, we came up with the master plan.

These next several slides are going to be photos. They're going to help try to show you the existing character of the town, the historic properties and the site itself. This is standing at the corner of Baldwin and Hana Highway looking right into the property. On the little lower hand, left-hand corner I try to have a little location map from where the photos were taken.

This is standing on Hana Highway looking back to the west if you will towards Kahului. The property is located here on your left-hand side. You can see the improvements along the roadway on Hana Highway.

Looking up Baldwin Avenue at again, a lot of the historic buildings, a lot of those buildings

are up on top of the street with the sidewalk and parking in the back and you also have some on-street parking.

This is the vacant space right now that historically, years and years ago there was a building there but it's been vacant for quite some time. This is the proposed site for one of the buildings and one of the existing driveways.

This is looking in the rear of the property. Similarly trying to assess here, show you what the existing conditions are like back there and this is during the daytime. During the nighttime it's a different scenario, different activities going on.

Same parking lot area looking towards the Hana Highway. You can see Charlies and Jacques Restaurant off here on the property.

Same area. We have drainage issues. Obviously when it rains there have been no physical improvements to ever bring this property up to code.

This is important to note Luna Place is a street that bounds the northeast portion of the property. It's not part of our property but we do abut it and border it and there's several single family residences along that street.

Factors that influence or helped shape the design of our project. I wanted to go through this list quickly and we'll move on, but the first thing very important to us was the community-based planning and consensus with the Mainstreet Association and other members of the community. That took place over a four-year period. And that had a significant impact on our design as we'll show you later.

Public health and safety. That was a very big concerning factor. Again, the parking lot that we get lighting back there and appropriate lighting, landscaping. A space for a community police officer right in town in our one of our new buildings and we worked with the Police Department to use crime prevention through environmental designs. It was successful in the project.

Parking shortage was another issues that helped shape this project. We tried to maximize the number of off-street parking stalls that we could get. We have a total of 89 stalls. I do want to make a note that in the Planning Department's Report they cited 77 stalls are being proposed, that's actually incorrect. It's 89 stalls. That's just a minor note.

And we also utilized as the code allows compact parking stalls for 25% of stalls are compact. However, the compact you're allowed to shorten the width and shorten the length, in this case, we only shortened the length, we didn't shorten the width. I think that's

important to keep in mind.

The building design, the massing, the scale is all compatible we believe with the Paia, respect for the historic character of the town and also the Paia-Haiku Town Design Guidelines were very important, and again, factors that helped shape our project.

To enhance the sense of place, Jocelyn Perreira talked to you about this earlier, so did Lisa Starr. We came up with this public courtyard gathering area that we're pretty pleased with. There's two of them on the property that will help serve to provide for just gathering areas people to hang out, sit down and try to remain some of the open space in the area.

Impact upon Luna Place, that street that abuts the side of our property. We're very aware of the fact that we have a commercial project abutting residences, therefore, you'll see in our design it was important that one of the buildings took on more of a residential scale – residential design in scale in terms of the character of the building, the one that was closest to the residence.

And ultimately, something that came up sort of later in the process was we worked to try to reduce the reliance of vehicles and parking. Parking in Paia is a pretty horrendous situation. There's not that much parking available. But one way we thought about it was working with the County Department of Transportation and increasing bus ridership. They don't have a bus stop in Paia Town and on our property, we're able to accommodate a bus stop and possibly a shelter and we're working with them to whatever they'd like. The county's pleased with that and we met with Don Medeiros. He couldn't make it this morning but we can answer questions on that. And then just trying to reduce the need for parking. Again, we believe with bus ridership and bicycle racks is something we could do to help address the issue.

The site plan here, we have a full size board up in front of you. The quality of this image isn't the greatest but I do want to call out a couple items. If you go ahead and hit the slide Dean, there's 89 parking stalls with landscaping and lighting. Go ahead and keep hitting the button as it goes along. We are eliminating or trying to abandon two of the four existing accessways. The accessway for the entrance to the property will be off of Hana Highway, a one-way in and one-way out on Baldwin. We can get into a little bit more detail on that later. But the question brought up by Member Jonathan Starr earlier was correct in that he said there were many concerns brought out early on even amongst our own team of design professionals whether or not a one-way in, one-way out would help or hurt the project and also help or hurt the surrounding the traffic and we believe in the end that this is a positive and we'll go into that earlier.

The two new buildings. A new building right here on Baldwin Avenue, two-story building,

5,600 square feet, a new two-story building back here, 4,300 square feet.

The new courtyard areas we talked about. One would be located between Milagro's and the new building on Baldwin Avenue. The second one is located between Jacque's and Charlies up here where we also, go ahead and hit the next slide. Space for the community police officer would be within our new building and the bus stop, if you hit it one last time Dean, would be, we're proposing for this area along Hana Highway. We think in the area where we have the open space courtyard that it would be an appropriate place and there's ample space. By eliminating this driveway, this is an existing driveway that's really chaotic and it's not that safe, we would close that driveway down, create an open space here and that provides us the space and opportunity to put in that bus stop shelter we think would be a nice addition and the public restrooms, sorry, public restrooms over here and the bicycle racks as well.

The details of the architectural building, our architect, Eric Taniguchi is here but I do note we went through Urban Design Review Board. I won't go into too much detail other than this is the building along Hana Highway. The elevation you would see from Hana Highway would be here with the abutting courtyard. Bill Tavares – Baldwin Avenue, I'm sorry. Baldwin Avenue, thank you Eric. I do note that Bill Tavares is a long time member of Paia-Kuau region. He was instrumental in helping us come up with the actual materials for the building and the selection. This building is going to be more stucco, the building in the back is going to be more wood and his explanation for that was he knows this one because his father helped rebuild the town after the fire in 1929. He understands that very well and his comment about the stucco was interesting in that they used stucco because of its proximity to the quarry and the mining of Baldwin Beach area and that's where a lot of the stucco buildings came from, the materials made sense back then. And this is the building in the back rear of the property. You can see it takes on a little bit more of a residential look again, because this is closer to those residences in the back.

We have our landscape planting plan. We can go into detail if you would like but I think the primary concern is in the very beginning there was question of whether or not could we preserve, there are a lot of trees on the property right now, some that are on the mature side, large shade trees. However, we needed to come up with the balance of trees that we would have to remove that weren't appropriate for parking and preservation of some. We do preserve two substantial trees that are pretty exceptional, poinciana trees, that we're pleased to incorporate into the plot plan.

Drainage is something that we saw in the photos earlier. It's very important. One, just because of our proximity to the shoreline and two, there is no drainage on the property. It just sheetflows off of that site carrying all kinds of junk from the cars. What we'd like to note is, if you could hit there one more time Dean, what we propose are to utilize catch

basin inserts. We've been doing this on other projects that we've come before this body before because it's something that we've make it sort of requirement on all of the projects. The existing 50-year runoff, one-hour storm, would right now produce 5.0 cubic feet per second or cfs after construction it would become 7.0, that's the increase, our impact we consider is 2.0. Though that being said we're going to accommodate that and then more some. We're going to oversize the drainage system just to try to do more of a fair share. But the inserts is what's important to us that we include those to help protect from pollutants from the runoff.

The traffic impact analysis is something that when we came before this body several years ago it was, one of the very apparent, glaring issues was in our traffic study report, there's three things you look at. You look at the existing traffic conditions then your traffic engineer looks out into the future and counts the – comes up with the traffic volume without your project and then you look out into the future and look at what's the future with your project and the incremental difference between what we call cumulative traffic without our project and the cumulative traffic with our project, that's the impact of our project when you look at it that way.

Our traffic generated from our project is going to be 35 vehicles in the morning, 32 vehicles in the afternoon during those peak traffic hours. But I think it's very important to note that our traffic impact study when they use the national standards of assessments and criteria, it came out with an assessment that the existing traffic conditions in Paia operated at a level of service between A and B. It doesn't take too many folks to realize that that is not what happens in the field. And that was what came up our discussion at the last time we went before this body. When you use criteria such as volume to capacity ratios, we're below thresholds. We're actually in an okay situation. The number of vehicles that are utilizing these sides of these roadways and highways it's okay. That we actually have capacity.

The problem is there's other factors that are other forces that are work that cause in reality traffic problems and Paia has traffic problems. It's not related though to the standards and criterias that we used. An example of this are our angled parking stalls. During any time you have peak traffic hours, you stop and let somebody reverse out that's a point of friction. Delivery trucks trying to come into the town. I think just the island lifestyle and the laid back approach in Paia, people jaywalking all over the place and it's in our report and cited. But you know, if you think about driving through Paia a lot of the folks will stop, you either courtesy, you let somebody out, you say, howzit to your friend, how's the surf, whatever, people are talking story. That's the nature of this town and it's a small town. It's difficult to do a full traffic impact assessment report when you have those kinds of factors going on that don't lay into the national standards.

One of the problems, we don't have local standards that we use for our traffic studies. It's something we need to think about but we don't have them. So we rely upon national standards that tell us Paia is fine, we're not here to tell you that. We're here to say we know there's a problem but in the end of the day, our increase to overall area is 35 vehicles in the morning, 32 in the afternoon that represents about 2% of the increase in traffic from our project and 1.6% in the afternoon respectively. And interesting note is the average delay in seconds per car what that would equate to is anywhere between zero to 0.9 seconds delay per vehicle is the kind of notice that you would see from our project. In the afternoon you may see up to 6.9 seconds maybe is what you could possibly experience.

This is a slide that just shows recent roadway improvements that took place since the time of us first coming before this body. One is the addition of left-hand turn storage lanes within Paia. That's a significant improvement. The State actually recommended to us, asked us to consider putting these in. Well, because of the length of time it's taken us to get through the process, the State went ahead and already did this. They also added a new crosswalk. The mini bypass is something also that was incorporated into this region which wasn't at the time when we ...(inaudible)... this project.

These last couple slides are of some factors that we wanted to let you know that we're very much aware of. Outdoor lighting. The fact that we're going to be bringing in a parking lot and new buildings and we're trying – we're very aware of the sensitivity to lighting. These are samples of lights that we don't want to use. We want to avoid lights that shine directly into those neighbors eyes. Glaring lights that create difficult driving situations. The next slide shows the kind of style that we believe in protecting the surrounding environment from light trespass. All your downward shielding lighting. Examples shown up above. This is an image that we pulled off the internet from a interesting company that just shows an example of, again, if this is a light post and your property boundaries are here you want to throw all of your light onto your property and avoid throwing it off site into your neighbors or drivers eyes.

The parking analysis in Paia Town, again, one of the significant features of this project is the fact that we're providing 89 parking stalls. We did an assessment of the existing inventory of parking in town. Currently including random parking scheme that we have there's 278 approximately parking stalls in all of Paia. We, right now, represent about 18% of those total stalls. Our proposed 89 new stalls would bring it up to 28%. We would have 28 of the all parking stalls in Paia would on this property and we only represent 22% of the commercial area. So I think Paia, the owner is pleased with this. He's willing to do more than required, but we know parking's an issue in the town.

And just to summarize, the end, the conclusion, we believe the benefits to the public health and safety from the new parking lot, the community police officers, the public restrooms,

the parking stalls that we're going to be providing is very appropriate and seen as significant benefit. The location is very compatible with its uses, the sizing, the massing, the scale have been worked out with the Urban Design Review Board and the community to be consistent. The formalized onsite parking we believe is going to help improve the flow of vehicles through the town as well as the traffic patterns. The sense of place from the public courtyards are very important to us. We believe we're supporting the small business by creating diverse employment opportunities, and again, the Findings of No Significant Impact from this environmental assessment also attest to that earlier that was accepted by this body. And that concludes our presentation. And we would be more than glad to answer any questions this body may have.

Ms. Amarin: Commissioner Hedani.

Mr. Hedani: You know when the project last came before us there was a provision for apartments or rental units within the project, is that still the case?

Mr. Frampton: I don't believe we ever represented that there would be any residential component. We had looked at residential as one of the alternatives.

Mr. Hedani: Okay, so there's no residential above the commercial?

Mr. Frampton: No residential above the commercial. Part of the alternative analysis early on was we looked at possibly residential in the back, multi family maybe in that back property. Live-work units in town. But right now there is no –

Mr. Hedani: Was that one of the changes that was implemented into the project as a result of your discussions with the Mainstreet Association?

Mr. Frampton: Yeah. That came into discussion. That came in absolutely part of the discussion and I think just the Mainstreet Association comments about, yeah, putting residences right in the back of a parking lot they just didn't feel appropriate.

Ms. Amarin: Commissioner Starr.

Mr. Starr: Yeah, I'm a little confused. How many additional parking spaces compared to the number that currently exist are being created?

Mr. Frampton: Okay, currently right now there's no formalized parking. There's striping out there that's not to code, but in the counts we've done, we've estimated between 45 to 50 cars can park back there and that's through just random folks parking where they'd like to park. The proposed plan is to include 89 parking stalls that will be designed per code.

Mr. Starr: So in other words, 39?

Mr. Frampton: You could say, yeah 39, 40 additional stalls compared to the existing conditions that you see in the photos back there. I'm sure you're familiar with them.

Mr. Starr: There's a lot of cars that park there right now. You know, you go there on a Friday night and there's a lot of cars parked.

Mr. Frampton: That's right. Absolutely right. And then the idea is that we can fit more in a more formalized planned manner with appropriate landscaping and lighting.

Mr. Starr: So you're taking a position that you're adding 39 stalls.

Mr. Frampton: Sure.

Mr. Starr: And then how many of these – what would be the parking load of this project? In other words, by the square feet compared to taking into account the various uses.

Mr. Frampton: When you take into account the existing land uses that are on property a lot those uses have been there for since the '20's, '30's.

Mr. Starr: No, I'm not talking about existing uses. I'm talking about the proposed uses. You've got 20,000 square feet. Are you one spot for 500 square feet or?

Mr. Frampton: In some cases we are because the commercial. In some cases the restaurant is one spot for every 100. So it's a range.

Mr. Starr: So how many stalls does that mean?

Mr. Frampton: The requirement at one point was I think 68 stalls.

Mr. Starr: So in other words, you should be creating 68 stalls, however, you're only creating 39 stalls so you're actually reducing the parking availability in the center of Paia by 30 stalls is that correct?

Mr. Frampton: That is correct. The concept was to we figured how many stalls will be required and that was a difficult task in itself because of some of the existing buildings are grandfathered in. They've been there forever. But the concept was again, to maximize the number of stalls we could get on that property to help with the town. At the same time not creating just a sea of asphalt.

Mr. Starr: But, okay, now talking about the sea of asphalt, you're increasing the runoff by two cubic feet per second in a 50-year event.

Mr. Frampton: Correct.

Mr. Starr: I know there are – you know, I appreciate that you're putting in a filtration units and that's a good thing and it is different from, you know, a beach front property what's running directly in it, is I assume running into a state – I mean, where does it run when it runs through those? Is that into a state or into a county drainage system?

Mr. Frampton: County. I believe it's into a county – state? I'm sorry, I believe it runs into the state system that's located on Hana Highway and ultimately does the old way it just makes its way directly out into the ocean.

Mr. Starr: There's no basin at the end of it or any?

Mr. Frampton: As far as I'm aware, yeah, our engineer is indicating that the state system does not have a basin. Our project of course Mr. Starr, you know, would have onsite subsurface systems that capture that runoff.

Mr. Starr: You know I've been following a lot of the work that's been done regarding bordering parking areas with pervious surfaces and walkways with greenway strips to provide a certain amount of absorption of runoff in parking lots. A lot of the designs especially in LEED, LEED type constructions around the country is being done in such a way to absorb that. And I know to use totally pervious surface is difficult but by bordering it with areas that are built that way and using filtration ...(inaudible)... and other things a lot can be done. Have you looked into any of that?

Mr. Frampton: Yes, yes we have. In fact, if you recall, I'm not sure if you remember the time Member Starr, one of the first projects I believe this body had dealing with the pervious parking lot was our project down in Lipoa with the same team that we have and we were really excited that we brought it forward and showed that it could be done. In this particular case, I know we looked at it. We never eliminated it and said, absolutely not. I think the main thing at this early stage was how much will we generate with the new pervious, impervious surface areas and make sure that we have an ability to keep it on site. That being said, we would be open to exploring it further.

Mr. Eric Taniguchi: The contractor.

Ms. Amorin: Order on the floor.

Mr. Frampton: Hold on. One of the problems that our architect was mentioning is – was the difficulties – one hasn't been built on the island, a substantial parking lot. So to find a contractor who can do it has been challenging. And as you know this concept's been around for 30, 40 years that it can be done, it's just for some reason or another it hasn't been done on Maui. That being said, we have a project that we got approved at this body, we showed it can be done and we would look at doing it.

Mr. Starr: I know it can be done. I've seen many, many project and I mean, we have a lot of great workers who really are looking for work. I can't believe that there's not someone who would organize that project.

Mr. Frampton: I'm sure we could look into it.

Mr. Starr: Would you be willing to accept a condition that you'll find ways to absorb that two, that delta in runoff, two unit delta?

Mr. Frampton: I think what we would – we absolutely – we would like the opportunity to explore it. And if it's feasible, we have no problem doing it. We would have to look at the configuration of the parking lot. I'm pretty sure we could commit to trying to do that.

Mr. Starr: I mean if you will then you'll have my support. I don't know, is that something you would be willing for us to condition?

Mr. Frampton: If we could discuss with my engineer before we're complete with this, the next questioning, I would gladly look into that Jonathan.

Ms. Amorin: Thank you we have other commissioners who have questions. Commissioner Hiranaga.

Mr. Hiranaga: Commissioner Starr asked some very good questions and I actually have additional questions regarding the subjects he brought up and I would prefer that we try and organize our questions to focus in on specific issues versus jumping around with numerous questions. I think we may have talked about that in our previous meeting. So I'm going to ask a couple of questions about the parking.

You said that your adding approximately 39 stalls, what you're saying is that the existing building is because they're grandfathered in are not required to meet the current County Code regarding parking is that correct?

Mr. Frampton: Up until now they have not been required to and if they were to have come in and say, come in and try to pull a building permit to do substantial renovations at that

time, at such time, they would have been required to comply with the Code. We did have a situation with a new tenant trying to come into the property. A young woman was looking to try to establish a new business. She tried to come in, turned in plans and ultimately the Planning Department rejected the project because they couldn't provide parking. They couldn't demonstrate that there was going to be parking. This was about almost a year ago and it was frustrating because this project has been trying to get approved. Had it been approved it wouldn't have been a problem because the parking will be there.

Mr. Hiranaga: So with the existing food operations at Charlie's and Milagros and the existing retail operations, the proposed office use and proposed retail use, if those existing buildings were not grandfathered in what would be the required parking requirement for this Paia Town project? Would you happen to have that number?

Mr. Frampton: You know, I don't have that number. I know that this is an issue that affects, significantly affects this property as well as any other property in Paia, any other property in Makawao Town, Wailuku Town, Lahaina Town, it's something that the county has to look into. The parking, the off-street parking requirements are very strict and rigid. We had a woman come in try to do a business. She got denied. She couldn't do it because of the parking. There's other uses along Baldwin Avenue and Hana that are going to run into the same situation soon. In our particular case, the way we worked out parking counts were we had to comply with, of course, the two new buildings and then after that, the way the department looks at the code is, the existing uses are existing uses. They wouldn't have to comply. However, as soon as they come in and try to pull a building permit to do renovations, they're – the parking requirement will kick in. What's going to be interesting is you look at the age of a lot of our buildings in our small towns, these buildings on our property on Paia are built in the 1920's. They're going to require renovation. A lot of them, I'm stunned how they're still standing. But when a lot of our buildings in our main towns, in our small great little country towns come in for improvements, they're going to have to comply with parking and a lot of our old parking, buildings and property sizes will not allow them to accommodate the parking.

Ms. Amorin: Commissioner Hiranaga.

Mr. Hiranaga: I understand what you're saying, but you've got the square footages on the existing buildings. It wouldn't take you more than a few minutes to come up with an approximate parking requirement. One of your associates could calculate that while we continue our discussion.

Mr. Frampton: We can. We have a parking inventory survey. I don't have the numbers. I'll pull it out of the EA that was required and accepted by the Planning Department and again, the numbers that we came up with showed that we exceeded the requirements.

Mr. Hiranaga: I'm talking about the existing buildings, not the proposed.

Mr. Frampton: I get those details. It was included. The existing buildings were included.

Mr. Hiranaga: Yeah, if you could come up with that number because I'd really like to see what the full impact will be to the town of Paia with this proposed project versus just the incremental change due to the two proposed buildings. So I appreciate that information.

Mr. Frampton: Sure.

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

Mr. U'u: Good morning Bill. I think the problem with parking in Paia as a whole I know certain businesses in the area went before the Variance and Appeals Committee and got parking exemptions.

Mr. Frampton: That's right.

Mr. U'u: And I would hate to pinpoint any businesses out there which some of the businesses take up a lot of the parking in Paia and that businesses had exemptions. So I'm thinking you're part of the solution also. I like it. It's going to be – you guys going get public restrooms which is needed in Paia. You see the guys walk around the area. I think they need some place to go. Just to wash up on that case, but I also like the idea that Charlie's, you know the employees parking they have a lot they use where the employees park up above. It should be put into thought. But like I said, I think you guys doing a good job with parking because it is needed there and part of the problem is the people who's been exempt to giving parking but utilizes a lot of parking is the problem that has been passed.

Mr. Frampton: I appreciate that. And a lot of those users are in our parking lot right now.

Mr. U'u: No doubt.

Mr. Frampton: And they're eating in both which is okay. I mean, we need parking. We happen to have an opportunity to provide a substantial number of parking. We're going to provide more than 25% of all the stalls in Paia on one property. I think that's a good thing to try to help these other guys out. I know that was taken into consideration during the variances that were granted. I know two people that told me they thought about the fact that this project is coming on line.

Mr. U'u: Thank you. But I walk, I don't use the parking that much. It could use it.

Ms. Amorin: Commissioner Ward followed by Pawsat.

Mr. Mardfin: I had the same question the other commissioner asked about, how many stalls you would need without the buildings if they were up to code and basically I think that's what's being asked. But I have a couple other things. One is, I live in Hana so usually I'm not stopping in Paia except maybe for dinner on my way home, but today I came in and I was here at about ten of eight and I hit a line of traffic coming in from Hana before Baldwin Avenue a half mile long. And so that gave me a chance, I going to stop and actually look at the – go into your parking lot and look around. I didn't have to, I was going slow enough. I had pretty good view at least from Hana Highway and the – do you charge for parking in there or restrict it in any manner?

Mr. Frampton: There's no charge for parking right now. They do, recently the landowner, the project manager or the daily manager put up some signs saying that the parking right now should be for the tenants and the employees on the site.

Mr. Mardfin: Is there any commitment not to charge for parking when you have this development?

Mr. Frampton: No, it's the opposite. Rather than be a free public parking lot, the landowner is looking to use validated parking. So the customers and the employees for the Paia Town Center which is for all the way from Charlie's all the way back up Baldwin Avenue, that whole area would have parking available and validation. They could essentially park for free. The other surrounding landowners, businesses, whatnot, would be required to pay.

Mr. Mardfin: I have whole bunch of questions about the traffic, but following the commissioners idea, I think we ought to stay on the parking issue for now.

Ms. Amorin: Commissioner Pawsat followed by Commissioner Guard.

Ms. Pawsat: Yeah, I think it's plenty of park. It's a good job. I personally, not to rush anyone but it would be nice to get through an agenda completely for once, and I would like to make a motion to approve but maybe that's a little premature at this point.

Ms. Amorin: Thank you Commissioner Guard followed by Commissioner Hiranaga.

Mr. Guard: This is just a follow up on the parking because I know the manager and used to work in Paia and one of their biggest problems there was people are using it as a staging area to go to work in Kihei, Wailea and Lahaina. So a lot of those parking stalls are being taken up all day long by people not even participating in any activity in Paia. So I think they need to do what they have to do to save their tenants.

Ms. Amorin: Commissioner Hiranaga followed by Commissioner Starr.

Mr. Hiranaga: Talking about parking again. I guess I have kind of a keen interest in how you're going to manage your parking situation. I used to manage a shopping center so employee, customer parking and managing of employee, customer parking is always a challenge. So are you going to be limiting the number of employees per establishment that may park in the parking lot say by square footage of their leased area or is it going to be unlimited open parking to employees because you're talking about a validation program for customers and I guess I'm just interested to know if this would in fact turn into an employee parking lot.

Mr. Frampton: That's a good question. I think the idea is for it absolutely not to become an employee parking lot. You are required as part of the offsite, off-street parking code to provide for employee parking on site. So we do have to provide a certain number of stalls to meet the employee requirements. But one of the creative ways that we are trying to work with parking right now as Commissioner U'u mentioned, the employees for Charlie's restaurant they park off site. They have to park right up at the street there's a vacant parking lot and this is where they park in order to help free up stalls for tenants and people coming to use the property.

As far as the long term management, I do not have any specifics at this time to be honest. We're open to ideas, but I think the spirit, the intent is to again, Paia has a parking shortage problem we needed, our intent here was to maximize the number of stalls we could possibly get on that site and at the same time come up with the landscape planting plan and lighting plan that we felt was appropriate in terms of respecting the fact that it's going to be a lot of parking. But the need for parking when we met with the residents, the merchants, everyone again so far has been pleased with the plan ...(inaudible)...

Ms. Amorin: Commissioner Hiranaga.

Mr. Hiranaga: Were you able to calculate the number of stalls, my previous question?

Mr. Frampton: The total number of stalls required as I think I mentioned earlier was going to be 68 and that would take into account the existing buildings on the property.

Mr. Hiranaga: Without the grandfathering in of those existing buildings?

Mr. Frampton: There was two buildings that were grandfathered out. The two buildings along Baldwin Avenue. This building and that building. Those two and those were about 2,000 square feet in size. If you added those in the requirements, that would be have four stalls, eight stalls actually in total because there's one more building that's 2,000. So we

would have been looking at eight additional stalls that would have been required. So if you add the eight to the 68, even if we were to not go with the grandfather, we're still well within what the county would have wanted us to do.

Mr. Hiranaga: So that's one per hundred square feet for Charlie's and Milagros?

Mr. Frampton: That's correct.

Mr. Hiranaga: And then the one per 500 square feet?

Mr. Frampton: And Jacques as well.

Mr. Hiranaga: And the one per 500 feet for the Merchantile Building?

Mr. Frampton: That's correct and the new buildings as well.

Mr. Hiranaga: And you're at, what was that number again?

Mr. Frampton: It would be at 76, correct.

Mr. Hiranaga: Okay, thank you.

Ms. Amorin: Commissioner Starr.

Mr. Starr: You know, the parking conundrum is something that not only Paia but Wailuku and Makawao, it's something we're always going to be coming up against. You know, on one hand, frankly they should be providing a lot more parking, on the other hand, it's impossible, and when you want to have a compact town that works, you know, you have to kind of allow it to happen. You know, I think that there's a real policy problem that we have here on Maui and I hope that this is something that we can delve into at some point which is that parking in our small towns is free. And the mind set when we do have all this free parking is that it doesn't have any value and because of that, you know, people take liberties with the expediency of it. You know, workers parking all day there, leaving junk cars there, you know, all these kind of stuff that shouldn't really happen because it's not free. A parking stall cost \$25,000 to \$35,000 for the property owner or the business owner or it costs \$50 to \$75 a month on a rental. That's what it actually cost a person who owns that property. So to have it free is wrong and misleading. And the real long term solution and it's not something we can impose now, but all of our parking should have a price on it and maybe if you shop at a merchant they might be able to validate a ticket the way we do in other places, but you know, it hasn't hurt Lahaina, but it would certainly help improve Paia, Makawao, Wailuku when we move to a situation where there is – where parking has

a price and a value and people pay accordingly and then find other solutions, maybe four people won't take four separate cars to go to have dinner. Maybe they'll pick each other up if there's, you know, a cost. So I think that's where ..(inaudible - changing of tape)...

Ms. Amarin: Thank you. Commissioner Guard.

Mr. Guard: Just to wrap that up. I think it's great that we give some value to a bus stop on the property as well as those bike racks, along with what Jonathan's comment about the price of a stall and unless we want to bulldoze one or two of those buildings we're not going to – we're going to destroy our small towns to make adequate parking.

Ms. Amarin: Thank you. Commissioner Ward.

Mr. Mardfin: I just want to – I want to make sure I've got the numbers right. Without the two new buildings, without the two new buildings you're proposing, but you want to be up to code, you'd have to have 76 stalls is that correct?

Mr. Frampton: No. That's not correct. The two new buildings account for 19 of those stalls that I told you about. The number I gave earlier was everything, the two new buildings, the existing buildings, if we had to maximize everything.

Mr. Mardfin: So it's 76 with – under code with the two new buildings, 19 of which are due to the new buildings?

Mr. Frampton: That's correct.

Mr. Mardfin: What are your hours of – What are your functional hours of operation?

Mr. Frampton: Right now, the restaurants are probably the ones that would stay open till late, and to be honest I don't have that exact number. I look to the local experts in the town that might know the numbers, someone who frequents the area at night.

Ms. Amarin: Commissioner U'u.

Mr. U'u: You know, I'm an early bird so I just have a drink and go home, but J. B. would be more suitable to answer that.

Mr. Frampton: I wasn't going to say it.

Mr. Mardfin: Is it like 11:00 p.m. or something like that?

Mr. U'u: 10:00 p.m.

Mr. Frampton: The actual night establishments, Jacques for example, Charlie's, I believe would be later than that. I believe those would go past, close to midnight, if not past it, I understand the regular bar hours.

Mr. Mardfin: Have you guys ever done a study of what your existing establishments use in terms of parking. I mean, it's one – we've been talking about the standards of the county, but do you have any idea what the actual car usage is?

Mr. Frampton: We do. We went out and did over a course of several days, actually over, one, two, three – six month period, went out during random times during random times of the day, morning, afternoon, evening, that related back to the average that we talked about. There was a high of 55 and a low of 43 on site. And again, more would get on there, they just can't because there's – there is no striping, except for in Charlie's which is not striped to code, it's a free for all. You park wherever you want, however you want, you got to go around the van that's been left there for a week draining oil, you got to deal with guys dealing certain substances on the property. It's a really free for all and not a safe situation. The idea here is to pave it, landscape it, light it, bring it up to a really nice amenity for the town. If that answered your question, I'm sorry for that.

Ms. Amorin: Commissioner Ward.

Mr. Mardfin: I just want to make sure I totally understand this because you're really providing because it's maxed out now, you don't know how many stalls would actually get used.

Mr. Frampton: That's right.

Mr. Mardfin: You're providing 13 more than code would require. You're going from 76 to 89. But you're going to require validation and I can easily see how this would have an adverse impact on – make parking in the other places worse if people can't – at least potentially, people wouldn't be able to park there that currently are parking there and so there's an increase of demand for the free places that are around town.

Mr. Frampton: Actually, to go back in a couple of statements you said, the County Code requirement would be 68, 68. The number I gave you of 76 were to be if we were to – there's two buildings that are clearly exempt.

Mr. Mardfin: Void the exemptions.

Mr. Frampton: But we are exceeding that. We're fitting on there many more cars than can fit today. The way we look at it is we're putting 89 stalls and if you have 50 cars out there, that's 39 more vehicles that can get onto that site in a safe efficient manner in a parking lot that's safe and efficient and has security and has a police officer now and bathrooms and restrooms.

The parking inventory that we did, again, if you look at what's going on out there, the members have been bringing this up, but there's a public parking lot that provides 80 stalls in the very beginning of the town as you're coming from Kahului side. There's another public parking lot that provides 49, then you'll have on-street stalls and Baldwin has on-street stalls so does Hana Highway and then ours is put in there into the mix. And right now currently we're about 18% of the parking stalls for all of Paia. We're going to go up to 28%.

Mr. Mardfin: But you're increasing demand by having two new buildings.

Mr. Frampton: Well, we're only – well, when you look at the demand, we're only 22% of all the commercial space in the town. We're well above and beyond what – we're carrying beyond our fair share. But again, we're pleased about that. The owner is – this is a good thing, he wants to see the value of Paia Town and it be improved. I think it's a good thing this guy is taking that approach.

Ms. Amorin: Commissioner U'u.

Mr. U'u: Yeah, just a comment. I live there my whole life and where you guys intending to build the parking lot will be the only parking lot in the heart of Paia really because the other two are on the outskirts. And when you talk about people dealing certain subjects in that area we're not talking Amway. And you got to clean up the place and this is the right start to start cleaning up the town. It is a bad place back there. People block you in. I've been blocked in before. You get derelicts all over the place. When you pass that place during the day time you can see everybody. When you want to see them night time you drive in the back, that's where they're at.

Mr. Frampton: That's where they're at, truly.

Mr. U'u: We got to clean up the place. It needs to be safer not only for me and my kids, but for the tourists coming in so we can give that, you know, it's a safe place to come and a lot of people end up parking back there but they're getting robbed or they're getting harassed by people. There's a lot of times I've been eating at Jacques and hear people screaming in the back. It's not friendly screams like hey, I'm selling Amway. So I like the fact that on top of the parking issue it's a bigger – the bigger issue is it's a safety issue and that is a

bigger issue. And Paia right now is thriving big time, big time. So we don't want to stop that. I think it's good for the merchants. I think it's good for the residents and I'm all for this project.

Mr. Frampton: Thank you.

Ms. Amarin: Thank you. Commissioner Hiranaga.

Mr. Hiranaga: Moving onto drainage. I want to understand why the additional 2.0 cfs is an allowable increase in drainage. I thought we were always under the understanding it should be a net zero. Maybe I don't understand the drainage issue. Maybe Public Works could answer that question.

Mr. Frampton: We have, just to let you know too, our engineer is here and we can have Public Works and Stacy Otomo to address just how we designed our project just so you appreciate that.

Ms. Amarin: Stacy Otomo first.

Mr. Hiranaga: It's not necessarily how it's designed but why is 2.0 increase allowable is my question or permissible or acceptable.

Ms. Amarin: Stacy.

Mr. Stacy Otomo: Morning Madam Chair, Members of the Planning Commission, to answer Commissioner Hiranaga's question, I think in the earlier slide, Mr. Hiranaga what was said was that the current runoff is 5.0 cfs. We're taking up to 7.0 after the construction of the parking lot. However, to mitigate the increase we are putting in onsite subsurface drain which would take care of the two, additional 2.0 cfs plus another 25% of the existing. So technically what you would see as the end product is 25% less flow getting off the property and everything will be controlled underground.

Ms. Amarin: Thank you Public Works you have any additional information? Mike.

Mr. Miyamoto: Madam Chair, I think that pretty much states you know, response to Commissioner Hiranaga's question. They're going to mitigate their incremental increase and as the commission has been pushing for applicants to mitigate even more, they're committed to the 25% additional amount.

Ms. Amarin: Thank you Mike. Commissioner Starr.

Mr. Starr: So just to be doubly sure you're saying that below the surface of the parking lot you're going to be putting in a drainage system that will actually retain and percolate over the 2.0 cfs?

Mr. Otomo: That's correct.

Ms. Amarin: Commissioners any other concerns or issues for this? Commissioner Hiranaga.

Mr. Hiranaga: Again, drainage is a big issue on Hana Highway when it does rain and will there be any attempts to redirect surface runoff off of the existing buildings into your project versus onto Hana Highway as it currently does?

Mr. Otomo: What we will try and do is if there's opportunity to take some of the roof drains into the onsite system we would attempt to do that. I'm not sure if we can do it for the existing buildings but definitely on the new ones we'll try. But again, there would be a net decrease actually getting off of the site.

Mr. Hiranaga: So when you're calculating the 7.0 that new runoff coming off of the pavement and the new buildings that's being possibly being redirected to your drainage system or is being redirected to your drainage system?

Mr. Otomo: It is being redirected. What we would do is actually put in catch basins in the parking lot. So we would disburse of the water instead of having it, you know, funnel down in a particular area.

Mr. Hiranaga: So you're saying you're going to attempt to reduce the flow of the existing buildings to Baldwin Avenue and Hana Highway but you're not sure you can do it?

Mr. Otomo: Well, the next increase from the whole property Mr. Hiranaga, we would be definitely a net decrease.

Ms. Amarin: Commissioner Ward.

Mr. Mardfin: Now I forgot what I was going to say. At some point I want to go into traffic so before this gets cut off I want to do that. The two new buildings are going to house what sort of businesses?

Mr. Frampton: The two new buildings will be commercial business retail type uses. The – especially we know that along the new building on Baldwin Avenue. The building in the back because its proximity to the residential areas on Luna Place wanted to keep those

businesses more, what we call, on a professional, your accountants, your dentist, doctor, lawyers, whatnot, no restaurants for example with booming music keeping up the residents, but keeping in mind there's a proximity to the residents.

Mr. Mardfin: And you referred to criminal activity back there, you want to go into any detail about that or?

Mr. Frampton: I've got a huge list, but you know, one tenant recently called the police on people that were doing activities in the back near the mango tree and the next night their tires were slashed and bricks were in through their car window. There's a letter in the editor maybe about six months ago about another tenant. He's actually a lawyer and he's in town and his wife is pregnant working in Paia, she works at one of the shops, she called him up because she was worried to walk at the end of the night to her car because of this group of individuals that were doing, participating in illegal activities, drugs, drinking.

Mr. Mardfin: Okay, that's what I was thinking.

Mr. Frampton: Lots of it going on.

Ms. Amarin: Commissioner Guard followed by Commissioner U'u.

Mr. Guard: I was going to say it's too bad we don't have someone from the Fire Department or the Police Department to validate all of these stories that especially on the weekends but a lot of the employees actually don't even like to park back there because it is a dangerous spot. You're going to lose more money than you make working there if someone takes your purse or your wallet or breaks a couple windows. So hopefully you can trust the people that go there a lot that this is a much needed thing. I try not to park in there at night if I don't have to. So, I really hope that we can trust each other on this one that that is going to be a huge benefit to everyone that participates in that area.

Ms. Amarin: Commissioner U'u.

Mr. U'u: Yeah, also touching up on safety issues. I know there's been a repeat – people keep throwing stones in the windows in Paia. I mean, it's unbelievable. A store, Hana Highway Surf just got robbed recently. I mean, crime is not down there. It's up and I think part of the solution would be cleaning up that area. If I'm not mistaken, I don't know if it was at gunpoint or you know, but they did.

Mr. Frampton: There's been a lot of activity.

Mr. U'u: Lot of activity.

Mr. Frampton: And again, that's where the Mainstreet Association came to us and talked to us about providing space for a community police officer. The police officer right now sits up at the community center if they're even there and they rarely go there. It's an old building. I've heard from this personally from the police officers they don't even like to go there. They don't have phones, faxes, any of that stuff. Our idea was to put a police officer right in the heart of the property. Make it visible. Give them future proof to building in terms of faxes, phone lines, what they need for computers and make it an attractive place for them to be able to go and feel like they want to be there. On top of that again, we can't say enough about the lighting scheme of this property. When you add lights back there, what we did with the police, in selecting the lighting was crime prevention design through environmental design I think was what we listed earlier. It's really important to keep that in mind when you lay out some of these larger areas that are right now currently – we just can't say enough about what happens back there. I don't take my family down there at night. It's very shady and hotels their concierge tells their guests this, if you're going to go, go there maybe during the day time, don't go at night and that's not good. It's not healthy and we've shared with a couple of them. One of them was one of my friends and he said this is going to be great news. Send me the flyer, let me know when the project's done and we'll help that out.

Ms. Amarin: Thank you. Well, commissioners we've covered some core. We have another question Commissioner Hedani.

Mr. Hedani: Bill, in relation to this consolidation resubdivision rezoning of the property there are three single family residential properties that were removed consolidated and converted into commercial. Is there a requirement for affordable housing for the project as a whole and that was required and has that been met or is there no requirement at all for that?

Mr. Frampton: There's been no requirement at all and we were up before the County Council with the project for four separate hearings and for commercial properties the affordable housing ordinance doesn't apply to that.

Mr. Hedani: Even if you're converting single family properties into commercial?

Mr. Frampton: Right, the actual. There's three parcels. Only one parcel contained an old building, a 600 square foot dilapidated structure that's been there since 1920's. That's the building that would be removed, but as a result of removing that one dwelling we haven't triggered a requirement that we're aware of.

Mr. Hedani: As far as complying with zoning. If you're complying with zoning then as far as I'm concerned you're complying with zoning. I know that the original project that I saw was better from my perspective because you had the component of live above, work below

kind of a mixed use concept where you actually could have apartments over the commercial areas. And I thought that that was something that was innovative that's apparently been deleted because of input from other people.

Mr. Frampton: Again, I honestly don't recall even in our environmental assessment document at any time suggesting that that would happen. We could ask the director as far as permitted uses within the business district. There hasn't been a restriction saying no residential uses shall be allowed on the property. The director might have more input as far as permissible use though within the business district.

Mr. Hedani: Well, I don't want to belabor the point. You know I think the project is a good project. I think it improves, you know, what's there right now and there's a lot of positives that go with it and personally I'd like to support it. I just thought that that was something that would be breath more life into the project.

Mr. Frampton: Okay.

Ms. Amorin: Thank you Commissioner. Commissioner Ward

Mr. Mardfin: It sounds like we're ready to come to a conclusion but I wanted to raise the traffic issue and I'm not terribly worried about the turns from Hana Highway. I am – and I don't go up Baldwin myself so it doesn't directly affect me but it looks like it could be a real mess coming out of Baldwin, on Baldwin Avenue exit.

Mr. Frampton: And that's a valid question to bring up. Looking at our traffic study and our traffic counts, the two movements that are most problematic right now would be the direction you travel today coming from the east side, coming into Kahului during the morning and afternoon peak hour. What causes that highest point of friction again is not the number of vehicles it's the left-hand turn. That's what causes most of the problem. Anyone trying to turn left-hand on Hana Highway going up Baldwin Avenue. From that standpoint we don't have any impact on that direction because we don't allow cars to come out onto Hana who could go up that way. On the Baldwin Avenue however, once you turn out of Baldwin and come down the road, again, the left and right-hand turns are the what we consider the most problematic. But again, the frustrating part about this is when you look at national standards and criteria, okay, we're within our – well within the ...(inaudible)... the bounds ...(inaudible)... we have an impact. The problem is not necessarily the increase of 5,000 square feet of this building and 4,000 from here, that's not going to put us over the edge, it's everything else that's occurring. All these other factors that occur on that street, and again, this is during peak traffic hour.

Mr. Mardfin: Are you going to have stop lights? I saw that you're going to have a stop sign

there and a speed bump, but is there going to be stop light on the street?

Mr. Frampton: No, no traffic light was warranted for anyone coming out of here. Again, the number, the increase that we were talking about was I believe 32 vehicles over a period of one hour under a worst case scenario, so about – that's over one hour spreading out 32 cars was the peak problem under a worst – and the way our engineer did this report is he took the range from 6:30 in the morning to 8:30 in the morning for example. He took on all the different movements you can have in this area, you summarize, you take the worst case scenario and you use those numbers to be conservative which we should do. But we felt the addition of again, we were 1.6% of the total traffic volume in terms of increase. We just didn't think – that's pretty negligible especially to warrant any kind of additional traffic light.

Ms. Amorin: Commissioner Guard followed by Commissioner Iaconetti.

Mr. Guard: Just a follow up on that one. Hopefully it would alleviate some concerns is right now it's an in and out, ingress and egress and it's only one lane so you can be trying to turn off of, making a left turn on Baldwin into that corridor with people walking up and down the street with no – without looking either way as well as getting stuck in both lanes of traffic as someone tries to come out of the project. So having it only being used for one direction I think it will be an immediate benefit to Baldwin Avenue.

Ms. Amorin: Commissioner Iaconetti followed by Commissioner Hiranaga.

Mr. Iaconetti: First a comment, I hope that we don't have a mass migration of this influence that you're getting rid of all coming over to Lahaina. But actually what I was concerned about was the egress onto Baldwin Avenue. What is mauka of the driveway there that you have? What is in that location?

Mr. Frampton: Immediately mauka is the Bank of Hawaii property. They have their own separate parking lot that's back there and at one point Commissioner Iaconetti we had considered and explored the option of trying to do a joint driveway, eliminate the two driveways right next to each other. We thought we could possibly share with them and diverge off but when we looked at the feasibility of the engineering, the grade relief, there were various factors that we kept running into, these road blocks that were going to prevent that from happening. So that was part of the factoring of again of what Commissioner Guard mentioned of it's a one – it's a two-way right now, in and out, which is chaotic and unsafe, doesn't meet the county standards. Just bringing that down to an exit only we think in the overall scheme of things is a better improvement.

Mr. Iaconetti: I don't know whether this would be a good suggestion. I frequent this area

very often but would it be worthwhile to have either mirrors or some sound to alleviate the danger of pedestrian traffic so when a car is leaving that area that they would be able to notify people that are walking by.

Mr. Frampton: That's right.

Mr. Iaconetti: I know in many places that I've been where cars are exiting onto a street and it's rather blind exit that they have some sort of a sound thing going on.

Mr. Frampton: And that's what you have here. You're correct in your observation. What we agreed to do as part of the conditions of this SMA that are proposed by the department and we had proposed previously before they made a condition was one, was to have installed a parabolic mirror that would alert both the drivers and the pedestrians on the sidewalk, the installation of a speed bump for the exiting vehicles coming out just to slow them as well as stop sign and proper signage that we felt was an appropriate condition that we wanted to do anyways.

Mr. Iaconetti: Thank you.

Ms. Amorin: Commissioner Hiranaga followed by Commissioner Starr.

Mr. Hiranaga: I'm still not convinced that your proposed traffic plan will not adversely affect the traffic primarily on Baldwin Avenue. I live in the neighborhood so I do go to Paia Town once a week to pick up food from one of the restaurants. I see this one-way in and one-way out coming out onto Baldwin Avenue I need to get into the left-turn lane to head back towards Kahului to get to my home and I'm just seeing how this traffic is – well, in the evenings it does stack on the left turn lane to go to Kahului and there is some stacking to make a right turn on Hana Highway. Now you're going to force all the traffic from this project onto Baldwin Avenue. Whenever I park in that parking lot now I always leave through the lane that's between Jacques and Charlie's because I know I can get out a lot faster through that lane than trying to make a left onto Baldwin and then try to then traverse to the left turn lane on Baldwin Avenue. I've got to cross this stacking that's is people trying to make a right on Hana Highway. I don't understand why you can't make the entrance to the project a two-way entrance east of Charlie's. I agree that the lane between Jacques and Charlie's is a bad lane because of the sight distance. You're just – you got buildings right up to the sidewalks, you pop out and pedestrians are walking. I think there's a lot more sight distance in that entrance east of Charlie's. Why can't you make that a two, an in and out? I don't understand. I guess, another question is, in the parking requirement when it is two-way traffic is there a larger or wider requirements as far as between the stalls, the lane, versus a one-way?

Mr. Frampton: Absolutely. That's the aisle width. If we were to try to do that there and we did, just to go back a step, early on, again, our team really looked at this scenario, many multiple scenarios of keeping the accessway between Jacques and Charlie's open versus should we have a public courtyard and bus stop. It kept coming back to having a managed and formalized parking plan that would work from a security standpoint alone having cars come in one way and out one way is going to help from the overall security in terms of managing. Trying to squeeze another lane in here would blast out all of this parking and would require more than likely to get rid of and demolish a section of this building of Charlie's and we just didn't think that that was feasible compared to, we agree that all of your traffic is being directed to Baldwin Avenue. However, a right-hand turn for those coming out needing to get to take a left or right on Hana Highway is much better than a left-hand turn coming out of this driveway making a left to get onto there.

Mr. Hiranaga: I disagree.

Mr. Frampton: Okay, well, this is just from our traffic engineers. But we also again, consulted with the County and State. We have Charlene Shibuya here from the State Department of Transportation. She may be well more qualified to answer some of these questions that you have, if you would like.

Mr. Hiranaga: Well, I know one of the conditions of the change in zoning is that you're going to – or the County is retaining the right to reopen the proposed closure of that access between Jacques and Charlie's.

Mr. Frampton: That's right.

Mr. Hiranaga: So who do I call when I'm stuck there and can't get onto Baldwin Avenue?

Mr. Frampton: When you can't get onto Baldwin Avenue.

Mr. Hiranaga: When I'm stuck in my car and I'm trying to get onto Baldwin Avenue, make left turn on Hana Highway, who do I call?

Mr. Frampton: You could call Mike Miyamoto. You know, this is a county right of way roadway and this is state. Okay, what we agreed as part of the condition of zoning was we will reserve the right. This is going to be hardscaped. It's not going to be ripped out. There's going to be bollarded, preventing it – we have it open for fire. It's wide enough right now for fire trucks to come in from a security measure. If the State were to come to us and the County were to come us and say, you know what you guys you screwed this whole thing, your engineers don't know what you're talking about, they reserve the right to tell us, you know what, open that up for an exit.

Mr. Hiranaga: I was hoping to get your cell phone number so I could call you directly when I can't get out.

Mr. Frampton: 357-1954.

Mr. Hiranaga: Thank you.

Ms. Amorin: Commissioner Ward followed by Commissioner Starr.

Mr. Mardfin: You're going to have validated parking. So for that to be effective you've got to have some place to monitor the cars as they leave to make sure that their stub is validated. I presume at the entrance you could have some sort of a pick up stub and, but you're going to need somebody at the exit to make sure that it's been validated or to pay?

Mr. Frampton: Actually that was the concept originally. We had a gate here with an arm where you would take a ticket and you had a parking attendant that would collect the fees at the end. That didn't work with the gate idea because the potential to have two or three or four cars stacking up causing more traffic concerns. So we eliminated that whole concept. It's going to be similar to what you see in all sorts of other areas. I mean, Lahaina Town has this, it's self-enforcement. We'll have a patrol person who goes around and checks to see that you have your ticket probably on your dashboard is what we're envisioning.

Mr. Mardfin: What ticket? You said you're not going to have a –

Mr. Frampton: No, I'm not sure if you're familiar with some of the paid parking scenarios maybe in Lahaina Town.

Mr. Mardfin: Oh, where you put into a machine?

Mr. Frampton: There's a machine, you go and pay in advance, you put the ticket on your dashboard, someone goes around, a parking attendant and confirms that you have paid. If you haven't then there's penalties.

Mr. Mardfin: And how do you get it validated if you've paid. You can get an extra stub to take it to go get it stamped.

Mr. Frampton: Come up with a system that could produce two tickets. One to put on your dashboard if you need to, one go get it stamped. It's a good question. That was one scenario. We will have validated parking. So that detail, I think could be worked out as long as we're committed to doing validated parking.

Mr. Mardfin: Okay. I thought you were going to have to have somebody at the exit to check. Maybe your businesses give a card to the people as they leave and they show that on the way out or they have to pay.

Mr. Frampton: Yeah, ...(inaudible)... they've had already paid. I hear what you're saying.

Mr. Mardfin: But I don't know, it's your problem.

Mr. Frampton: And I'm not a – to be honest I'm far from the paid parking expert. But I do know there's ways to come up with a solution to make this work as we represented.

Ms. Amorin: Commissioner Starr.

Mr. Starr: First to Commissioner Hiranaga. A 20-inch lift kit and jumbo mudders might solve your problem for getting out over the bollards.

I'm concerned about a left turn onto Baldwin. I know there's major stacking there in there evening. Would you be willing to post it no left turn during rush hour coming out onto Baldwin?

Mr. Frampton: We're open absolutely to ideas. Again, I would probably need to ask the County Public Works whether – sorry Mike to keep putting you on, but that stuff to restrict people I don't think it warrants it based on the number of vehicles over an hour, 32 vehicles I believe over a one-hour period, I don't think warrants but that, but that's up to –

Mr. Miyamoto: Madam Chair. Your analysis has shown that it would work sufficiently. Obviously the residents in the area have a concern about getting out, making the left turn to go mauka on Baldwin Ave. Restricting it that would certainly be up to the applicant. You know, from our standpoint based on the volume, we don't see a real reason to restrict it. But you know, given the local style, you know, I imagine, you know the people on Baldwin Ave. will leave a gap for you to get out. Commissioner Hiranaga's worried about turning right and making a left turn at Baldwin onto Hana Highway, well based on the photos that I see there's parking and a single lane in front of this exit, so you know, basically if you can get into the lane, you can easily weave over to make the left turn onto Hana Highway. Getting out, people will probably more than likely, you know, the friendly the nature of the neighborhood will allow you to get out if the queue extends back.

Mr. Starr: Do you think it will work over there?

Mr. Miyamoto: Yes.

Ms. Amorin: Commissioner Guard followed by Commissioner Pawsat.

Mr. Guard: Sorry, I thought this was going to be a quick one, but one thing to keep in mind that would have been good on this that it's my little trick of the trade is there's a crosswalk right above, just mauka of that exit and there's enough people always using that crosswalk and you're supposed to stop for pedestrians and every time people actually do stop for a pedestrian it opens up an opportunity that they'll let you typically will wait the extra two seconds to let a car get in and out, but people just got to learn they got to stop for pedestrians.

Ms. Amorin: Commissioner Pawsat.

Ms. Pawsat: I exit onto Baldwin. That's the only way I go out. I take a right and I take a left. I've never had any problems period. I mean, are there more questions or are we done? Yeah, go ahead.

Ms. Amorin: Commissioner Hiranaga.

Mr. Hiranaga: The traffic study takes into the account the timing on the stop light at Hana Highway and Baldwin because I know it favors the Hana Highway traffic substantially.

Mr. Frampton: Absolutely.

Mr. Hiranaga: My personal experience, I don't like to go to the Paia Post Office because then I have to come down Baldwin Avenue, wait in that traffic line that backs up half way up to the post office to make my left turn to get onto Hana Highway. So what I do is I turn into this project go through the parking lot and come out between Jacques and Charlie's and cut across the highway.

Mr. Frampton: You're one of the guys. That's the problem.

Mr. Hiranaga: It's a lot faster.

Mr. Frampton: That's part of the problem. I'm sorry, but at a certain point all I can say is this is Paia Town. We have on street parking, we have people who are friendly who let pedestrians go across, we have guys who slow down and let cars go out, at a certain point we have to come to some level of acceptance that when we go through this town we shouldn't go through 40, 50 miles an hours. We should be able to drive slow and that's just what it's going to be. From a long term standpoint there's a bypass that's part of this discussion that we haven't brought up today that could be brought into the discussion at some point. There's the mini bypass that has helped since the onset of these original study

that we did. I just can say that again, part of the problem that you're coming down Baldwin Avenue when someone comes down Baldwin and goes to make a left onto Hana, if there's a pedestrian darting across Hana Highway, on the you know, Kahului side that's going to cause that guy to stop which causes everybody else to stop. There's these points of friction that unless you have police officers out there with sharp guns, I mean, it's not going to work. We're going to have these friction problems that are not related to the result of us adding 9,000 square feet of commercial property.

Mr. Hiranaga: I hope I'm wrong.

Ms. Amorin: Commissioner U'u followed by Commissioner Guard.

Mr. U'u: I just wanted for make a comment that at times all you need is a little patience and I got a lot of um.

Ms. Amorin: Thank you Commissioner Guard.

Mr. Guard: I was just going to follow up with anecdote and I don't know if we want to follow up with Joan's -

Mr. Starr: Public hearing.

Ms. Amorin: If there is no other questions, thank you applicant. Do we have any individual in the audience that wishes to speak on this agenda item? Please come forward.

The following testimony was received at the beginning of the meeting:

Ms. Lisa Starr: Good morning Madam Chair and Commissioners, thanks for the opportunity to make a comment on the Paia Town Center. I'm Lisa Starr. I'm the Chair of the Paia Main Street Association.

The developers who are doing this project, the Paia Town Center came before our board, the Paia Main Street Association and we're very happy that they brought us their concept early on in their planning. We actually weren't totally pleased with the plan that they presented. We had an aversion to the scale and the impact and we were quite blunt with them about changes that we felt would be apropos and they were really pretty wonderful about hearing that and went before our review committee on the Tri-Isle Main Street level and were – came back with an amended plan which was really very acceptable. Don't have the figure. I'm sure they can tell you that they reduced the size and scope of the building aspect of their project by – to the point where it really fit in.

They added – where they're putting in an additional building on a vacant part of the property we had asked that they leave some courtyard, some green area and mitigate not just filling up the entire street frontage and they did do that to create a courtyard which is going to be a huge aesthetic and assist in retaining a kind of a calm nature in that part of a busy intersection in Paia. So we're very happy about that.

They also agreed to go into an agreement with the Police Department to have a police substation right there in their building as well as providing badly needed public bathrooms for the town which we actually don't even have without going down to the park or the community center which are not very central. I'm sure there's more that they have done that I wasn't particularly paying attention to, but in general, we support, Paia Main Street Association supports their project and the developers in their being exemplary developers in trying to work, to do the right thing, in the right way for our small town.

Ms. Amarin: Thank you, we have a question for you. Commissioner U'u.

Mr. U'u: Good morning. I was just curious on who's involved on that Paia Town Main Street Association?

Ms. Starr: Well it's – the Paia Main Street Association is a board made up of people who are professionals, residents, merchants, so it's a mix and it changes as our board changes.

Mr. U'u: J. B. was curious, he lives in Kuau. Does that count if you're from Kuau?

Ms. Starr: Yeah it does. In fact J. B. and I are neighbors. We have people, representation from Spreckelsville all the way to Kuau. We have merchants and myself, I'm a resident and I've been on the board off and on over the years. I think it's been over more than 20 years. We hope for developers like these people to come in early and say, how do you like what we're doing here. This is where we can really be impactful in preserving our delicate small town.

Ms. Amarin: Commissioner Starr.

Mr. Starr: Yeah, I had heard some comments from someone who lives right adjacent that there was concern that the way this project was configured that parking lot was going from having numerous entrances and exits on both sides to having I believe just one entrance and one exit and that there was fear that this would create a traffic bottleneck and I forget what the other issues were and I don't know if these have been remedied or there was discussion but, do you have any comments on that?

Ms. Starr: You know, I'm not really suited to make a comment on that, but I know that they

have – that is an issue, everything to do with traffic in Paia is an issue. And I trust that they have done their impact studies and are going to comply with the State and County Agencies involved in the impacts of the exits and entrances. Currently there's two – well, there's three ways to get into that parking lot. It will be reduced to two and I really am not equipped to make a comment on that. But I'm confident that they'll do the right thing. So far, everything in every way they have really taken a close look at what's going to happen here. This particular property is probably the single largest property owned by one person in Paia and being right down town in Central Paia it's really critical that they are very meticulous about the impact that they have on the town and so far we're really comfortable with their effort in that way. But I apologize that I'm not an expert on their development beyond this.

Ms. Amorin: Thank you.

Ms. Starr: Thank you.

Ms. Amorin: Calling Jocelyn Perreira. Please come forward and state your name.

Ms. Jocelyn Perreira: I have letters to pass out. Clayton, can you? Good morning Members of the Planning Commission. My name is Jocelyn Perreira. I'm the Executive Director and the Tri-Isle Main Street Program Coordinator for the Tri-Isle Main Street Resource Center in Maui County.

I'm here today and I passed a letter that we ...(inaudible - changing of tape)... support a plan amendment and change in zoning. Today we're asking you to support the offsite parking approval and the Special Management Area Use permit. From 2003 to present it has been our great pleasure to work with the Paia Main Street Association's board and the property owners of the Paia Town Center and their representatives in this very exciting project.

Our structure and design team of professionals has provided numerous reviews and recommendations that were reflected in the current plans and have been shared at numerous public town meetings. Careful attention was given to incorporating crime prevention measures, more parking and a courtyard within the project that draws the public to a space that celebrates Paia's unique sense of place and history.

The resulting revised plans reflect ongoing community based planning efforts and Paia's special character. The project is in a highly visible area of Paia Town that has been undergoing change. This redevelopment project will compliment the architecture of other buildings on the street, also helps to energize the street life. They're kind of like on a roll in Paia and good things are happening and we're very excited. This project represents a

win-win situation for the community.

We appreciate the owners willingness to work with the community to ensure the project fits the town's unique character. This project is a welcome addition to the ongoing efforts to revitalize Paia Town.

To address, answer about the traffic, the parking entrance and exits, I want to assure you that we've been in contact, the developers have with the State Department of Transportation and everything is fine and kosher and they're in agreement with the plans that have been put forth.

In closing, we respectfully request your assistance in moving this project forward most expeditiously. Thank you for your time and attention to this project. We're very enthused and excited about this for Paia Town.

Ms. Amarin: Thank you Jocelyn. Any questions for the testifier? Seeing none, thank you.

Ms. Perreira: Aloha.

This concludes the testimony received at the beginning of the meeting.

Ms. Amarin: Public testimony is closed on this agenda item. Commissioners, Commissioner Starr.

Mr. Starr: Move to approve as recommended.

Mr. U'u: Second.

Mr. Guard: Second.

Ms. Amarin: We have a motion on the floor to approve by Commissioner Starr, seconded by? Commissioner Hedani.

Mr. Hedani: I was just going to say we didn't get the staff recommendation.

Mr. Starr: We have it in writing.

Ms. Amarin: Yes, let me take a step back. Clayton your recommendation.

Mr. Yoshida: I don't know if Colleen wants to summarize it. I think she could probably summarize it a lot faster than I can.

Ms. Amorin: Colleen.

Ms. Suyama: We're recommending approval of the Special Management Area Permit. Most of them are standard conditions that the commission always attaches to the SMA permits as well as the specific agency conditions that came out from the agencies.

Ms. Amorin: Thank you Colleen. There's a motion on the floor to approve by Commissioner Starr. Commissioner Starr.

Mr. Starr: Yeah, I just want to be clear in my motion as recommended that it meant it includes the conditions that were recommended.

Ms. Amorin: Yes, and then seconded by Commissioner U'u. Any discussion?

It was moved by Mr. Starr, seconded by Mr. U'u, then unanimously

**VOTED: To Approve the Special Management Area Use permit with the Recommended Conditions.
(Assenting - J. Starr, B. U'u, K. Hiranaga, J. Guard, W. Mardfin, W. Hedani, W. Iaconetti, J. Pawsat)**

Ms. Amorin: Motion carries. Thank you. At this time it's 12:00 and commission will take lunch.

A recess was called at 12:00 p.m., and the meeting was reconvened at 12:47 p.m.

Ms. Amorin: ... 2008, is back in session. Director.

Mr. Jeff Hunt: Your next agenda item involves SVO Pacific Inc. requesting a Special Management Area Use permit for the proposed Westin Kaanapali Ocean Resort Lot 3 project consisting of the construction of 390 timeshare units and relating parking and amenity improvements at 45 Kai Malina Parkway, TMK: 4-4-014: por. of 005, Kaanapali. The project file number is SM1 2006/0018, and Paul Fasi is the project planner assigned to this.

- 2. SVO PACIFIC, INC. requesting a Special Management Area Use Permit for the proposed Westin Kaanapali Ocean Resort Lot 3 Project consisting of the construction of 390 timeshare units and related parking and amenity improvements at 45 Kai Malina Parkway, TMK: 4-4-014: por. of 005, Kaanapali, Island of Maui. (SM1 2006/0018) (P. Fasi) (Public hearing conducted on October 23, 2007 and further discussed**

at the November 27, 2007, December 11, 2007, and January 22, 2008 meetings.)

Mr. Paul Fasi: Good afternoon. I'm not going to go through the details of the project since we've seen this project before. I'm going to just bring you up to date and then I'm going to turn it over to the applicant to bring you up to date on the details of the project.

On February 6th, the Planning Department sent a letter to the Office of Environmental Quality Control to advise the OEQC of the department's findings and conclusion with regards to the SMA application that nothing contained in the application triggered Chapter 343 of the Hawaii Revised Statutes or of the Hawaii Administrative Rules for a supplemental EIS. It is the department's position that none of the above is required. The department's letter was acknowledged by the OEQC in its February 23, 2008 publication of the Environmental Notice. It should be noted here that the publication in the Environmental Notice was not a request for public comment. It was just an acknowledgment by the OEQC that the department did send in its letter stating its position.

During subsequent review of the SMA use permit application for the lot 3 project on the January 22, 2008 Maui Planning Commission meeting several items of concern came up. These items are noted in a letter from the department to the applicant which was dated February 7th. There are four items here. The applicant will come up and address each item separately.

Basically they are, the first item is documentation that the injection wells combined with the proposed desal system will not impact the coral reefs and ocean quality water.

Number two, an occupancy analysis between timeshares, hotels and apartment units and their effect on traffic.

The third item was information on the impacts of views from the shoreline towards mauka, towards the highway.

And the last time was any other proposed mitigation that may be necessary.

The applicant prepared and submitted a detailed written report in response to the department's letter and at the commission's request. The applicant submitted this report to the department on February 13, 2008. I believe you have that report. It was sent to the commission members on February 14th.

Additionally, since that last meeting on January 22nd, the applicant has also proposed four new project specific conditions. Very briefly these four new conditions are identified in the

addendum report. They are upon availability the maximization of R-1 water use for irrigation purposes across the three lots, one, two and three respectively. The second item was an increase in affordable housing contribution from the current one to six ratio to the one to four ratio which brings it up from 16.6% to 25%. There shall be semiannual water quality monitoring for the desal system. And lastly a creation of an escrow fund for voluntary financial contribution of \$170,000 for three years.

That basically brings this project up to date as far as any significant changes to the proposal. If there are no questions, I'm going to have the applicant come up and go through each new item in detail. Thank you.

Ms. Amorin: Thank you.

Mr. Mike Munekiyo: Good morning Madam Chair, good afternoon actually, Members of the Commission, my name is Mike Munekiyo. I'm with Munekiyo and Hiraga. You may recall that in your previous deliberations on this item Karlynn Kawahara from our office was here before you. Karlynn is at home recovering from an illness. It did require her to stay in the hospital for a few days, but I'm happy to report she's doing fine. So I'm here today on behalf of the applicant, SVO Pacific.

As Paul mentioned, there were a number of issues or requests that the commission raised at its last meeting and I want to thank the commission for engaging in such thorough discussions because I think the items that you requested are of importance to all of us.

Specifically at that last meeting the commission requested clarity on the issues that Paul noted and as a result, SVO and its project team prepared a series of technical briefs. We tried to keep it as simple as possible in terms of organization, format and content so that the commission could review it and hopefully understand the systems that we propose, the issues or the request that were requested a little better. And so what we'd like to do today is respond to any questions that the commission may have on the information that was submitted. We think that might be helpful in terms of just advancing the discussion today. So Madam Chair, we'd be happy to answer any questions that the commission may have on any of the technical briefs that we submitted.

Ms. Amorin: Commissioner Starr.

Mr. Starr: There was a description regarding the flow from the new injection wells to the part of the project. I have a couple of questions regarding that I didn't think were answered in the brief.

Mr. Munekiyo: Okay.

Mr. Starr: First of all, how far are there, are these new wells going to be from the certified shoreline?

Mr. Munekiyo: Tom, I wonder, can we pull up slide number 6 please? We have a graphic which probably best illustrates spacial relationships. Next slide over please.

Okay this is a cut away view which I think would be helpful in understanding spacial relationships and let me just give the commission an orientation of where we are here. This is Honoapiilani Highway right here. Lower Honoapiilani Road. So you recall that the Lahaina wastewater reclamation facility is located at the mauka side of that intersection right here. This is the Intrawest Lot 4 project right here and this is the KOR Lot 3 project right here. So that kind of gives the commission a general spacial relationship of the various I guess landmarks on the ground.

Now just as an overview, there are three wells as we noted. Three sets of wells. Here is the wastewater wells from the plant. Right here is the source well for the heat exchange and desal process, desal processes and this is the return well right here. So the Lahaina wastewater reclamation facility wells, source wells, return well system right here.

Commissioner Starr asked the question how far from the certified shoreline are these wells. The distance from this well here, this I believe is Well No. 4, the wastewater reclamation facility is about 1,580 feet from the shoreline right here. So if we were to strike a line perpendicular to the coastline about 1,580 feet.

Let me just start with the source well. This is a source well where we are drawing water for the heat exchange and desal system. This distance to the shoreline is about 770 feet right here and the return well is about 920 feet in terms of this relation to the shoreline. So 1,580, 780 and 920.

Mr. Starr: Okay, my understanding from the previous testimony is that these return wells will be injecting about 4,000 gallons per hour of waste effluent from the desalination and from the heat exchange plant and that there was testimony that as with all hydrology in a island-based ecosystem like we have the flow is from the mountain toward the ocean. Though in this case it's actually below the surface of the sea. And my question is, how long will it take for the injected water to travel that 920 feet from the location of the injection wells to a point where it would be under the beach, under the shoreline.

Mr. Munekiyo: Okay, maybe just a little bit of background. Tom if I could get slide 5 please, and this is just again, more for reference purposes for commissioner's information. I use this cut away because I think it's an excellent example of or depiction of the relationships of the wells from a geologic standpoint, a vertical cut away, but let me just –

Mr. Starr: You're saying that this will actually flow uphill?

Mr. Munekiyo: I can explain that Commissioner in a minute because I think these are very important principles that the commission needs to understand. Here is the fresh water basal lense under the West Maui Mountains here and then it transitions to brackish and water in this region are basically what we refer to salty ground water. What really is important in terms of fundamental scientific principle in understanding how these wells work is that of density and density if I could use an analogy perhaps, might be, similar to mass or weight. But basically what is involved here when you talk about fluids or water in this case, density has a lot to do with how the water behaves in underground environment. Fresh water as an example is the least dense of all of waters when a relation standpoint. So because it's a less denser of the water it tends to have – well, it actually floats on top of the salt water. Salt water is a denser form of the water and so it has a tendency to stay down. So if you can imagine from a very simplified standpoint, the fresh water floats on top of the salt water and that's really a very important principle that I think maybe I can just elaborate on it and with this slide.

Mr. Starr: Excuse me, is your hydro geologist here?

Mr. Munekiyo: Yes.

Mr. Starr: Would he be answering these questions?

Mr. Munekiyo: He could.

Mr. Starr: Good. Could you have your hydro geologist give this explanation to us? I don't think you're an expert in this field. I think Glenn Bauer is.

Mr. Glenn Bauer: Glenn Bauer, Mink and Yuen Geologists.

Mr. Hans Krock: I'm Hans Krock. I'm an environmental engineer.

Mr. Starr: Okay, the question I'm trying to get an answer to in your previous testimony you described how basically, you know, in this system everything ultimately flows from the mountain to the sea. That there's a shoreward flow of water and that the injection products being injected into the injection wells will travel toward the ocean. They certainly wouldn't be flowing upslope into the mountain and I'm trying to understand how long it will take for that flow to travel from the location of the injection wells to when it is underneath the ocean.

Mr. Krock: Okay, I'll answer that. First of all the fresh water of course rains down on the mountains, sinks down into the ground, floats on top of the salt water and in fact, because

it's higher in elevation flows towards the sea, you're right, but that's the fresh water. And as it flows towards the sea it mixes with some of the underlying salt water which is brackish water and pulls along some of that brackish water also towards the sea. And then as it pulls some of that brackish water towards the sea, this underlying salt water actually has to flow inland to replace the brackish water that it has pulled out from that dynamic. So the underlying sea water actually flows uphill but downhill towards the island. That doesn't necessarily mean all the way down to the bottom of the salt water layer everything is flowing in that direction. That's a simplified general description of the dynamics of those three layers basically.

Mr. Starr: So you're saying that what is injected by this injection well will flow inland, is that what you're saying?

Mr. Krock: I'm saying that what is injected by the injection well is actually quite deep which in this case some 700 feet –

Mr. Starr: Will it flow toward the ocean or will it flow up the mountain?

Mr. Krock: Nothing flows up the mountain.

Mr. Starr: Will it flow inland or will it flow toward the ocean?

Mr. Krock: That particular thing will flow very little but it will generally, the tendency would be towards the land.

Mr. Starr: It's flowing toward the land? Mr. Bauer do you concur that the effluent from this injection well will flow toward the land because I know that the plumes from the county injection wells have all been traced and they all flow toward the ocean. In fact, every well that ever has been put injection in Hawaii always flows toward the ocean. Are you willing to state your reputation and future on saying that the injected water will flow uphill toward the land mass?

Mr. Bauer: The return water will flow in all directions because it's being pumped down the well and into a permeable zones. Permeable zones are essentially horizontal. So you can imagine the water moving in all directions. So some of it is going inland and some of it is going to towards the ocean –

Mr. Starr: So some of –

Mr. Bauer: Let me finish please. But there is no gradient, there's no groundwater gradient at that depth. There is a ground water gradient moving towards the ocean, but when you

case off all of that material above and you're just measuring salt water head in the well, it's going to be at zero. It's going to be at sea level. So the water is moving out in all directions and it will be in the permeable zones.

Mr. Starr: Okay, so some of it will flow toward the ocean?

Mr. Bauer: Some of it will flow towards the ocean.

Mr. Starr: How long will it take it – at what rate will it travel that which travels toward the ocean?

Mr. Bauer: I don't know what rate it is until we have the information on pump testing and what kind of permeability we're looking at. But it will be flowing, it will be moving and you know, maybe few feet per day, maybe less.

Mr. Starr: Okay so you're – excuse me Mr. Bauer, you're saying that water from this well will be entering the shoreline area within days?

Mr. Bauer: It's hundreds of feet below the –

Mr. Starr: Yeah, but it does pass through the plain.

Mr. Bauer: But it's not moving uphill, it's moving out laterally.

Mr. Starr: Okay.

Mr. Bauer: The permeability in the "x" direction, you know what I mean, is the ease for water to move in this direction is a lot easier than the water moving in the up direction.

Mr. Starr: But you're saying that some of it will pass underneath the shoreline in a period of days or weeks, is that correct?

Mr. Bauer: Well, it's going to be moving out, I can't predict how many days it's going take but will happen is the water is more dense and will be sinking as it's moving.

Mr. Starr: Okay, I'd like to address a question to Corp. Counsel.

Ms. Amorin: Commissioner Starr.

Mr. Starr: Yeah Mr. Corp. Counsel and I don't know if you've reviewed this with your boss, Brian Moto, but I did have a discussion on this point with him recently and at a previous

meeting there was some discussion about the trigger for either an EA or an SEIS on this project. And the trigger specific wording, "is whether the project effects, has an effect, potential effect on the shoreline area." Now the definition of the shoreline area for this regard is the setback area which extends 150 feet inland from the certified shoreline. We've just heard testimony that the effluent from this injection well will pass into the plain, into that area considered the shoreline setback area. Maybe take days, maybe take weeks but that it will pass into that area within or below the shoreline setback area, as such, I was told by your boss that that would mean that the trigger has been met. Are you prepared to comment on it?

Mr. Michael Hopper: The section you're referring to is HRS 343-5 and that deals with a project that would "propose any use within the shoreline area as defined in Section 205A-41." The issue here is whether or not the body would like a EA or supplemental EIS conducted prior to deciding on this project. That issue would be at the discretion of the body and whatever decision you make whether it is that one is required or not, I would recommend that you have findings of fact and conclusions of law to support that decision outlining your basis.

You as the reviewing agency do have the ability to decide if you want to require those documents prior to taking action on the proposed request. However, if you do make that decision, you do need to back it up with specific findings based on the record. And as such, the current departmental recommendation is to approve. So whatever findings and conclusions you have to come with would differ from this so you as a body potentially with the direction of the Planning Department as your staff or myself as Corporation Counsel, if that was the will of the body would have to prepare those findings and conclusions in taking that action.

Mr. Starr: The department's comments that a trigger was met because the shoreline area is not being used or affected did not take into account the fact that the effluent being discharged would flow into that area.

Mr. Hopper: The opinion of the department, you know, they've known their opinion clear. You obviously don't have to agree with their opinion but there are – that was their advice to you as their review of the project, that their advice was that a EIS or supplemental would not be required. However, in this case that decision will ultimately have to be made by the body as far as how he would like to proceed.

Mr. Starr: At a previous meeting there was a motion regarding this being made and there was some concern raised and we went into executive session. I don't think you were present at that, I'm trying to understand if those concerns that were expressed in executive session are still concerns and –

Mr. Hopper: Well, as with any permit that either approve or deny or defer in this case subject to environmental document you need to have your reasons for taking that action on the record. 205A requires that any decision you make be backed up by findings and conclusions and so it's very important that you have those in making whatever decision that you do.

Mr. Starr: If as the –

Mr. Hedani: Point of order Madam Chairman?

Ms. Amorin: Commissioner Hedani.

Mr. Hedani: We currently have an applicant that's delivering testimony to the commission and we seem to be engaging in a debate between a commissioner and Corp. Counsel. Does the commissioner have a question for the applicant?

Mr. Starr: My question to the applicant has been answered, however, I still, I'm trying to get an understanding from Corp. Counsel on this and I would respectfully appreciate being able to consider continuing my line of questioning with Corp. Counsel. I'll be happy to come back to that.

Ms. Amorin: Thank you Commissioner Starr.

Mr. Bill McCorrison: Madam Chair may I continue our response in that line to answer that question directly. My name is Bill McCorrison. I'm co-counsel with Mr. Rapacz for the SVO entities. The testimony has uniformly been that the discharge, not effluent, but the discharge from the return well goes underneath and does not affect the shoreline area...(inaudible)... there is no trigger for the EA or a supplemental EIS.

The Planning Department not the planning commission, the Planning Department which is vested with the authority and nobody will dispute this, to make the determination as to whether or not the EIS triggers are made is exclusively vested in that authority. It does not go to you, it does not go to the State Department of Environmental Quality, it does not go to the State Department of Health. It is the Planning Department's determination which can only be tested not by agency but by court action. So that is a determination that has been made by the Planning Department.

We have checked with the State Department of Health to verify whether or not the determination on the triggers vested with the Director of the Planning Department and only there and the answer we got from Deputy Director, Larry Lau, was yes.

We checked with the Department of Environmental Quality to determine whether or not they viewed it the same way. The answer from Les Segundo at the Department of Environmental Quality was a definite yes.

Your staff has the publication from the Department of Environmental Quality. They have several parts to that publication. One provides for notices for public comment, one provides for notice of determination. The notice of determination was issued by the Department of Environmental Quality in this matter because there is no review by the State Department of Health and State Department of Environmental Quality.

And with all due respect to the councilwoman who testified this morning, she's absolutely incorrect in stating that the State Department of Environmental Quality has an intention to review this matter insofar as a supplemental EIS is concerned.

Not only had we checked with that department before today, but during the noon hour we checked again with Ms. Kealoha who is now the interim Chair of that department. She verified exactly what I'm telling you to me to our office. She said that she would call Colleen today to verify the fact that her letter of February 21st which really isn't a letter which is an email was not intended to suggest in any manner that a supplemental EIS was being considered or required or even invited public comment on. It was simply a form letter that she had sent out because she had received a citizen inquiry. She went further in saying that if anybody doubts what I am saying to be correct, they may call her at 586-4185 today and receive the same answer that I am giving you today.

Mr. Starr: Excuse me, excuse me Mr. McCorrison.

Mr. McCorrison: No, excuse me don't interrupt me, Madam Chair.

Ms. Amorin: You have the floor.

Mr. McCorrison: So Madam Chair there's a couple areas of observation here. Number one, there is absolutely no jurisdiction for the planning commission to second guess or reverse or overrule the determination on the EA or the EIS that has been made by the Director of Planning. There's no legal basis for that authority.

Second of all, to the extent there was one which there is not, the unequivocal evidence in this case has been that the discharge water doesn't go to the shoreline. Does not affect the shoreline. Goes substantially, if it ever gets there, will go substantially under the shoreline. This is a red herring. This is a non issue. We should take up the valuable time that you have given us with discussing the real issues of this case.

Mr. Starr: Okay, Mr. –

Ms. Amarin: Thank you. The Chair has the floor. Thank you very much for your update. And your name again?

Mr. McCorrison: Bill McCorrison.

Mr. Starr: Madam Chair, my questioning was interrupted by this gentleman. I would like the opportunity to answer him.

Ms. Amarin: Commissioner Starr.

Mr. Starr: Mr. McCorrison, I'm not exactly sure what you've been smoking or what effluent you've drinking but –

Mr. McCorrison: Excuse me, I'm here to be insulted by you sir.

Mr. Starr: You're obviously here to –

Ms. Amarin: Commissioner Starr, order on the floor.

Mr. Starr: Let me finish my points.

Ms. Amarin: Use proper decorum. Thank you.

Mr. McCorrison: Thank you Madam Chair.

Mr. Starr: First of all, do you know which body it was that originally was the reviewing agency for the EIS for this overlying project?

Mr. McCorrison: Yes, and that's irrelevant.

Mr. Starr: Could you answer my question, which body was it?

Mr. McCorrison: The planning.

Mr. Starr: The Maui Planning Commission not the department.

Mr. McCorrison: That's correct.

Mr. Starr: And as such you're saying that the Maui Planning Commission has no say in

whether a supplemental should be made that it resides in the department not the agency that did the initial review? Is that what you're saying?

Mr. McCorrison: Sir, I am saying that, the law says that, the Planning Director says that, the State Department of Health says that and the State Department of Environmental Quality says that. I believe if you ask the Attorney General of Hawaii, he'll say that.

Mr. Starr: Now are you familiar with this letter of February 21st that was received by the Planning Department today?

Mr. McCorrison: Absolutely familiar with it.

Mr. Starr: Okay now the wording in this letter as I see it, I'd like to read this in the record:

"Dear Ms. Suyama, Thank you for your letter of February 6, 2008 to Mr. Lawrence Lau advising the Office of Environmental Quality Control the Department of Planning's position that nothing contained in the special management area use permit application for the Westin Kaanapali Ocean Resort Villas, Lot 3 project related improvements at tax map key (2)4-4-014: portion of 05, triggers chapter 343. Pursuant to Section 11-200-27, Hawaii Administration Rules, the Office of Environmental Quality Control will publish notice of your determination whether a supplemental statement is required in the February 23, 2008 edition of the Environmental Notice." Now it goes on to say, "It is clear that there has been quite some dispute as to whether a supplemental statement is required, and based on the disclosure notice clarified herein, there will be further verification regarding this issue."

Mr. McCorrison: And I spoke with my partner, who spoke with Ms. Kealoha within the last 60 minutes, she said that's a form letter that she writes to any citizen who inquires about that. They have no public comment period for a supplemental EIS. They plan no proceedings on a supplemental EIS. They recognize the Planning Director as the determining authority and I gave you the phone number which you can verify everything I'm saying about what she said to you.

Mr. Starr: The information that I've received from that office is severely different. I understand you're over here from Oahu to do your job and earn your pay. I have no – I don't begrudge that, however, I severely disagree with what you're saying. I think it is clearly misrepresenting what the brand new Director, Kathryn Puaana Kealoha has said and I also feel that you're not taking into account the fact that this body was the original reviewing agency and you know, I understand you're representing the client that's fine.

Mr. McCorrison: But don't take my word, she offered to talk to you. She offered to talk to anybody in the planning commission. In fact she represented she was going to call

Colleen.

Ms. Amarin: Okay we need to get back to you proper, on our agenda and we do have other commissioners that are waiting for answers and questions and so at this time I'll pass it onto Commissioner Ward followed by Commissioner Hedani.

Mr. Mardfin: I'd like to ask a question of the engineers, but can I go – to ask my question may I go to my board and point to things, I'll speak loud so they can hear me.

Ms. Amarin: You need to take a mike. She should be a mike available for you.

Mr. Mardfin: Let me, let me say what I think I heard you guys say and if I misunderstand it then clarify me please. My understanding is that you're sending down, I agree, not effluent but you're sending down basically salt water with maybe a tad more salt in it. It's coming down to here. Some of it coming this way inland, and this is at 700 feet or something like that, and some of it's going seaward. It's staying roughly at that height and if anything it's likely to go down because it's slightly more salty rather than go up. If it goes this way, if you see the shoreline narrowly as this or even more broadly as this, it's going to stay way under there, so whatever comes down here, I mean you could pumping arsenic down there or uranium and it wouldn't get up to here in any significant amount.

Mr. Krock: ...(inaudible -speaking from the audience)...

Ms. Amarin: You need to have the representative use the mike. Repeat what you just said please.

Mr. Hans Krock: That's correct and the channel between that point and Lanai is only about 300 feet deep and so it would not reach the actual water ever in that area.

Ms. Amarin: Commissioner Ward is question asked?

Mr. Mardfin: Yeah, it convinces me we could be pumping plutonium down there for all it mattered in terms of what the impact on the waters in the shore.

Ms. Amarin: Thank you.

Mr. Krock: The point is is that it is merely return water from the same area.

Ms. Amarin: Commissioner Hedani.

Mr. Hedani: I know it's just a point of order to recognize that Commissioner Mardfin had

been trying to get a question in edgewise for the last 20 minutes.

Ms. Amarin: Thank you. And his question was answered. Okay, Commissioner Pawsat.

Ms. Pawsat: There were just couple of general questions. SVO Pacific, I mean just in general when you build it it's not like this company is going to build it and then completely disinvest itself after this project as many developers do. They kind of build it and then they leave town. They'll be here in the future, that's correct?

Mr. Munekiyo: Absolutely.

Ms. Pawsat: And so my question is and I think it would help a lot, I mean, there's too many positives I think that or potential positives in this project to really kind of let it slip away particularly with like Ed Lindsey and Robin testifying about some of the things, and although it might be kind of a vague science at this point, maybe, could you summarize to me the efforts that SVO is going to do in the future or their present efforts. You have it a little bit in here about the monitoring but if you could just summarize what the company is going to do to maintain and improve the quality of the natural resources which ultimately this project has to have. I mean no one's, I mean it's obviously in SVO's best interest that the beach doesn't come covered in algae or else, I mean, that be obviously a severe problem. So could you summarize past and present and future efforts that they're pursuing?

Mr. Munekiyo: Okay, I think just in terms of actions, there has been an ongoing monitoring program since 19— oh, I'm sorry, 2001, and maybe I think it would be helpful for the commission to understand the scope of that monitoring program. Tom, I wonder if I could get slide 5 again? And this by the way commissioners, is still an ongoing effort. I'm sorry, slide 6.

There are a total of 34 monitoring stations, 21 of which are in the ocean. We have a monitoring transect out by the North Park here. There's a monitoring transect just outside the Kekaa open space area here and there's another monitoring station on the south side by Kahekili Park. So in the ocean there are 21 monitoring locations.

On the land side, there are six monitoring wells spread across the 94-acre subdivision site. Now this monitoring program to this point is from 2001 to 2007 has gathered over 530 sampling points and I think this what Dr. Brock has based a lot of his conclusions on. Separately – so this is an ongoing program which will continue. Separately, there's going to be a monitoring program in connection with the source wells and return wells that need to be done in compliance with the DOH regulations.

I think the fact that SVO or Starwood has such a stake in the community not only in terms

of the larger community but the marine environment in front of their project as you said commissioner, the ocean resource is such a vital component of the visitor experience it's important to SVO to have that resource protected. So these monitoring efforts will continue and I think as we get to the conditions when staff does present its recommendations we'll be discussing those a bit as well.

Ms. Amorin: Commissioner Hedani.

Mr. Hedani: I have a question Mike for the geologist and your environmental people, the injection well for the Lahaina wastewater treatment plant injects effluent down to a depth of 228 feet and the source well for the desalination system for KOR 3 takes its source at 300 feet which leaves a difference of only 72 feet in depth between the gradients for the effluent going down and the source water coming up. Is there a reason why they picked 300 feet as say opposed to 400 or 450 or 500 feet to get a greater separation? My question is, what if somebody like Mike comes along and drills a well that's 400 feet deep later and starts injecting at that level, how is that going to be addressed so that there's no crossover?

Mr. Munekiyo: Right. I think and as I was beginning my explanation earlier and it goes back to the notion of density, the effluent that's being put down at the Lahaina wastewater reclamation facility is 99% plus fresh water and so it will have that tendency to float, stay at the upper ...(inaudible)... of the layers that you see here. The source well is as you can see is in the salty water regime so it is in denser regime. It will stay below the effluent that's put back into the ground at the Lahaina wastewater reclamation facility. And so, what is recognized here is that there are these different behaviors of different densities of waters and that the depth of the source well was determined to insure number one, that there's not going to be a mixing of – with the wastewater plant effluent and number two, to make sure that we can get the quality of water that's needed to make the heat exchange and desal system work properly. I think those are the primary parameters. But again, again in terms of what might happen in the future at Lahaina wastewater reclamation facility, you know, we're looking at a different type of water in terms of densities. So we don't anticipate any reaction in that regard.

Ms. Amorin: Commissioner Guard.

Mr. Guard: Yeah, I have similar question on that. So you're saying that even if there is a found benefit to go deeper with the injection wells I don't know if your environmental team, would that have a benefit towards current effluent that's already there. That if it was in the ground deeper, would it take longer to get to the surface or would it come out a little less dense or parts per million would be lower?

Mr. Munekiyo: Commissioner, you're speaking of the Lahaina wastewater reclamation facility?

Mr. Guard: Right, yeah. Well, I think – it sounded like Commissioner Hedani said that say, wastewater did decide to go deeper and there was benefit in going deeper, would that then impact your desal operation? And I guess I'd like to know from your environmental side if there is any history of methodology that it may be smart to go deeper below the surface to either take longer to come back up to the bottom of the channel in your photo over here.

Mr. Munekiyo: I can ask –

Mr. Guard: Or maybe even Public Works would know that if there's any benefit? That seems to be one of the issues, right? Is these plumes that are coming from the injection wells and on your photos it looks like the deeper you go, it's going to circulate with more water thereby it would decrease the parts per million by the time it reaches I guess ocean water.

Mr. Munekiyo: Maybe I can just kind of reiterate what Glenn and Hans had mentioned and I again, going back to the sole notion of density. This, of course, as I mentioned, is probably 99.9% fresh water so it will have the tendency to stay on top and what happens at the discharge points is that the water although there is the tendency to move either up or down based on its densities, there are physical barriers that we must recognize within the substratum as well, and so although you have a tendency here as an example for more of a downward movement, if you've got the so-called porous layer that is open in a horizontal direction, it will go out horizontally but there still will be the tendency that's going to be maintained.

Ms. Amarin: Commissioner Starr.

Mr. Starr: Thank you. Are we still limited to asking questions of the applicant or can I ask Corp. Counsel a question?

Ms. Amarin: Go ahead and ask your question to Corp. Counsel.

Mr. Starr: Thank you. Mr. Moto, thank you for coming down. I have a couple of questions. I believe you're somewhat familiar with the issue before us which is a project at North Beach which is going to put new injection wells just inland from the injection wells from the treatment plant. We recently had testimony from the Glenn Bauer the hydrologist that the effluent from these injection wells they'll be injected fairly deep at 700 feet, but they will flow out and that in a matter of days or weeks, they will flow underneath the shoreline and under the ocean. You know, there's some difference of opinion about whether they'll ever actually

mix with the ocean water, but they will flow under the shoreline setback area and the ocean.

Now first of all, there was an EIS for this project. My understanding is that this body, the Maui Planning Commission was the accepting agency. We've just received testimony from Mr. McCorrison who flew in from Honolulu for this and we're honored to have him here although I gave him a hard time, and he is a good attorney.

Mr. Brian Moto: Yes, I know that.

Mr. Starr: To the effect that this body, the planning commission, has no say in whether triggers are met regarding an SEIS or an EA. However, I don't agree with that because we were the accepting agency and I would like, if you have a comment on whether it's the department recommendation that is in effect or whether this body which was the accepting for the document which I'll have you know we've not received and none of us has been able to see.

Mr. Moto: Neither have I by the way.

Mr. Starr: So the first issue is regarding who the agency is responsible for making that call whether it's the department, the director or it's the commission?

Mr. Moto: Madam Chair and Members let me identify myself for the record first, it's Brian Moto, Corporation Counsel, and good afternoon. I am somewhat aware of the issues that have been mentioned by the commissioner, Commissioner Starr and I have spoken in past briefly with Mr. Starr and members of the Planning Department. I cannot say that I know the details of the project as well as you do because I have not been involved in pouring through all of these documents.

I am aware of the position taken by the Planning Department in their communications with you. I am aware that are at least two letters before the Office of Environmental Quality Control. One was written by the Deputy Planning Director I believe signed by her at least and another letter written by Commissioner Starr as an individual, but you do identify yourself as being a member. I don't believe the – I'm not aware of an answer, oh there's one available, I did not know that, by the way what is it that they say?

Mr. Starr: Pursuant Section 11.200-27 HRS, February 2008, it is clear that there has been quite some dispute as to whether a supplemental statement is required and based on the disclosure notice clarified herein there will be further verification regarding this issue.

Mr. Moto: Okay, good. Because there probably given the differences of opinion been

expressed that's probably a good thing to be done. I will note that – I'm sorry, Madam Chair, if I may have just a few seconds just to read this. Okay, all right, well, if I may continue. The Planning Department's position is their position. I do think that the planning commission can have a role in determining whether an environmental assessment or environmental impact statement is necessary or not given certain circumstances and the reason is because this commission is the coastal zone management authority for the island of Maui and whether a particular project or development involves any actions that serve as a "trigger" under Chapter 343 is to mind a question that's a combination of both law and fact. As you know, Chapter 343 identifies various actions that could serve as the basis for requiring an EA or EIS. One of which is, "does the action affect the shoreline area." though sometimes referred to the shoreline setback area. But it really leaves up to others the determination of what are the facts and it seems to me that the facts are key in determining whether something will or will not pose a potential action or use within the shoreline area. That is a judgement I think that's fully within in your ability to make. Now different people can differ about the facts and what facts are relevant, etc., and different people can draw different conclusions from those facts. So I ...(inaudible - changing of tape)... if you believe as a commission that the facts in this case are such that you believe that it does pose an action, for example, it will affect the shoreline area then I would recommend that if you are of such a mind and if you are willing to take such a position that you communicate that position to the Office of Environmental Quality Control which at the present moment trying to determine the merits of this very issue.

Mr. Starr: Now the definition of the shoreline area, you know, I understand there's a narrow definition which is the shoreline setback area which is I believe, in this case a 150-foot slice. You know, whether it extends shoreward or not I'm not sure.

Mr. Moto: Yes.

Mr. Starr: Now we had, before you came in we had testimony saying that because the depth of the injection is taking place deep that they could be injecting plutonium and it would not necessarily affect the ocean. However, if the shoreline area extends from the beach and maybe even above that into the air a little bit and goes down quite deep then obviously whether you're injecting plutonium or whether you're injecting a brine then it will – it does have a potential to affect it and thus the trigger would be met if it enters that area even if it does at a deeper level than would go right into the ocean immediately. Am I correct in believing that if it enters that area and it's, you know, it's 700 feet down or 600 feet down at that point, it still can have a potential effect on the shoreline area.

Mr. Moto: Okay. Let me say first that you know, the Chapter 343, that statute and the rules that have been adopted under that statute provide general guidelines and statements and criteria and they don't go into a lot of detail. As far as I know there's no particular rule that

addresses exactly the situation that you're confronting here. So I just want to note that first. If you were to check the rules and statute, you know, you won't find an easy answer. But it does seem to me – and also I'm not aware of any particular case where this has come up before and been specifically addressed by the courts or by any other agency so maybe this is the first time it's come up or maybe it's come up before but never been part of any published decision that I'm aware of at least. But it seems to me that, again, it – a lot depends on the facts and what it is that you, as a commission, are able to find based upon the evidence before you in the record. It seems to me that given certain facts you could conclude that a – well, for example, in this case, may affect the shoreline area even though it may be sited outside the confines of the shoreline area, it may have consequences that affect the shoreline setback area.

Mr. Starr: I have one more question for you and I do thank you.

Mr. Hedani: Madam Chair.

Ms. Amorin: Commissioner Starr we have other commissioners who wishes to speak.

Mr. Starr: Can I complete my one question?

Ms. Amorin: Make it short.

Mr. Starr: Okay. There was a EIS published for this that is the overruling document. It was approved apparently by our predecessors on the Maui Planning Commission. I've protested the fact that this document has not been made available to us and so we don't know what's in there. We don't know if this is consistent with it. I'd like to know what recourse is available to us when the department refuses to provide that document that is a matter before this body.

Mr. Moto: Well, the – by the way, I've never seen the EIS myself, either, as I mentioned. I've never had really had reason to go look at that document. I understand it is years old. It is a public document. If it is in the government's files it is a public record and anyone can ask for a copy of a public record.

Mr. Starr: I have and I've been told it's not forthcoming.

Mr. Moto: All right.

Ms. Amorin: Thank you. Thank you very much Mr. Moto from Corporation Counsel. We appreciate that you reinforced what we already know. Findings of facts and conclusions of law, we have good reasons why we will speak out, but we have heard from one

commissioner. Commissioner Hedani.

Mr. Hedani: This is a question for Corp. Counsel Moto since he's present today. We received a copy of a letter from McCorriston, Miller, Mukai and McKennon dated February 26, 2008, basically which states that this commission has essentially by forfeit approved this project with no conditions due to its lack of action from the application's filing date which was filed in 2006. You have a comment on that letter?

Mr. Moto: Yes. I just got a copy of this letter and I don't know if my deputy, Mr. Hopper, was able to address this with you, but our preliminary reaction to it is that when I look at the – when we look at this statute involved, 91-13.5, and I don't have the exact wording in front of me so I'm at a little disadvantage here, but it basically exempts from that – from the requirement of having a maximum time period. Programs that are delegated to, in this case the County, by the State and which are granted funded in particular by Federal grant funds.

Mr. Hopper: Well, the language is, "either authorized, approved or" – "delegated, authorized or approved by Federal law and administered by the State."

Mr. Moto: Right, yes. And that sounds like the Coastal Zone Management Program to me. I mean, it seems like it fits under that rubric. I do acknowledge that there is a, what I believe is a definition at the bottom of that section which makes – the definition is in the last subsection or paragraph and it basically defines what a business related –

Mr. Hopper: "An application for a business or development related permit, license or approval."

Mr. Moto: Okay. And in defining that, it makes reference to approvals done under Chapter 205A. However, that's just a definition of that particular term. The way I read that statute it does not supercede or eliminate the proviso clause that you see in the beginning of that section which is the proviso that says, provided which basically exempts out programs that are federally funded and delegated to the Counties.

One more point I will make is that if you look at the rules that have been adopted the commission to date, both your Rules of Procedure which apply generally to business matters before the commission as well as your specific Special Management Area Rules, your SMA Rules don't have any provision specifically requiring you to take action within a certain time period. Your Rules of Procedure do have a 120-day rule I think it is?

Mr. Hopper: Yes, the rule, 12-201-34, maximum time period for decision, it contains the same proviso except for state administered permit programs delegated, authorized or

approved under Federal law, the commission shall review and make a decision on applications within 120 days from the later of, and the one is the application being deemed complete or to the closing of the public hearing on the application and then there's a bunch of exemptions to it. In this case it would be from the closing of the public hearing, arguably.

Mr. Moto: Right. Okay, so just to simplify things, basically what the rule does is, yes there's a deadline it exempts out those state funded grant supported programs like the Coastal Zone Management Act or at least that's how I read the rule. So I guess the truth of the matter is that I guess, Mr. McCorrison and I probably don't agree on this particular topic, but that's the way things are.

Mr. Hedani: Thank you.

Mr. Hopper: May I ask, one more?

Ms. Amarin: Yes, Corporation Counsel.

Mr. Hopper: I think it is important to clarify that it's the applicant's position right now I believe that the permit is granted with no conditions and I don't know if they can clarify that, but based on the letter, that is their interpretation of the situation is I believe so. You know, that should be clarified consistent with the letter that they addressed.

Mr. Moto: Well, and I think more important is what position the commission is taking because I don't believe the commission has ever – I don't believe the commission has ever interpreted its rules or the laws that it's implementing to require that it take action within a 120 days of the close of public hearing on an SMA permit application.

Ms. Amarin: Thank you. Commissioner Ward did you have a question? Any other questions for Mr. Moto? Commissioner Starr.

Mr. Starr: Yeah, I just want to ask you to clarify your thoughts. I, for one, feel that this – the issue about whether there is an EIS intact, what it says, and whether a supplemental is due has not, you know, has not been clarified. We've not been able to clarify it because we don't have a document even though we've asked the department for it. OEQC has published the comments and my understanding especially from the tone of their language is that they published it to gain comments. And so a comment period is open and that, you know, to quote, you have the letter, but it was that future consideration and dialogue should be held on it. So to my mind that makes it very clear that it would be premature not to take that into account and I believe you made reference to that.

Mr. Moto: Yeah, Madam Chair, I don't have an opinion at this moment about – assuming

for the sake of argument that an environmental disclosure document of some kind may be required. Lets just assume that for the sake of argument. I really don't know enough or haven't made a firm conclusion as to whether that would take the form of a new EA or supplement to the EIS that was done years ago. I think there are a lot of things that would have to be considered and I certainly would try to get some help from the OEQC in determining what the proper scope of an EA ought to be if one in fact turns out to be necessary.

Mr. Starr: What would happen if this body were to approve the item and then it turns out that, you know, whether it's through the OEQC, through a lawsuit or whatever, it turns out that there is a requirement to do an environmental document. I mean while the applicant has proceeded to spend money and start to build, then what happens then?

Mr. Moto: Well, I'm not entirely sure. One thing, I don't think you should worry about going to jail, but – I mean, that sounds like I'm joking but I do know for a fact that volunteers whenever they're serving on a board or commission always are trying to do the right thing, and I'm sure the commission is ...(inaudible)... and there is a possibility if assuming the facts that you've just posed in your question that someone could, you know, file a lawsuit attempting to challenge your, rescind the decision made by the commission. I really don't want to speculate much further because it is at this time just pure speculation.

Mr. Starr: Thank you.

Ms. Amarin: We have more questions from other commissioners. Commissioner Hiranaga, followed by Commissioner Hedani.

Mr. Hiranaga: Well, actually I don't have a question for Mr. Moto, but I'd like to say that I respect Commissioner Starr's concerns regarding the validity of the current EIS, but I think he's asked all his questions and I pretty much understand all the answers and if he feels that a supplement EIS is required he should put that to a vote at the appropriate time before the commission and let them decide, but it seems like we are belaboring this point for over an hour now. I mean, I understand the question but at some point at the appropriate time Commissioner Starr should put that question to the commission. I think we should move on.

Mr. Starr: Can I answer that Madam Chair?

Ms. Amarin: I have another question on the floor. Commissioner Hedani.

Mr. Hedani: I concur with Commissioner Hiranaga's comments. Although it's entertaining to listen to the banter going on about the legal subtleties of the questions that are being

considered, the application before us today is for an SMA permit and I would respectfully ask that we get back to it.

Ms. Amarin: Thank you. As Chair trying not to delay the process today on our agenda, however we have some strong voices and it's all about communication and it needs to be clear. At this time, okay, Commissioner Starr.

Mr. Starr: Thank you Madam Chair. Just to get on, at the previous hearing on this, I did make a motion to deny based on having a disclosure document done and at that time I was advised by Corp. Counsel that before doing that we should go into executive session where we did have some discussion on that. And so that was the last action done before deferral and it's my position that those discussions that were held in executive session have been superceded by the testimony we've heard today.

Ms. Amarin: I need to get a consensus from the whole body on what you had just mentioned.

Mr. Hunt: ...(inaudible)...

Mr. Starr: Yeah, I agree with that.

Ms. Amarin: Okay, at this time we'll just continue on with questions and answers with the applicant. Do we have any more questions to the applicant? Commissioner Ward.

Mr. Mardfin: I don't know if the applicant finished addressing the thing. He kind of got cut off on sort of the first issue and if they want to do more then they should go ahead, if not, I do have one question or one statement to make.

Mr. Munekiyo: At this point Commissioner, we'd be happy to respond to questions. And I think that might be best.

Mr. Mardfin: I just wanted to say that when we were last discussing this a couple of weeks ago, four weeks ago I guess now, my major concern was over the reefs and I was I think one of those that wanted more information. And we received this appendix and I wanted to say that I am very impressed by it. Dr. Brock I think did a wonderful job of educating me for no tuition and I learned an awful lot. I'm going to keep this one separate, it's not going to go in the waste basket, I'm going to keep this separate for the five years, four years that I'm on the commission because I think it's a wonderful summary of the research that's been done on reefs and the cause of reef destruction and I'm very, very pleased with it. I had serious questions at our last meeting when we discussed this, those questions have been answered and I feel quite comfortable with what's the responses that I've had. Thank you.

Mr. Munekiyo: Thank you.

Ms. Amarin: Thank you Commissioner Ward. Any other questions for the applicant?
Director.

Mr. Hunt: Again, I don't mean to lecture you folks, but your agenda item right now is to ask questions of the applicant. Once we're done that then we'll go into public hearing then you take testimony from the public then you can go into your business, you can deliberate, you can offer opinions, you can do all the stuff that you've been doing. Lets get through the question and answers and the public hearing.

Ms. Amarin: Thank you Director. Commissioner Hiranaga.

Mr. Hiranaga: If you could explain in more detail this creation of the escrow fund for voluntary financial contributions of \$170,000 for three years towards the West Maui Medical Facility. You're saying you're going to donate a \$170,000 a year into an escrow fund? Is that what you're saying?

Mr. Munekiyo: That's correct.

Mr. Hiranaga: I brought up the idea of SVO matching the homeowner's contributions and I was told they would take it under consideration. I was just wondering if they had an opportunity to think about that since the last meeting.

Mr. Dennis Ebril: Dennis Ebril, Starwood. Yes, what we had done was the way this ramps up was as the resort gets occupied by the individual owners they would be assessed on a voluntary basis for this fund essentially to create funds for the West Maui Medical Facility. The suggestion that was raised of matching the funds what we decided to do was essentially anticipate those funds because we believe it would be a lot more meaningful up front and in so doing created the proposal that we would – we as the developer would fund the same amount that we were essentially estimating would be contributed by the resort owners of a \$170,000 and we would fund that a hundred percent ourselves exclusively ourselves for a three-year period after which the funding mechanism would kick in for the individual owners. So we saw that as a matching gesture that allowed the funds to be available up front.

Mr. Hiranaga: Thank you.

Ms. Amarin: Commissioner Pawsat.

Ms. Pawsat: Yeah, I'm just looking at specifically condition 42 and 47 about water quality

monitoring and then also the monitoring of the wells and things like that. I just feel like a lot of the discussion we're having could be alleviated. In here it says that in the event that – there's degradation that the applicant will retain an engineer and recommend measures to mitigate concerns and prevent further adverse effects from occurring. My question is recommend measures, will SVO participate in measures to mitigate damage is one question and I think that's really kind of the crux right there and then also it doesn't make me comfortable that this – on condition 42 that the surveys and after 18 months may be biannual, ends after 18 months, becomes annual and then after annual becomes every two years or something. So that's one of my concerns and then the same thing as far as condition 47, I would like to know what SVO intends to do not only in monitoring but how they're going to participate more directly in resolving the problem if and when they occur. But it seems like we already do have a problem. So it seems like more than monitoring should be going on.

Mr. Munekiyo: I think the obligation of the applicant, SVO in this instance is to do whatever it needs to do to corrective actions if in fact there is a problem. You know, I'm not sure to what extent or how that might be quantified but I think that's the –

Ms. Pawsat: Yeah, I don't know either so I guess my question is is there somehow that that dialogue, I mean that's why also I mean, you know, I have noticed, you know, I'm not anti development, I'm not particularly pro-development and I haven't really seen any developers at this point where I'm like hey, that's great, but you know, I feel like we have to start somewhere as far as trusting developers to do the right thing. And so, if you guys could come up with the language and somehow change those two conditions to assuage that something will be done that would be enormously helpful I think.

Mr. Munekiyo: If we may Commissioner Pawsat perhaps prior to getting into the recommendations and the Chair would allow for some time for us to talk about what could be done in terms of making amendments we'd be happy to look at it.

Ms. Pawsat: Thank you.

Ms. Amarin: Yes, thank you. Commissioner Ward.

Mr. Mardfin: This is a question. At the end of our meeting two meetings ago, I believe there was a commitment to have net zero impact on the wastewater treatment. Is that what Condition 45 is? Because the terms aren't used there.

Mr. Munekiyo: That is the intent and I guess at the same time that we look at 42 and 47 we could make the adjustment to the wording that would clarify, but yes, that's their intent.

Mr. Mardfin: So the intent is that's your – and the reason it was phrased that way is because you're not sure what will be the quantity of R1 water available was the reason it didn't say net zero?

Mr. Munekiyo: I think that's part of it but you when you look in absolute terms, we look at what it is that the wastewater generation rate would be from the project versus what it is that irrigation requirement would be for Lots 1, 2 and 3. We definitely have a greater irrigation requirement than what is being generated from Lot 3 in terms of wastewater generation. So I think it's a matter of the commitment is there for net zero, it's a matter of timing I suppose but yes, we're committed to doing that.

Mr. Mardfin: So the net impact on water going into the Lahaina injection well should be less as a result of this project for the – all other things equal, ...(inaudible)...

Mr. Munekiyo: Right.

Mr. Mardfin: Okay, thank you.

Ms. Amorin: Commissioner Guard.

Mr. Guard: So I don't know if this is for the applicant or for Public Works, on once it becomes available, what kind of timing and price are we looking at to make it become available whether that's the County's responsibility or if the applicant's going to get that across the street for themselves?

Ms. Amorin: Public Works, Mike.

Mr. Miyamoto: I'm sorry Madam Chair, since the department has split into two departments that's now the responsibility of the Department of Environmental Management, but in speaking with them I know they have been in discussion with the applicant to look at what infrastructure changes are required to provide a reliable reclaimed water source to the applicants. I think it's something that they're in the works of doing. Currently the plant can generate about 3 million gallons a day of reclaimed water. It's just a matter of how reliable it is because they only have one UV channel available. Should that UV channel go down then the reclaimed water availability is reduced. So I think it's something they're working with the applicant to try and resolve who's going to pay for the additional channel for infrastructural requirements, who's going to do, I guess they have some storage issues that they also have to look at, how do you maintain pressure in the line. Those issues, the applicants are working with Department of Environmental Management at this point.

Mr. Munekiyo: Madam Chair, and I might add that at the point that the commission is ready

to discuss recommendations this is incorporated in the department's recommendation as Condition No. 20.

Ms. Amarin: Thank you. Commissioner Guard, you had another question?

Mr. Guard: Yeah, regarding the UV is that – the UV is mandatory for water coming to the surface? Is it also mandatory if you're going to say sink that line into trenches for I guess deep roots for trees, etc.? You know?

Ms. Amarin: You're directing it to Public Works.

Mr. Guard: Yeah it would be for Public Works.

Ms. Amarin: Mike.

Mr. Miyamoto: Madam Chair, the UV treatment is primarily the differentiation between R1 and R2 quality. The R1 quality you can spray, the R2 quality you can only irrigate through drip irrigation. So that would be the primary difference in how they would be applying the reclaimed water on the users end. So that's the primary difference between the two types of water and how important UV can be.

Ms. Amarin: Commissioner Guard.

Mr. Guard: So from like say from a Department of Health standpoint R2 water is acceptable for irrigation?

Mr. Miyamoto: For drip irrigation primarily only not for spraying.

Mr. Guard: Just not spray, aerosol in the air, whatnot.

Mr. Miyamoto: Yes.

Mr. Guard: Okay.

Ms. Amarin: Any more questions Commissioners to the applicant or their representatives? Seeing none, thank you applicant.

Mr. Guard: Actually I have one.

Ms. Amarin: Commissioner Guard.

Mr. Guard: Part of my questions were addressed in this, but some were not. I don't know if the architect is on hand, available.

Mr. Munekiyo: The architect is here.

Ms. Amarin: Please come forward.

Mr. Rob Iopa: Good afternoon Rob Iopa.

Mr. Guard: All right, get to speak after a few trips to Maui. One of my main concerns that wasn't addressed is just the, I guess the quality of the visitor or the resident driving by from the exteriors. I just don't know if you could help me out here on what items you tried to give a passerby on the highway a better experience? I mean, you've worked on a lot of beautiful projects actually very close to this with Royal Lahaina Resort and I don't know how those compare in size of each other. I mean, real big difference in the feel of what you're experiencing.

Mr. Iopa: I can speak in general about what we try to accomplish on all projects and then more specifically here. I think with direct reference to the visitor or the resident approach or views from the highway we've taken a lot of time and effort to try and create shaded environments in and around the highway. So all the projects that we've worked on continuous along West Maui we look to create a shaded environment shielding the road from the makai areas or the road from the mauka areas.

With particular respect to this project we've taken that consideration even further. So consistent with the North Beach Design Guidelines we've looked for a shaded tree environment along the road. That does two things. It helps to provide a nice ambiance with greenery but also helps to shield some of the massing of the structure that we're putting on the project.

In addition to that with particular respect to this project we've gone through great extent to create architecture with our parking structure. We do have two parking structures that are up against the highway. We've done the parking structures in those locations in accordance with the North Beach Design Guidelines which looks to consolidate parking and consolidate parking on the mauka side of properties. So we feel that we've continued on with the spirit of the North Beach Design Guidelines. But not only to put straight parking structures there, we did – gone through great extent with roofs and with stair towers and with shading elements to really create architecture along those parking structures.

We've also taken a good amount of study of the view across the public open space and as it would be seen as a driver would be heading north or towards Kapalua. In that direction

we've looked to step our building as it approaches the oceanfront and we've actually broken that wing into two segments. So we have one segment which is most makai and that one segment of that is in towards the middle of the property or working to the mauka section of the property. And then the building that's most makai we've stepped down from our maximum height limit of six stories down to one of five stories with stepped corners.

Mr. Guard: That's the center one? Which one is that?

Mr. Iopa: That's the most makai structure.

Mr. Guard: Okay, on both wings?

Mr. Iopa: Correct.

Mr. Guard: So then – I guess as you visit the site is there a potential right now, I mean, it's a battle ground out there so what kind of time frame we're looking at for these trees to evolve into this actual canopy that we're trying to get. I mean, you're looking at Lots 1, 2 and now 3 up there that definitely don't look like the rendering here. What kind of plants are we looking at and time frame just for the general public?

Mr. Iopa: Very good. I can state the type of tree that we're putting in is field stock trees. So I think historically as you see in Lot 1 and Lot 2 that large trees, caliper trees are being brought in and planted. So without any intent of putting in sapling trees and having them grow over 20 years, it's been a commitment from the developer to put in large trees from the onset. With that being said, I think Lot 1 is probably a very good example of the growth period. Now Lot 1 has been open for I believe just over two years and in that time, you can start to see the canopy that is in and along the highway with the monkey pod trees coming in. So in rendering sake, I think in many cases we're presenting renderings that depict a five-year growth period.

Mr. Guard: Well, I'll admit you're probably out there more than I am. I try to avoid getting stuck in traffic so I don't go to Lahaina as much as I used to.

Ms. Amarin: Thank you. Any more questions for the applicant or their representatives? Seeing none, thank you very much. We have had public testimony in the past, but just as a courtesy if there is any one individual in the audience that wishes to speak on this agenda item please come forward. Please state your name.

The following testimony was received at the beginning of the meeting:

Mr. Vernon Ta'a: Thank you. My name is Vernon Ta'a.

Ms. Amorin: Vernon, I'm sorry, one more comment that testimony is for three minutes, conclusion in 30 seconds. I apologize. Go ahead.

Mr. Vernon Ta'a: Good morning Chair Amorin and Members of the Planning Commission. My name is Vernon Ta'a speaking on behalf of Mr. Reginald Castanares who is the Business Manager and Financial Secretary/Treasurer of the Plumbers and Fitters Union, Local 675. We are in strong support of the project, the Westin Kaanapali Ocean Resort Lot 3 project.

Our organization represents approximately 200 active and retired members of our union here on Maui, 80 percent of which, of whom, were born and raised here on Maui. We have helped to build Maui to what it is today and want to continue to live here and raise our families and care for our parents. We do not ask for handouts nor do we expect government to take care of us.

The tourist industry has done much for the construction industry as well as the overall economy of the state. We helped build the hotels and condominiums throughout Hawaii. We are trained well to do what we do. State law requires that our journey worker plumbers must have at least five years full-time or its equivalent but not less than 10,000 hours as a journey workers helper. The Plumbers Union requires five years of classroom and hand-on training in addition to having no less than 10,000 hours as an apprentice, working as an apprentice.

We feel confident that the SVO Pacific, Inc., has met all the requirements to be granted a special management area use permit for the proposed project. It is good for our members and their families. It is good for Maui. Thank you.

Ms. Amorin: Thank you Mr. Ta'a. Any questions for the testifier? Seeing none, next on my list. George Aikala. Please come forward and state your name.

Mr. George Aikala: Good morning Madam Chair, Members of the Planning Commission. My name is George Aikala. I'm here today representing Local 368, Labors Union. We have also 400 members on our bench, here on Maui alone originally. We're looking to support Westin Kaanapali Ocean Resort. I believe the plan is very solid. It also will afford work for the members here on the island of Maui. I know there's going to be a lot of issue that come up about the environmental impact, but what we're looking for right now is the impact on lives that are not working today. So I believe by supporting Wailea, I mean, excuse me, Kaanapali Ocean Resort it will bring much needed for the island of Maui. Thank you.

Ms. Amorin: Thank you Mr. Aikala. Next, Ray Shimabuku.

Mr. Ray Shimabuku: Good morning Madam Chair, Members of the Maui Planning Commission. My name is Ray Shimabuku. I am a business representative for the International Brotherhood of Electrical Workers, Local 1186. I'm here today in favor of Starwood Kaanapali Ocean Resort Lot 3 project.

The issues in today's development projects include water and traffic just to name a few. And my understanding that Starwood would be providing their own water through onsite desalination and not tying into the current water system that you have.

Also, traffic, a traffic plan is already in action with the shuttle service for guests to and from activities for this existing project and also will be providing for the next phase also. They also provide employees transportation to and from work from, I believe right now from Kihei so that cuts down on the traffic for people who drive on the pali.

It also will create employment for our construction industry and also careers for our local people. The community will benefit from contribution totaling \$46 million in the first 20 years of this project. And also Starwood has committed to Hookaulike to preserve the Hawaiian culture which is guided by their Cultural Focus Group. Thank you.

Ms. Amorin: Thank you very much. Next JoAnne Johnson. Come forward and state your name.

Ms. JoAnne Johnson: Good morning Commission Chair and Members. My name is JoAnne Johnson and I am testifying on my own behalf. I'm testifying in opposition to approval of the Lot 3 KOR project based on the following justification.

One, the Office of Environmental Quality Control has only recently published in the February 23rd issue the request for public comment on the need for a supplemental EIS. Until the determination is made as to whether a supplemental EIS is needed this application should be denied.

The data provided by the developer implying there was no degrading of water quality or loss of coral cover fronting the previous phases of KOR is totally inaccurate. I have data that is in direct contradiction to these statements. And even if you read the studies provided as part of the water quality and coral monitoring from their own consultant, you will see that there is a decline in both coral cover and also in water quality. I have information that has just been released as part of a coral reef study, it clearly shows losses in this area. One of the primary policies for the West Maui Community Plan is to protect and enhance the quality of the marine environment and this is exactly the opposite of what is occurring at North Beach.

Number three, traffic impact analysis report that was originally done for all of North Beach was based on the West Maui Airport serving as the hub of transport to alleviate traffic congestion along Honoapiilani Highway due to commuter traffic from arrivals and departures and this was not a representation of the facts.

Also, the current zero impact traffic goal is unrealistic given that the construction and time share workers cannot be forced to use public transportation. Such conditions are not enforceable since people will use the mode of transport they choose.

The Intrawest project was required to do a traffic analysis update as part of their project once occupancy was established. Since all of North Beach Subdivision was considered as a whole when traffic impacts and condition no. 7 was established no further development should be approved until traffic counts can be established in real time. Condition no. 7 said that no further development shall be approved until Lahaina Bypass is completed or other mitigation measure. The goal was for an equivalent mitigation measure that would produce the same result as the bypass. Example, first phase of KOR was tied to widening of Honoapiilani Highway from Kaanapali Parkway to Honokowai which required a substantial contribution by both the developer and also the taxpayers. The meager contribution developers now proposing for this phase of KOR is nowhere near the amount needed to mitigate the impact of further development will not produce level of service C that was in effect prior to highway improvements even being made in this area or the time share being opened and occupied.

For the Planning Department to say that doing one-sixteenth of a bypass is equivalent to the end result produced by the entire bypass is simply preposterous.

Ms. Amorin: JoAnne your three minutes are up. Conclude in 30 seconds.

Ms. Johnson: Yes I can. You have my following point number five and just state key points from the community plan which basically shows that the proposal does not support the West Maui Community Plan and in fact, intensifies impacts on the area's precious and dwindling resources by further concentrating impacts in stressed and overdeveloped area with no evidence provided that such intensification of human activity will not have further detrimental effects on the area.

Ms. Amorin: Thank you JoAnne. We have a question for you. Jonathan Starr.

Mr. Starr: Yes, thank you for your testimony. I notice in point one that you mention that the OEQC published their request for public comment and it seems – we don't have any documentation before us from OEQC but I would assume that something of that nature has been sent from OEQC to department relating to this matter. I would assume that from your

testimony. And it is what you state is very much in contravention to the report and recommendation to approve that we have that was signed today by Jeff Hunt. And there it just – it says that on February 6th, the Planning Department sent a letter to OEQC finding that nothing contained triggers Chapter 343 and the department letter was acknowledged by OEQC in the February 2008 publication of the environmental notice. So they seem to think that by publishing it that that's it. That it's accepted as there being no impact and since we don't have any letter, I'm wondering if you have any comments or if there's any more documentation that you might know about to that effect.

Ms. Johnson: I did receive a transmittal from the new director, the acting director of Office of Environmental Quality Control. My understanding of the matter is that once publication of this particular statement occurs that begins a public comment period whereby people who disagree or who have other points to be made because in the communication I received from Office of Environmental Quality Control which was transmitted to the Planning Department, it's a public document, I was lead to believe that once the public comments had been received there would be a further determination made by the Office of Environmental Quality Control analyzing the comments during this period of time. So for me, you know, look at the super ferry. It's inappropriate for anybody to consider something where there has not been a final determination by Office of Environmental Quality Control based on public comment and further evidence that this has no impact and based on my personal conversation with the new head of OEQC she basically stated to me that there had been several calls made expressing concerns. She was awaiting comments during this period of time so that their office could do further review and then make a final determination.

Mr. Starr: So from your experience and even on the County Council many years, you know, say that they're actually determining whether a SEIS is required and if based on the Planning Director's recommendation we went ahead and approved the project and then it turned out that an EIS was required and then meanwhile you know, they put all the people who are going to work on it to work and started spending millions, billions of dollars to build the thing and then it had to stop, would there be some legal culpability?

Ms. Johnson: And I'm not an attorney, you can ask this of Mr. Hopper but basically my understanding is your duty and obligation is to review all of the data and that includes any information contained in a supplemental environmental impact statement so that you can place the appropriate conditions to act, to protect the public's interest and also under Coastal Zone Management directive to protect that area. I'm very – you know, concerned any time, any body including the County Council would get into a situation where people have received entitlements and all of a sudden information comes in. If you look at Napilihau that was a perfect example because people could not even get certificates of occupancy for that entire housing development until that document had been completed

and it was ruled that the county was out of order and they had made a misinterpretation.

Mr. Starr: Madam Chair, may I make a – ask the Deputy Director a question? I know it's – you know, we haven't gotten into the process but this germane to the testimony. Yeah,

Ms. Amorin: Deputy Director we have a question for you.

Mr. Starr: Yeah, I'd like to know what – whether there's any documentation regarding this that has not been provided to the commissioners and if not, why?

Ms. Suyama: My understanding is the letter that we sent to OEQC which was our determination that there was no trigger attached to this application was also cc'd to the commission members. As part of that documentation what OEQC is not an approving agency or they do not make a determination. They are a clearinghouse agency in which they receive all of the documentation as to whether a negative declaration was issued, whether, you know, somebody has determined that a trigger has not been forthcoming from the application or there is an EA or an EIS that's being filed with the department.

Once it's published in the OEQC Bulletin what it means is that that's the public notice to the public that a determination is –

Mr. Starr: Excuse me, did you or did not receive a letter dated February 21st from Katherine Kealoha the brand new director of the OEQC and are you trying to confuse us or is it incompetence that you –

Ms. Suyama: No.

Mr. Starr: That you've not been willing to release it.

Ms. Suyama: It's not incompetence Mr. Starr.

Mr. Hiranaga: Madam Chair may we have some order please.

Ms. Amorin: Order on the floor.

Ms. Suyama: It is not incompetence Mr. Starr. To my knowledge, we did not receive a letter dated February 28th from OEQC.

Mr. Starr: February 21st.

Ms. Suyama: 21st from OEQC.

Mr. Starr: You've not received the letter?

Ms. Suyama: Not to my knowledge.

Mr. Starr: Then you're lying.

Ms. Suyama: Mr. Starr I am not lying. I have not received that letter. I know no knowledge of that letter. When my staff person comes back, I can ask my staff person whether they received anything, but I am not aware of any receipt of that letter.

Mr. Starr: Thank you.

Ms. Amorin: Thank you.

Ms. Suyama: And don't appreciate being called a liar.

Ms. Amorin: Commissioner Ward.

Mr. Mardfin: I was very concerned about the reefs. And you mentioned in point two, "I have data that is in direct contradiction to these statements." Can you share some of that with us?

Ms. Johnson: Yes, this is the status of Maui coral reefs. I did not get an opportunity to make color copies. The report is available though from Hawaiian Division of Aquatic Resources.

Mr. Mardfin: Is that – can you hold that up?

Ms. Johnson: It's status of Maui – it's not in color.

Mr. Mardfin: I have the color version.

Ms. Johnson: Okay. And right on the second point where it says, "coral status and trends," one of the areas that they point out at Kahekili, coral cover was reduced from 55% to 33% and they express serious concerns about area. I also have friends who dive the area and the reef life is rapidly diminishing as well as the fish variety probably due to interaction I'm assuming from fish feeding also some of the practices in the area, people are not well educated about interaction with the coral.

Mr. Mardfin: Can I continue?

Ms. Amarin: Commissioner Ward.

Mr. Mardfin: When I raise the issue about the reefs last time we were meeting I was concerned about two places. One I was a little concerned about the area right by the project but I was also concerned about what was happening in Lahaina and the report I couldn't find anything about the Lahaina statement but I can deal with that when the petitioners are up. But the point you're making about is it that the study looked a particular point right by this project and you're looking at a broader area?

Ms. Johnson: There's three areas that are being monitored. In the original condition that was imposed on Kaanapali Ocean Resorts the way that the condition was stated, and I'll just paraphrase it was that there shall be water quality monitoring and that all these reports will be filed to either the commission or the Planning Director so that at least the information with regard to water quality would be received. When you actually square those reports with the information that's being received both from this report and also the individuals who frequent the area it is not accurate. That area is declining and my personal, you know, I mean, I'm not a scientist therefore, I can only read reports like this and assume that because of the concentration of both human activity and construction activity plus runoff during storm events has really damaged the reef. When people interact with coral, I don't know what education program Kaanapali Ocean Resort has implemented to educate their guests about going into the area but I know that many of them end up at Kahekili Park and so even if the area fronting their project is one of the areas monitored the area that's adjacent to that Kahekili it's really under stress. And it's primarily due to many of the people that stay in the resort areas that like to go to the park, they go to the bathroom, they don't have to go back up to their rooms. So you know, I mean, these are just some of the points. I had a lot of other points, but in three minutes, I couldn't do it. And I'll leave this with you but this is only the summary Madam Chair. This is just the summary of this particular report. It's not the full report.

Ms. Amarin: Thank you. Any more questions for the testifier? Seeing none, thank you JoAnne. Joseph Pluta. Please come forward and state your name.

Mr. Joseph Pluta: Thank you Madam Chair and Planning Commission Members, my name is Joseph Pluta. I'm here as an individual this morning. A member of the community in Lahaina that I was a – I provided written testimony. I hope you all got a copy of it. And I've been here before, but one of the things that I wanted to say today specifically that I want to make sure was not overlooked that as a original member or a charter member of the Kaanapali 2020 planning group, this was many years ago, this plan Kaanapali 2020, I'm sure you've must of heard about it, many, many different times and hearings, but it was a larger group of people with basically a lot of mixed feelings about development, no development was the primary feeling of all of them. But it was result of many, many

meetings and many, many years, consensus there was an agreement and a plan that won American Planner's Award 12993 as the best community plan in the state at that time. And that was balancing of development, non development. You know, open spaces versus development spaces for the whole Kaanapali 2020 area. It was integral in that plan that you'd have a balancing of low density, no development, cultural areas, and then also higher density, higher economic value, higher usage, and in essence there was a trade off. In order to have lots low, low development or no development there had to be a feasibility of economic feasibility to adopt a plan where there be some area of economic feasibility and viability and that consensus was these North Beach lots which were originally 10 hotel lots. They reduced all that down to four and three parks and to have the highest possible economic vitality there to offset little or not economic vitality across mauka as part of the Kaanapali 2020 plan.

So I'm here testifying in support of Lot 3 because it's consistent with what the community wanted in that area and it's a balancing and I think it's important to recognize that balance in your consideration.

Ms. Amorin: We have a question for you. Commissioner Guard.

Mr. Guard: Thanks for your time Joe. My question stems back to the original SMA applications if you were a part of it. I mean, we're talking about a 1988 SMA for the entire project, won an award in '93. There's a '96 design manual for Kaanapali that I haven't seen. A 1998 changes to the SMA were made and now in 2008 here we are now being expected to follow a guideline between '98 or '88. So have you seen the concept plan from the this '96 manual?

Mr. Pluta: I'm not familiar with that. The point I'm just – no I haven't.

Mr. Guard: Okay. When you were making this plan, was there ever a charrette of how the concept would look at North Beach. I'm wondering how close to the idea people had of what it was going to look like back then if we're any where near that now?

Mr. Pluta: Yeah, we had bubbles and then the bubbles were refined to further use and there was a lot of intervenors involved in this process who wanted absolutely no development there and their consensus and trade off was that okay, what are we, you know, we had nine or ten hotel lots, we got it down to four and three parks for the public happen to be maintained at the lot owners expense for the benefit of the public use and there's not commercial use. I should point out there's no commercial use allowed there and I know that for a fact as I am very involved in making sure there's no commercial use down there. So it's only at the public's – it's maintained at public expense and nobody can use it as a diving staging area for any commercial activity use. But personally as a member of

that community now for the last 30 years, you know we're having access, easy access and parking to areas controlled and maintained so everybody loves it and is very thrilled about that I know about how well it's being done and maintained there for their use and benefit. You know, it's –

Mr. Guard: I'm just looking for some history. You said you participated so I was looking at why there was these changes from the '88 SMA being reduced from 3,200 units to 1,950 if everyone was okay with that or if a planning commission made a mistake at some point.

Mr. Pluta: I do know that the density was always a concern and that over time the density was actually reduced not increased. You know there was an authorization or agreement for a higher density when that was actually occurring and permitted in the end. So no one's upset about that there wasn't higher density.

Mr. Guard: Yeah, no thank you for that. I was just hoping to get some feedback on this '96 design manual that is referenced that I haven't seen.

Ms. Amorin: Commissioner Starr.

Mr. Starr: Yeah, Mr. Pluta, you mentioned that the original 19 – I believe it was '87 the EIS that was done and the layout was for hotels.

Mr. Pluta: I saw nine or ten hotel sites that had been approved and zoned for ten different hotel sites.

Mr. Starr: And then it was reduced to four giant high rise hotels.

Mr. Pluta: Well, I don't know about giant but I know we had four hotel sites with the County Council and the County Code has the limits of how many height limitations can be done and they were all complied with. They didn't go beyond what was permitted.

Mr. Starr: In the latest iteration though these hotels have been changed to time shares where there's no service industry and we find that more and more – our hotel industry is dying because it's being changed to time share where the ownership resides in people who have no stake in the community and you know, there were not the hotel service industry jobs. Recently we saw the Maui Writer's Conference move to Oahu because of insufficient hotel rooms and banquet space. I mean, do you think there's any impact and any difference between hotels and these time shares other than that this allows the developer to take their money and run a lot faster?

Mr. Pluta: Well, that's interesting. You know, I was a former member of – president of the

Hotel Association and I know there's been a lot of misapprehension about what the time share industry is and what a hotel is and so forth and so on. I know that the Council ordered a specific report about the impacts of the time share industry and it was a very enlightening and it showed a lot of beneficial uses. There was no – while hotel occupancy goes down you lay off people, you close wings. Time share occupancy stays constant all the time because they have to have the maximum quality, so they don't lay off the staff they keep the quality high, they replace furniture and maintain everything in highest standards. The hotels are very jealous that they can afford to do that because they pass all those high costs of maintaining employment, maintaining the highest quality in their resorts to their owners who pay for that and the hotels are struggling trying to make a buck so they can't do the same thing. So they lay off people, they close down, you know, rooms and so forth. So it's been a real cyclical thing that happens in the hotel. Good for the time share industry they don't have to deal with that same kind of problem.

Mr. Starr: So as, you know, as the spokesperson for your organization, you're in favor of this time shares over hotels and its conversion. You think this is a good trend?

Mr. Pluta: Well, lets go back to what the Kaanapali 2020 said it's the highest economic use of – vitality of use to be done to off set no the development on the other side. In other words, you have to have a trade off, a balancing, very high economic use. Whatever the highest economic use can be ...(inaudible)... with, consistent with the County rules and regulations and building codes and lowest density possible, but they highest economic possible to off set the fact that we don't want any development there at all anywhere else and that's a lot of golf courses and low rise parks and hospital donations of land and things like that where there's got to be a balancing. And so if the highest economic use is time share, it wasn't excluded, you know, it happens to be, that's what making sense in the marketplace then that's what should be done there. We certainly don't want to have something that's not going to be successful there and is not going to be able to prosper and be able to pay all the impacts and things have to do in development.

Ms. Amorin: Thank you very much.

Mr. Pluta: Thank you.

Ms. Amorin: Next on the list, is Peter, you have beautiful handwriting, I'm not sure is it Iriarte?

Mr. Peter Iriarte: Iriarte, correct. Good morning Madam Chair, good morning Commissioner, my name is Peter Iriarte and I'm with the Masons Union. I'm a Field Representative for the masons union. We strongly urge the project for the West Kaanapali Ocean Resort Lot 3. We strong urge, in favor of that project, in support. Thank you.

Ms. Amorin: Thank you very much. Calling Mike Kiddo, step forward and state your name.

Mr. C. Mike Kiddo: Good morning Commission Chair, I didn't sign in properly, it's C. Mike Kiddo, I represent the Pacific Resource Partnership. We're testifying in support in deference to your commitment to the 5:00 p.m. public service today if I may summarize my testimony.

PRP is in strong support of the application in front of you. As a final note of emphasis on why PRP supports the SMA application is Starwood's leading edge facility planning by proposing the first free standing alone LEED certified full service resort in Hawaii. PRP applauds Starwood's commitment to West Maui and we ask for your favorable consideration of this application in a timely manner.

Anomaly, if I may Chair since I was not asked the question last time, the – for history of the planning commissioners though I don't work for the Carpenter's Union the employment level within the carpenters in December of '06 we had zero on the bench, December '07 we had over a 170 that's out of a membership of 800 on Maui, 200 of which are retirees.

Ms. Amorin: Thank you. We have a question for you. Commissioner Guard.

Mr. Guard: Thank you. Regarding the unemployment I guess my main concern with this is that this project is not slated to begin until March 2011, so I just don't want the union members to have the wrong idea that they're going to be working tomorrow if we vote on this today. Is that a factor on a lot of the – I mean, we got to find other work between now and this project, correct?

Mr. Kiddo: That's true Commissioner Guard. I think in reality we're mindful and fully aware of the length of time it takes the process and projects so that's why we're participating at this level looking down the road as well.

Mr. Guard: Because in the meantime I wonder if – I seem to recall a lot of articles about capital improvements projects not being able to be done because the bids were so high. So hopefully there's some public sector work a lot of these guys can either find and maybe bang on doors at the county level to get some of those permits going.

Mr. Kiddo: Your point is well-taken Commissioner Guard. It's a simple case of supply and demand when everyone's busy I think the prices were normally higher. Keeping in mind as you probably know as well that besides labor costs, material costs have accelerated greatly given the global competition for supplies.

Ms. Amorin: Commissioner Guard.

Mr. Guard: Have you noticed that those costs have come down recently? I've talked to some contractors that say they've come back down now.

Mr. Kiddo: Somewhat, you know, natural disasters like storms on the mainland affected us during that time period and will affect us again, and certainly fuel costs are relevant factors bringing in supplies to Hawaii. But to your question, yes, there has been a gradual lack acceleration of costs in materials.

Mr. Guard: I wonder if say individuals with the opportunity to now build a cottage or affordable housing on their own properties if the county or state levels are trying to accelerate permitting for people entitled to an ohana and what not, that might absorb some labor force as well as increase affordable – either home ownership or just rental opportunities statewide.

Mr. Kiddo: Traditionally Commissioner Guard, I think when there's a slow down people naturally want to still provide for their families and would seek other avenues of employment. We, as a union try to look ahead in the workforce and provide meaningful employment for our membership now and in the future.

Ms. Amarin: Commissioner U'u.

Mr. U'u: I think – part of the problem I guess when people say the bids are out of reach or high and I think people forget to factor in worker's compensation. You got to factor in roughly \$27.00 an hour just on workman's comp., and I think the blame goes on labor prices. Where they say labor's too high or the cost is too high, but when you factor in the bids that the roofers would have to put in \$30.00 an hour for roofing and the construction costs, the normal would be about \$28.00 on an hour. I mean, that's something to take into account for, but it's not labor. Our pay has been the same for the last five years, but workman's comp has been going up every single year with no end in sight. It's like oil. Just a comment.

Mr. Kiddo: Chair, if I may comment on his comment? Just to put relevance to it, I think for those of you around the table that are in business know the relativity of what contributes to increase and worker's compensation. Certainly construction work is hazardous at times and so that's why the Carpenter's Union among others have emphasized safety on the job and safety training for its membership.

Ms. Amarin: Thank you Mike.

Mr. Ed Lindsey: Good morning Commissioners, my name is Ed Lindsey and I am representing my family, Ned and Pua Lindsey, all the Lindsey Ohanas and I am a keiki o

ka aina for West Maui.

Our roots go back thousands of years, not a thousand, by at least a thousand years being that the Hawaiian infusion to Maui occurred at about the time of the Dark Ages in Europe that means the Hawaiian culture here in Hawaii is an ancient culture. And my passion and my family's passion is to protect and nourish whatever remnants and fabric we have for this ancient culture. If you can imagine that our kupunas came up here in double hull sailing canoes before the vikings ever went across to Canada. And I represent these people as the best navigators in the history of human kind and my effort in all of my dealings have been to save as much of the Hawaiian culture in practice, in language, in socio economic development as possible.

And I am speaking to you as a kanaka maole and I represent a very ancient part of Hawaii that I want to keep, specifically Maui and my works have been from the ocean to the mountains. And my dealings have been to file lawsuits on bad development and I cannot do it myself. I have tried and have lost because I ran out of money.

As an intervenor for North Beach, my position at that time was to bleed the company money because they had no heart. All they were doing was taking. And the evolution of these lawsuits and intervention I have come around to realize that I cannot hold change – cannot stop change.

Ms. Amorin: Ed, your three minutes are up, can you conclude in 30 seconds?

Mr. Lindsey: Yes, I can conclude in 30 seconds. And it's for this reason and as being part of the Kaanapali 2020 development team, so many things have happened, we have archaeological sites that in contiguous motion for five miles. We have 5,000 acres, I mean, 2,000 open space, we have homes set up for 5,000 square feet minimum size. We have all these things set up by the community and with Lot 3 being developed that is part of the whole. And the technology that has been developed far supercedes anything that the County and State have ...(inaudible)... and every kind of new development including reverse osmosis is good, it's benign, it's a benign good product. Just as we all enjoy automobiles right now. So with that I'll conclude and I support Lot 3 for the reasons I had stated.

Ms. Amorin: Thank you Ed, we have a question for you. Jonathan Starr.

Mr. Starr: Yeah, does your support for this time share project have anything to do with the canoe that the developers gave to your organization?

Mr. Lindsey: No.

Mr. Starr: Thank you.

Ms. Amarin: One more question Commissioner Guard.

Mr. Guard: Thank you. Being part of the 2020, were you there the '88 SMA, the '98 SMA, etc.?

Mr. Lindsey: I'm not aware of the '88 and '98 SMA because we got involved at the time when they tried to move forward on their time share – not on the time shares but on the development of what we call Airport Beach and part of Kekaa. And at that time, Amfac who was the developer in our opinion had no heart. They had lost the heart of the community and, you know, it was the same thing in every development you go, jobs as we all know now and we tried to stop it. Stop development, and you know, we found out there's only one way really to stop development is to buy everything up and we cannot do that, we don't have the money and the State don't have the power to or the will to do that. I have gone to OHA and the different areas that they had money to buy these things up in West Maui and it was on deaf ears. But being things as it is, we need to work together and we need to guide Maui into this current century.

Ms. Amarin: Commissioner Guard.

Mr. Guard: What are your thoughts on the reef out there? I mean, I'm not from West Maui, so I don't know, but I talked to friends my age, but I guess for you being from West Maui I'd be interested in your thoughts on.

Mr. Lindsey: It's a double-edged sword. You know, what do you want? You want economic development or you want no development? Every actions in today's human kind everything is commoditized, fishes are commoditized, lands are commoditized so anything that generates money you have greed. And in my other hat I wear, we are looking at the health and welfare of the ocean. The ocean was our refrigerator. I don't go out and fish any more because of the impact. You got boats going all over the place, jet skis going all over the place, poop going all over the place by these boats and it's a cumulative impact that's really destroying our ocean resources. So to say, to point a finger at any one thing, you know, even to the point, what don't flush your toilet any more. You know, we working together need to establish a water management plan, an ocean management plan and to pick on any one particular project to me I consider that to be unfair especially they, and I say, they, and I'm speaking about Starwood have stepped up to the plate to help, to be sure, so we can stabilize these kinds of these things and increase the fish to an abundance so that our children can enjoy. You know it's painful for me to take my mo'opuna outside there, right in front our house in Lahaina and see no mo fish. It's painful. And then to see a development such as Starwood to come out and step up to the plate and try to help these

things, how can I not support a project like that?

Ms. Amarin: Commissioner Guard.

Mr. Guard: Yeah, I guess, I'm not talking about the reef as a method to stop development. I guess, a, I've maybe even in this room we've had people come and say that the reef is our first line of defense from actual beach erosion. So I guess that reef out there would help to protect the beach which is their setback on any of these properties, correct? So I guess it's – and the fishes, well, I mean, I've seen it. I've out there since I was a little kid, so I just wanted your knowledge of previous years.

Mr. Lindsey: If I may add one more thing for your consideration. You know we have ships coming in and they pump out and you have University of Hawaii doing research on certain alien species and they get away from them. So therefore, the limu, the alien limu is just busting up everything. So we need to get out there and take care of business. You know, for somebody to say that well, you know, all these things are happening, but sit down and do nothing, you know, get a life and understand and get up and do the work. And that's what we do. We do the work. We have to go out and get those alien limu out we go out and get um including the alien species that's growing on land.

Ms. Amarin: Commissioner Ward followed by Commissioner Starr and then Commissioner U'u.

Mr. Mardfin: I appreciate you coming here today and speaking in support of this project. I share a lot of your concerns. While I'm not a kanaka maole, I'm on the board for the Hana Cultural Center and I'm very concerned about Hawaiian things.

Mr. Lindsey: Mahalo.

Mr. Mardfin: And I agree with you totally that they were the bravest most navigators the history the world has ever seen. Do you happen to know, you spoke about some things – do you happen to know about were there any ancient practices or traditional uses of access in this area that we're talking about that would be disturbed by this project?

Mr. Lindsey: No, there's nothing that is going to be disturbed by this project.

Mr. Mardfin: Thank you.

Ms. Amarin: Commissioner Starr.

Mr. Starr: I share your concern about the limu and the algae growth, you know, in their

report they say the reef is just fine out there, but it's dead. It's dead, over the last 30 years I've been snorkeling that place and the reef is dead and now we've got seaweed and algae. We have a project before us that's going to have injection wells right behind the shoreline. They're going to put hot brine down into the beach and no one knows what that's going to do and it possibly could make the algae growth and the limu growth to exponential. Isn't that something that would be concern you or do you think that's okay because it's already so trashed?

Mr. Lindsey: No, it's not okay. And I appreciate your concern. That was my concern too. So because I had that concern, I asked Starwood to bring their people in and we meet with them for three hours to discuss the technology. And bottom line, it's a benign technology. You ever dig a hole in the sand? If you dig a hole in the sand close to the ocean, I'm not talking about where it breaks, you can dig a hole in the sand, the deeper you go you see water coming, the water comes in, you take the water out, water still comes in. And I have a family in the hospital and what do they give um for IV? Saline solution, a matter of a salt. Our bodies are made up of a kind of saline solution. And we find that technology to be benign, it's forward looking and more importantly, it's co-generation. Water and that stuff is a byproduct. All these things I found out and you know something, Maui could be completely independent of oil because of machines like they're setting up.

Mr. Starr: ...(inaudible)... generators.

Mr. Lindsey: Co-generation. Water is a byproduct. Now you have the energy coming out, Maui, you know, we all should have electric – I was talking to a German scientist and in Germany they have all of these things out there already. We're so far behind they couldn't believe it. We should be all using this electric cars he says. You got the sun, you got the wind, you got the ocean and you got O-tech and to come out and say well, these kinds of things are not good, you're really not doing a service to the people who need to cut ourselves off from oil.

Ms. Amorin: Thank you Ed, we have another question. Commissioner U'u.

Mr. U'u: You know just going back, I know back on the north shore, Kuau area, north shore about 10 years ago there was a severe alien limu taking up the beach and I don't see it there any more as much. I don't know about Lahaina, but did that happen in Lahaina also?

Mr. Lindsey: No, they're still there. What happens is that when you have big waves and the rough seas, it tears it, it tears it off, so when you go back out there you're not going to see it. So as long the ocean is turbulent, it pulls the roots out. You got to look at limu just like weeds yeah, at home. You can pull um out or you can use toxics or whatever else you want to use or you can burn um off, vinegar it off, or herbicide, the limu act in the same

manner. Well you know, right now they're sucking it out yeah, because.

Mr. U'u: But I remember even in the winter times there were like 16 inches easy you would step in the limu you would sink and maybe it was 12 years ago and I haven't seen it as bad maybe for the last eight years and I'm just curious.

Mr. Lindsey: Yeah. Sometimes you know, if you look at certain kinds of plants on land they have a dormancy period like the thing would last 20, 30 even a hundred years. So it's the same thing that's happening in the ocean.

Mr. U'u: Thank you.

Ms. Amarin: Thank you Ed.

Ms. Patricia Nishiyama: Aloha kakahiaka. Good morning. My name is Patricia Nishiyama, aka Aunty Patty Nishiyama born and raised in Lahaina my birth place was called Puukolii, a huge plantation village in the ahupuaa of Hanakaoo, Lahaina, Maui. I am here representing Na Kupuna O Maui.

We have been very active with this developer. It is so important that the community be part of this discussion to ensure the community interest are acknowledged and their concerns addressed. I can state that Starwood has taken the effort not only to present their project to the community but listen to our comments and concerns.

Starwood has been a steady supporter of our Hawaiian language, our Hawaiian Immersion School and Lahaina halaus and Lahainaluna High School. Starwood has also made a comment to Na Kupuna in providing a Hawaiian language preschool for West Maui. Starwood believes that the Hawaiian language needs to survive in West Maui. Starwood is there to honor our Hawaiian culture.

So I also sit on a committee with DLNR about the reefs in Lahaina at Kaanapali. I've been meeting with them quite a bit and our last meeting was two weeks ago. We are working to close down Kekaa all the way down to Kahana to clean up the alien limus. So it is a concern and Starwood and Intrawest will be a part of that project to help us clean it up. So it's going to be a big job but we're on top of things in front of their area, from Kekaa all the way down to Kahana.

So please support this project. We really appreciate it. Mahalo.

Ms. Amarin: We have a question for you Aunty Patty. Commissioner U'u.

Mr. U'u: You know, just a comment. I know a lot of people like to point out problems and I always thought that was the easiest thing to do is pinpoint and, you know, that's a problem, that's a problem, but what I like is solutions and I think that's part of the solution. Thank you.

Ms. Nishiyama: Thank you. Mahalo. They're really working hard to correct the wrong and making it good. Thank you. Especially with us. Thank you.

Ms. Amarin: We have another question. Commissioner Ward.

Mr. Mardfin: I think I know what the answer is going to be but I want to ask you the same question I asked Mr. Lindsey. Do you know of any ancient or traditional uses of the property that have been for Hawaiian purposes that are – would be disturbed by this project?

Ms. Nishiyama: Well, they are taking care of the dunes and everything, you know, and it's in place, and they have been many interventions about the dunes, but it's there and it's been taken good care of it because we meet with Starwood and Intrawest once a month and we know what's going on. So, that is our most concern. And they whole thing there is our culture, the ocean, the mountain, the water, you know. So they're there to help us to make things pono.

Mr. Mardfin: Mahalo.

Ms. Nishiyama: Mahalo.

Ms. Amarin: Thank you Aunty Patty. I have a question for you. How many years have you lived in Lahaina?

Ms. Nishiyama: 62 years.

Ms. Amarin: God bless you. Thank you.

Ms. Nishiyama: Mahalo.

Ms. Amarin: Next on our agenda, Kimokea, please come forward and state your name.

Mr. Kimokea Kapahulehua: Good morning Madam Chair, my name is Kimokea Kapahulehua and Commissioners. I've come before you to testify prior times to support this project. This morning couple kupunas came before me and spoke to you of the cultural, what we call, protocol that this project is taking amongst themselves and we think

that's a great deal.

I want to just share with you that I didn't share with you before what we call kauna. Kauna in Hawaiian is a deep hidden meaning of the intent of what we're going to do and how we're going to do it and how we're going to solve it. Commissioner Ward talked about ancient use. We had a lot of ancient use completely around Maui. One of them I should address to you we call the wa'a, the canoe. We came to the beach with the canoe and when we came to the beach, yeah, we came to the beach with the people, we came to the beach with the women and animals and plant with the intent of making sure that when we arrived in an area we were going to be able to replenish this area even what they had there. So there was great ancient use from the shoreline.

We talked a lot about this morning about the reef commissioners. The reef to the Hawaiian was a living community where the ina, the loli, the limu, the wana, the he'e, everything that was there. We talked about the damage and the impact of what we're doing to the reef, yes we have, but we also have taken up with partnership now with you, the County, the State of Hawaii, the Federal Government and private people like this to go out and look at solution using technology, using ancient culture uses and everything else from the mountain to the sea which we call the management of the land through the ahupua'a system.

This company we talk about this morning is not just come in here and doing what they doing as a business, but they also doing evening to make sure that the protocol of the Hawaiian culture is in place. First respecting our culture, respecting these people and doing the right thing for us. And yes, we done all these other things and yes, we're looking at solution and we appreciate them taking the time and the money to put forward. We're flipping their budget, we're flipping their budget to the ocean, we're flipping their budget to the land and they're making sure that we take care our natural resources. In asking them for a budget it's really difficult. I don't sit on their employment but I do sit on support or kaiko'o on their culture committee. Our kupuna Lindsey came before you and talked to you about stuffs and so did kupuna. And we're really, really concerned and we continue to be concerned as this project started from the beginning on Maui and all the way to the end and we're here to monitor that concept and making sure the problems that we have to come to points of solution.

Ms. Amarin: Kimokea your three minutes are up. Can you conclude in 30 seconds?

Mr. Kapahulehua: I would like to conclude by saying that I support the project and I support the efforts that they're taking with us. Thank you.

Ms. Amarin: Thank you very much. We have a question Commissioner Guard.

Mr. Guard: Thank you. So you've been with this group for a while so you guys have I guess massaged or lomi some changes into the project through your advice?

Mr. Kapahulehua: Yeah, I first want to tell you that this project has been in support of Celebrate of Canoe from the beginning. Celebration of Canoe this year will celebrate 10 years. So they're direct and indirect people have been affiliated with us since 10 years. Yes I do.

Mr. Guard: Just this one and in general I'm just wondering if that's the process here today is mostly to kind of massage out any more kinks to try to make it the best project we can correct?

Mr. Kapahulehua: That's correct Commissioner Guard, but I also can tell you that as we go along there probably be other things that we see that still needs to be massaged. So this is not the final massage in working with cultural development or cultural protocol.

Mr. Guard: Thank you.

Ms. Amarin: Thank you very much. Any more questions for the testifier? Seeing none, thank you so much for coming out.

Mr. Kapahulehua: Mahalo Commissioners. Thank you so much.

Ms. Amarin: Thank you. Next Robin Knox. Please come forward and state your name.

Ms. Robin Knox: Aloha, good morning Commissioners. My name is Robin Knox. I'm a water quality scientist with 25 years experience and I'm representing myself. I'm going to depart from my prepared remarks a little bit to address some of the things that were said by previous commenters.

I want you to know that I am witness to ecosystem decline. I am from Louisiana. I have seen what happens when you lose an ecosystem. We lost our wetlands, our economy has suffered, we've lost our fishery, we've lost hundreds of thousands of acres of land and people really suffer and I came to Maui to help you so that this doesn't happen here.

My number one reason in being here is to protect water quality and to protect the reefs and I do a lot of volunteer work to try to educate you about this. So I ask you to remember that we're all in this together and that when you hear that word "sustainable," it means survival.

This project is a model project for sustainability. In terms of appropriateness, protection and preservation of the environment and long term commitment to community, it does

everything that I would ask it to do. The project design and mitigation measures address cumulative and regional impacts. This is why the reef is dying, not one project, the cumulative impacts and the process that the county has in place for planning and permitting is not adequately addressing that and I would love to help make that a better process but this is the process we have today.

This project employs sustainable technologies for cooling, generating electricity, producing potable water and managing storm water runoff. It offers economic development benefits without exploiting or burdening the environment and the natural resources. It is in the best interest of our community to approve this SMA and to take this project forward without delay in order to realize those benefits and establish these technologies now. We need these technologies. We need to put them on the ground and we need to try them out and we need to be using it. This is a great opportunity. And it's a great opportunity because of the community commitment, because of all the things you just heard the community members say because Starwood will sit down and talk to us and will hear our concerns and will agree to a process that involves the community. There are a lot of questions that can't be answered in planning. They have to be answered in design and implementation and I would much prefer a process where we get to participate through the whole thing not just at the planning stages and that's what we have unique opportunity for here.

There is this West Maui Community Benefit Fund that's working with protection of the environment and cultural resources and to me they're almost the same because we need to use the modern technology along with the traditional Hawaiian values and the traditional practices. That's where the answers lay. So we have to preserve the culture so that we preserve the knowledge that we need to all survive together.

Ms. Amorin: Robin, your three minutes are up. Can you conclude in 30 seconds?

Ms. Knox: I would conclude by saying that I have worked extensively with the researchers on the coral reef and with the Department of Health and DLNR as a volunteer and as a collaborating scientist and I would be glad to answer any questions regarding the reef and impacts to the reef from this project. Thank you.

Ms. Amorin: Commissioner Ward.

Mr. Mardfin: Let me just, before I ask the rest of the questions, let me ask one thing, do I take it that you're not employed in any fashion by the Starwood or the developers?

Ms. Knox: That is correct.

Mr. Mardfin: The reports that we've gotten in the appendix were very impressive and I don't

know if you've had a chance to see them or not, do you have an impression about what the impact on the reefs around Lahaina area are from the Lahaina injection well?

Ms. Knox: My understanding of the impacts to the reefs and this really goes islandwide not just Lahaina is that it's the combined effects of land-based pollution, recreational use and over fishing. This is what causes the shift in the ecosystem, the invasive algae to come in that shifts the system from coral to algae and unfortunately there's some indication it may be going toward bacterial slime which we're talking public health concerns at that point.

Mr. Mardfin: So it's not injection wells per se that would be a major cause of –

Ms. Knox: The injection wells are a major source of loading that's a very concentrated source. They're not the only source. No one has quantified all these things and much of the education I do is to let people know about the Clean Water Act and watershed-based planning which is community-based planning in a place that looks at all these issues. We need to quantify how much is coming from storm drainage, how much is coming from the injection wells, how much of it actually getting out there and what is the most expedient thing we can do to get the balance back. We need to protect the grazing fishes as well as cut down on the pollutant loads, but the place where the least is being done that the County could do the most is in doing this watershed type-based planning. This is why this project is part of a solution not part of the problem. If we did that planning I would tell them to do the things that they're already proposing to do that weren't done on the previous projects. They're already doing those things and they're open to continuing the dialogue. They're open to you know, Uncle Ed and Aunt Patty and me sitting down and talking to them and saying, okay we're concerned about this hot water that you're injecting. Lets talk about where does it go, what are the impacts? And when I did that with them and I looked at it in the big picture I saw that overall not just for Lahaina but for the planet this is good thing and we need to do this. We need to stop fighting and work together.

Ms. Amorin: Commissioner Ward.

Mr. Mardfin: Well, just a final question I think. Can you think of any conditions that we should attach to this project that aren't already there that we haven't discussed or thought about?

Ms. Knox: Well, honestly I have not reviewed all the conditions. I can tell you kind of a generalization based on similar conditions I've reviewed on other projects. Part of my history is I used to be a permit writer for Water Pollution Control Permits and what I gained in that role was an understanding that you should not put too many specifics in permits. The conditions should say there should be monitoring, that it should address a, b and c, potential impacts, but it shouldn't spell out the exact design of the study. That should be

a collaborative process that involves not only the community but the scientific community and the natural resource managers and all that and that's why again, I feel very strongly this is a great opportunity because this is a company that's willing to do that and that's what needed. It could be a model for the rest of Maui of how do we address these cumulative impacts.

Mr. Mardfin: Thank you very much.

Ms. Amarin: Thank you very much. Thank you Robin. Next Richard Brock, come forward and state your name.

Mr. Richard Brock: Good morning Madam Chair and Members of the Commission. My name is Richard Brock. I reside in Honolulu, Hawaii. I am a consultant with Starwood. My specialty is water quality and coral reef studies and I've been doing studies such as these for the last close to 40 years. I've heard a lot of interesting information passed to you this morning. A lot of it coming out of the popular press. I realize there's only three minutes of time here. I just want to say that in support of Starwood, I am the monitor of the water quality and marine life monitor for the project site and the data that we have collected since 2001, do not support a lot of the comments that have been made publicly regarding alien algae and the amount of it and what's happened with coral and what's happened with fish. So perhaps later on at another point in time in this hearing I'll have the opportunity to present some of that information to you.

Ms. Amarin: Thank you very much. Any questions for the testifier? Commissioner Hedani.

Mr. Hedani: Yes, this morning we heard comments that the reef outside of North Beach is dead do you concur?

Mr. Brock: I do not concur. And the quantitative data don't support that. This isn't based on, well, it looked different last time I was here. This is based on actual hard numbers. I mean it takes a fair amount of effort to do this kind of work. And it's done, it's scientifically rigorous, it's done using standard protocols. So I mean, if somebody wants to interpret it in a different way be my guess.

Mr. Hedani: Thank you.

Ms. Amarin: Commissioner Ward.

Mr. Mardfin: I'd just like to thank you. I read the appendix that you provided, that was provided. I don't promise I understood every word of it. I don't. But you made it very intelligible to me and I appreciate that very much.

Mr. Brock: Thank you very much.

Mr. Mardfin: I think that's a model for what ought to be included in the things that comes before us originally without having to be supplemental, but I was very impressed. Thank you.

Mr. Brock: Thank you.

Ms. Amarin: Thank you very much.

This concludes the testimony received at the beginning of the meeting.

Ms. Robin Knox: My name is Robin Knox and I'm speaking on behalf of myself. I just wanted to follow up to address –

Ms. Amarin: You spoke earlier, you have new information?

Ms. Knox: Yes, it's in response to something Commissioner Pawsat said.

Ms. Amarin: Okay.

Ms. Knox: I just wanted to point out again that like she said with monitoring programs that it's really desirable that it be more than documenting what's going on. That there be like a feedback loop into management and I just wanted to reiterate that I think that the strong community ties here set the stage for that type of opportunity to where maybe you know, when you're looking at these conditions maybe it could be like, you know, that that condition could say something about the monitoring feeding back into a management plan. I think that is an issue that often comes up on these projects because you just – I don't think it does anyone any good to collect data that doesn't go anywhere. So I just wanted to acknowledge that that's a good comment and if you are going to look at conditions to consider the management aspect and that it should be community based and collaboratively based. Thank you.

Ms. Amarin: Thank you Robin. Any other individual in the audience that wishes to speak on this agenda item? Seeing none, public testimony is closed. Recommendation by staff planner, Paul Fasi.

Mr. Fasi: The Planning Department based on the facts presented in the department reports finds that the proposed action will not have a significant environmental nor ecological effect provided that mitigation measures are incorporated into the project. The Maui County Planning Department thus supports this project and we do recommend approval with

conditions. There are a total of 48 conditions and I'm not going to go through them all. There are 14 standard conditions and remaining are project specific conditions. I believe that the commissioners wanted to amend conditions 42, 47 and 45. Thank you.

Ms. Amorin: Commissioners, Conditions 42, 45 and 47, is that correct?

Mr. Fasi: Correct.

Ms. Amorin: Commissioner U'u.

Mr. U'u: I also wanted to amend Condition No. 47 if possible.

Mr. Fasi: Yeah, Conditions 42, 45 and 47, right?

Mr. U'u: Oh, actually I take that back, it's 46 on this one, 46 and it was dealing with the affordable housing policy. I wanted to make if we could refer to Chapter 2.96 in the County residential workforce housing policy that the incremental 33 units will be based on Chapter 2.96, if you could add that.

Mr. Fasi: So noted.

Ms. Amorin: Commissioner Guard.

Mr. Guard: Between No. 20 and No. 45, Paul, is this something that would be available prior to occupancy on these units to start having reclaimed water being up there?

Mr. Fasi: I don't understand the question.

Mr. Guard: Have you talked to I guess Environmental Management, they're saying they can't get 3 million gallons a day as a reliable source so we're not going to be using any of this reclaimed water until it's available here.

Mr. Fasi: I believe that will probably be addressed during the building permit process.

Mr. Guard: Okay, I'm just wondering if we can – if it could be a condition that we hurry this along to start using reclaimed water. The first time when we started this in, I guess it was the November meeting this was just after the storm when we had a bunch of overflow out of the reclamation plant correct, storm water runoff so this is a major obstacle to say hey, look we're not – we're going to be a net zero on the wastewater.

Mr. Fasi: And what condition do you to attach this too?

Mr. Guard: Whether it's 20 or 45, I think they have enough time to help the County out and get this water being used for irrigation to stop using potable water for shade trees and golf courses.

Mr. Fasi: Right. So you want to clarify once it becomes available. You want to say something more to the spec that upon immediate availability.

Mr. Guard: Maybe for Deputy Director or for Planning Director. I've met with Dave Taylor from Wastewater, they want this to be a little stricter that the burden's on the applicant instead of once it becomes available could be longer than the bypass, right? I mean, we've had to stop saying, oh no building until the bypass is up and now we're doing these traffic mitigation measures.

Mr. Fasi: You could say something to the effect that within one year of availability they have to be on line or six months they have to be on line within availability.

Mr. Guard: Upon availability is infinite, there's no time line attached to when available, right, I mean, –

Mr. Fasi: We don't know. We can't put a set date on it because we don't know when it's going to be available, but what you can do is limit that window from the time it is available whenever that is to six months, let say, where they have to be on line.

Mr. Guard: Yeah, I think we're talking about this the wrong way. I mean, in some of the photos we can see the plant, right. We can see the plant on some of these power point slides, if we can't get it across the street to start irrigating fairly soon, I mean, someone help us because we're not going to get it to Kaanapali who we're trying to get them to use it the same way at the Hyatt possibly. There's got to be someone who could get some momentum behind it and I would think Starwood, they're a fairly big company, I don't know if anyone in here – no one has to recuse because they own the stock. They generate some cash flow. I would hope they would be able to assist the County in getting it across the street and if that held up occupancy then I know that's going to help us get it across the street. I don't know if anyone else has thoughts on that.

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

Mr. Hedani: I think on the R1 water situation and the applicant can probably correct me if I'm wrong but I think they were working with the Department of Environmental Management to try to get the second UV channel upgraded at the sewage treatment plant in order to accelerate the delivery of the R1 water which they want.

Ms. Amarin: Is your question answered Commissioner Guard.

Mr. Guard: Just Commissioner Hedani may have more intimate knowledge of this just with his position, is it something that are we talking three years, five years, ten years, twenty years? I mean, it's a County issue, that's where – but we don't have anyone from Environmental Management so to approve – this condition looks great on paper but the reality is it may never happen.

Ms. Amarin: Public Works you have any comments?

Mr. Miyamoto: Madam Chair, in the discussions that I've had with the people running, the Wastewater Division, you know, reclaimed water is not as high on their priority list of infrastructure improvements that are necessary at that treatment plant. As you know, the plant has two distinct sections, a 1970's and a 1980 section that need upgrades and that's their main focus and their primary points of where they would be spending their funds at this point. The reclaimed water portion of the plant is not a priority of them at this point.

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

Mr. U'u: That was it.

Ms. Amarin: Commissioner Hedani.

Mr. Hedani: Commissioner Guard just for your information from the information that I've received from the Wastewater Division of the County because we participated in the R1 meetings that they had for West Maui, the County's plan for R1 is like a \$47 million plan. Kaanapali's portion of that \$47 million plan just to hook up would be about \$6 million, just to get lines to all the hotels within Kaanapali. So it's not just a matter of getting the line across the street, it's a matter of getting pressure behind the water because it has to be pressure fed, so they're talking about pumping water from the sewage treatment plant up the hill to some kind of a storage reservoir that will have to be built that would in turn gravity feed the lines that would pressurize those lines that could deliver the water back. I believe Starwood has made a commitment to the County to participate in at least the first phase of that which is to get duplicate UV channels established so that you have a redundancy of UV delivery in case one goes down for maintenance the second can be used for backup, but there's a lot of moving parts to it just because of the way the County is approaching it and I don't think in this particular case the developer can be held accountable for producing a \$47 million plant that would serve all of West Maui but they can participate I believe on a fair share basis on what that could cost for their proportion of R1 water that they would be taking.

Mr. Fasi: And the applicant has made that commitment to commit to its fair share.

Ms. Amorin: Thank you. Commissioner Iaconetti.

Mr. Iaconetti: I wonder if we could not add a condition that would be sellers' disclosure to the various individuals that would like to purchase one of these time shares the disclosure being that the stench of the treatment plant is ever present, it requires one closing all the windows and turning off your vents when you drive by there and it is quite stronger. It's stronger at some times than others but it is always there. I can't believe, I, for one, would never want to purchase a time share unit and live with that stench. I would like to see a condition put in here that the sellers of these time share units have a disclosure stating that they are immediately across the street from the wastewater reclamation facility, that there is an odor that emanates from that place, that they are immediately downwind from the facility. ...(inaudible - changing of tape)... be aware that this is something they can look forward to. The improvement of that wastewater facility to take care of the odor won't be forthcoming for many, many years and so I think that – I think the prospective buyers should be made well aware of what they're buying into and I'd like to see somehow put that in as one of the conditions that a seller's disclosure statement be made.

Mr. Starr: Is that a motion Doc?

Mr. Iaconetti: So moved.

Mr. Starr: Second.

Ms. Amorin: Lets have staff planner's comments, Paul Fasi.

Mr. Fasi: I appreciate what Dr. Iaconetti's concern is, but my concern is wouldn't this be more of the responsibility of the seller selling these units, the realtors. This is not really the jurisdiction of an SMA condition when it comes to selling private property.

Mr. Starr: Jeff's wife.

Mr. Fasi: Pardon me?

Mr. Starr: Your boss's wife, you mean, excuse me.

Ms. Amorin: We have the planning staff answering Dr. Iaconetti question. Go ahead Paul.

Mr. Fasi: And so, correct me if I'm wrong, but I think there are other mechanisms to trigger that event rather than an SMA permit. How would the buyer even know that this is a

condition of an SMA permit?

Mr. Iaconetti: In the sale agreement.

Mr. Fasi: I'm just throwing this out for consideration.

Ms. Amorin: Does the applicant have a – that's okay, that's okay, scratch that. Commissioner Hiranaga.

Mr. Starr: Wait a second, you're saying scratch – there's a motion the floor and the chair is just saying scratch the motion?

Ms. Amorin: No, not scratch the motion.

Mr. Starr: Thank you.

Ms. Amorin: But before we have – Commissioner Hiranaga.

Mr. Hiranaga: In previous meetings regarding the net zero TIP, I believe there was mention about no cap on the penalty.

Mr. Fasi: Correct.

Mr. Hiranaga: Has that requirement been dropped because I was looking through the recommendation by staff and I see the \$1.7 million escrow but it doesn't say there would be a cap, no cap on the penalty because who knows when the Lahaina bypass highway will be constructed. Are we assuming that \$1.7 million will be adequate to meet all the county requirements until the Lahaina bypass highway is constructed or is there some type of a mechanism to replenish the escrow account should it be depleted?

Mr. Fasi: The escrow account is fully funded and the applicant is still held responsible regardless of whether it's depleted. He is still accountable for replenishing that account as necessary.

Mr. Hiranaga: The penalty?

Mr. Fasi: Correct. And there is no cap. I'm looking for the wording.

Mr. Hiranaga: Yeah, I thought there was specific wording previously.

Ms. Amorin: Director.

Mr. Fasi: It does say on Condition 33, the penalty if any will be assessed annually on the second year of implementation. It doesn't say whether or not there is a cap, but my understanding as it always has been was that there is no cap on this and there will be assessed indefinitely, in perpetuity for the life of this project.

Mr. Hiranaga: Since this is sort of breaking new ground, could we just be more clear on that?

Mr. Fasi: Sure.

Mr. Hiranaga: That the – so it can be inferred that the \$1.7 million is the total penalty but that, you know, it could continue beyond that because I mean, Lahaina bypass might not be constructed for 30 more years, who knows.

Ms. Amorin: Okay, getting back to the motion on the floor by Commissioner Iaconetti, but before we do, Director you had something?

Mr. Hunt: I just wanted to say that the Planning Department doesn't support the proposed motion. We believe buyer beware. If we start getting into notifying perspective owners of conditions out in the environment in the neighborhood it's a slippery slope, so again, we don't, we don't support the motion. If you change the motion that require that they don't complain to the Planning Department about the sewage plant we might support that motion.

Ms. Amorin: Before I call upon you Commissioner Starr we have comments from Corporation Counsel.

Mr. Hopper: I was just going to recommend prior to voting on the motion that we enter a brief executive session under the – which is permitted by the Sunshine Law, but that would be a question for the body to decide if you would like to go into executive session. It would be to consult with me on questions and issues pertaining to the board's powers, duties, privileges, immunities and liabilities as allowed by the Sunshine Law, prior to voting on this as a condition. I would recommend that, but that's a question as to what the body wants to do. Again, that would require a two-thirds vote of the entire body to go into executive session.

Ms. Amorin: Commissioner Starr followed by Commissioner Hiranaga.

Mr. Starr: It's come to my attention some facts about this case and you know, especially with the last comment from the Director, I'd like to make sure that they are true. I understand Director that your wife is a sales person for time share units in the North Beach area and that she's potentially the person who would be selling these units. Is that correct?

That was in the Maui News and it was – and I had multiple people telling me that?

Ms. Amarin: Does this question is relevant to this agenda item?

Mr. Starr: Yes. It does because you know, we just heard comment from the Director saying that, you know, why should the onus be put – why should the burden be put on the people who are going to be selling it, I mean, this is – if it's true that this is his wife, I don't first of all, think he should be sitting there for this matter and signing the recommendation. But I would like to hear his comments.

Ms. Amarin: Director.

Mr. Hunt: My wife sells condominiums for another resort developer on the west side and that's all I'm going to say on this matter and I'll talk to you after the meeting.

Mr. Starr: Thank you.

Ms. Amarin: Commissioner Hedani – I'm sorry, Commissioner Hiranaga.

Mr. Hiranaga: I'm not that familiar with time share sales but is that – is time share sales under the jurisdiction of the condominium laws or are disclosure requirements the same as condominium laws?

Mr. Fasi: The applicant's – affirmative.

Mr. Hiranaga: Well, why don't you elaborate.

Ms. Victoria Carter: Hi, I'm Victoria Carter and I'm Deputy General Counsel for Starwood Vacation Ownership and I do the time share. They are regulated under both condominium statutes and time share statutes and there is an extensive list of disclosures that we're required to make under the law.

Mr. Hiranaga: So personally I feel adequately protected by those requirements myself.

Ms. Amarin: Commissioner U'u followed by Commissioner Hedani.

Mr. U'u: I'll just make a note I'll be voting against that motion. There's also sharks in the water, and you know, just for note.

Ms. Amarin: Commissioner Hedani followed by Commissioner Ward.

Mr. Hedani: Call for the previous question.

Ms. Amorin: All those in favor of the motion.

It was moved by Mr. Iaconetti, seconded by Mr. Starr, and

**The Motion to Add a Condition there be in the seller's disclosure to the various individuals interested in purchasing a time share the disclosure that the stench of the treatment plant is ever present, Failed.
(Assenting - W. Iaconetti, J. Starr)
(Dissenting - K. Hiranaga, J. Guard, B. U'u, W. Mardfin, W. Hedani, J. Pawsat)**

Ms. Amorin: We have two. Those opposed? We have –

Mr. Hopper: For the vote, silence is considered an affirmative vote. So that's a very important issue here.

Ms. Amorin: Okay we have.

Mr. Mardfin: Point of order.

Ms. Amorin: Commissioner Ward.

Mr. Mardfin: There had been a recommendation from our attorney that before we vote on this motion that we go into executive session. It seems like you've gone to the question without polling whether we want to go into executive session. I would, if it's appropriate make a motion that we go into executive session to discuss this with our Corporation Counsel.

Mr. Iaconetti: Second.

Ms. Amorin: Well for the votes that was counted we have two against and we have six for. I'm sorry in reverse. I'm just getting very tired for today. Okay we have two affirmative and we have six against the motion. The motion dies. Corporation Counsel.

Mr. Hopper: Well, just generally I would say, that if it comes up, again, I'd recommend an executive session, but at this point if the motion, if that's not going to be a condition, there wouldn't be a reason to discuss with you what I needed to discuss in executive session.

Ms. Amorin: Commissioner Ward.

Mr. Mardfin: We had the person, the lady that was here a minute ago, I'd like to ask her a question if I might. She said there were a number of conditions that the time share law addresses but she wasn't specific and I wanted to know if odors around a project is one of those conditions that they must disclose.

Ms. Victoria Carter: We are required to disclose any material condition basically, and we work with the departments that regulate us and we basically come with the list. They are statutorily required disclosures and that anything that really materially affects the property. So if that is a material condition and is deemed by the department that regulates us that it is in fact material condition then it would be disclosed, but that's something that gets worked out considerably down the road.

Mr. Mardfin: With whom is it worked out?

Mr. Carter: We have the – it's the, what is it, the Division of Real Estate – Department of Commerce and Consumer Affairs.

Mr. Mardfin: Thank you.

Ms. Amarin: Thank you. Commissioner Hiranaga.

Mr. Hiranaga: Returning to the penalty clause for your net zero TIP, I guess, I'd like to propose in your Condition 34 that were it says, "that the net zero TIP programs and monitoring," change that to or add, "programs, monitoring and penalties," and also I guess in the forth line it says, "programs and monitoring," change that to, "programs, monitoring and penalties."

Mr. Fasi: Noted.

Mr. Hiranaga: That was Condition 34.

Ms. Amarin: We have any other concerns with the conditions? Commissioner Hedani.

Mr. Hedani: Just a question. You know, we're discussing conditions on the staff recommendation. Do we have a motion for or against the approval of the project or the staff recommendations at this point?

Ms. Amarin: Well, we're doing amendments on the conditions right now. We don't have a motion.

Mr. Hedani: Yeah, do we have a main motion on the floor?

Ms. Amarin: No, we don't.

Mr. Hedani: It's not a carryover from a prior meeting?

Ms. Amarin: No.

Mr. Hedani: No. If that's the case then I would move that the commission adopt the staff recommendation and as its findings of fact.

Mr. U'u: Second.

Ms. Amarin: Paul, so we have five amendments to the conditions on your recommendations?

Mr. Fasi: Well, we didn't discuss Conditions 42, 47 and 45.

Ms. Amarin: You have proper language to the changes?

Mr. Fasi: We discussed 46 and 34 and 33.

Ms. Amarin: Total of?

Mr. Fasi: Three.

Ms. Amarin: We have Condition 34, 42, 45, 46 and 47.

Mr. Fasi: We only made changes to Conditions 46, Conditions 33 and 34. We haven't discussed changes to or there haven't been any changes to 47 – I'm sorry, 42, 45 or 47.

Ms. Amarin: Commissioner Pawsat, you have any language to Condition No. 42?

Ms. Pawsat: Looks like they're kind of working on something. So I'd like to hear what they propose.

Ms. Amarin: Thank you.

Mr. Fasi: You want to suggest something?

Mr. Munekiyo: Thank you Commissioners. Mike Munekiyo again, on behalf of SVO. Perhaps we can start with Condition No. 42. And let me just read Condition 42 for the record.

“That the applicant its assigns or successors shall participate with other North Beach Subdivision developers in the biannual water quality monitoring surveys for construction projects in the North Beach Subdivision. Said biannual surveys shall continue until 18 months after the completion of construction. After completion of construction,” – I’m sorry, “thereafter, the monitoring program shall continue annually for two years. After that the Department of Planning may determine whether there is any basis for the monitoring to continue.”

So that would be the suggested language for Condition No. 42.

Ms. Pawsat: It’s good.

Ms. Amarin: Language is accepted.

Mr. Munekiyo: Moving onto Condition No. 45. This is relating to the R1 water. And let me just read what we have as a proposed amendment.

“The applicant will, if available, receive as much R1 water for Lots 1, 2 and 3 as the amount of wastewater Lot 3 transmits to the Lahaina wastewater reclamation facility.”

And so basically this gets back to the net zero notion.

Ms. Amarin: Commissioner Ward.

Mr. Mardfin: And this is an additional sentence. It’s not changing what’s already there.

Mr. Munekiyo: Actually, – okay.

Mr. Mardfin: I don’t want to change, “the maximize the use of R1 water.”

Mr. Munekiyo: Sure, right, okay. All right, let me just read the condition again.

“As represented by the applicant to minimize any Lot 3 impact on Lahaina wastewater reclamation facility, the applicant, its assigns or successors shall maximize the use of R1 water from the County’s wastewater reclaimed water system for irrigation purposes.”

That’s where the sentence would end. And to complete the condition then:

“Applicant will, if available, receive as much R1 water for Lots 1, 2 and 3 as the amount of wastewater Lot 3 transmits to the Lahaina reclamation facility.”

Ms. Amarin: Ward is that acceptable?

Mr. Mardfin: That's acceptable to me.

Ms. Amarin: Thank you. Moving on.

Mr. Munekiyo: Okay, lets move onto Condition No. 47, and this with respect to the monitoring of the source well and the return wells. I think what we would suggest here is the addition of another sentence at the end of the condition, and that is:

"The applicant will take corrective measures as necessary to mitigate impacts it causes to water quality along North Beach."

Ms. Amarin: Commissioner Pawsat.

Ms. Pawsat: Could you add that final sentence also to the end of 42?

Mr. Munekiyo: Sure.

Ms. Pawsat: Okay.

Mr. Munekiyo: I think the other comment or recommended amendment came from Commissioner U'u and that is as it relates to Condition 36.

Mr. U'u: 46.

Mr. Munekiyo: Okay, sorry. Basically, if I could just translate this to something that's perhaps more quantifiable, the one in six ratio of course is something that was provided for by the 1988 SMA approval. What the applicant has agreed to initially – what the applicant agreed to initially under the one to six criteria has an equivalent value of about \$2.6 million. At the last meeting the applicant agreed to move from a one to six to a one to four ratio and what that commitment does is it increases the dollar obligation to \$3.9 million roughly. And so that's what the applicant would like to proceed with the commission concurs. We are actually increasing the dollar amount from \$2.6 to \$3.9 million.

Mr. U'u: That in compliance with Chapter 2.96?

Mr. Munekiyo: That is not, does not follow the criteria of 2.96, but this is what the applicant has committed to.

Mr. U'u: Can we make it where they comply to the 2.96 as far as the county residential

workforce housing policy?

Mr. Munekiyo: I think the problem with complying with 2.96 is the criteria under 2.96 is quite different from what the current formula is, I mean, substantially different in terms of the obligations that the applicant would be placed under. And so I think that's somewhat of a limitation.

Mr. U'u: So you're suggesting that the ratio from the one to six to the one to four is as stated, so it would not change then, you're saying?

Mr. Munekiyo: That's correct.

Mr. U'u: It will stay as stated in Condition 46?

Mr. Dennis Ebril: If I may, Dennis Ebril from Starwood. We had this discussion at the last meeting when the 25% question came up and we agreed to move it from – the agreement that was in place at the time which was one for six and move it to 1.1 per four which moved the contribution from approximately \$2.2 million to \$3.9. It was our understanding that that was what the request was at the time and that we had agreed with that. To put in the new ordinance number, and we don't have the exact number but would probably add another \$5 million to that request. Now I understand where it's coming from. The challenge we have is that we have a huge number of initiatives and conditions that cumulatively at some point have for us have to have a limit.

Mr. U'u: That's fine. What you stated here for me is acceptable. Okay.

Mr. Ebril: Thank you.

Ms. Amarin: Thank you. Paul for clarity, could you just go over the numbers of the conditions that had been amended.

Mr. Fasi: The condition numbers are 33, 34, 42, 45, 46 and 47. And the department will work out the exact language with the applicant's consultant.

Ms. Amarin: Okay, thank you. Commissioner Guard.

Mr. Guard: Back to 45, I really would like to get a time frame on that. I think there's benefit for Lot 3 a little more immediate than Lot 1 and 2. I don't know how much desal water is going to cost them per gallon, but for Lots 1 and 2 if you're going to open up new potable water for other residential or apartment projects I think that's an important component and to me this is an important component of possibly supporting this project and to have that

once it becomes available is just an unknown. I mean, I got to live this for hopefully a long time.

Mr. Fasi: First of all, I would ask that – I would seek your suggestion as to proper language that would make you feel more comfortable. And secondly, I would also try and convey to you a sense of trust and integrity on the applicant's behalf and how much they have come forward on this project. And so that counts for a little bit. I understand your concern. If you can help me out with the language to nail it down a little bit that would be helpful.

Mr. Guard: I haven't met with Environmental Management and I know Starwood has a vested interest in this that I think they're going to – hopefully they'll save money if reclaimed water is more expensive than desal water we got a problem.

Mr. Fasi: Perhaps the Deputy Director can.

Mr. Guard: Deputy Director or the applicant if they know how much it's going to cost. The problem is not for Starwood, we can see that these guys are going to move forward very quickly. Public sector on the UV system or anything else there's really no, we just heard it's not a top priority. So to have all these lines in place for reclaimed water, maybe the applicant's met with Environmental Management that they have more insight to it.

Mr. Fasi: Let me give the applicant an opportunity.

Ms. Suyama: We're discussing about, you know, your concerns, could you give us a few minutes?

Mr. Guard: Yes.

Ms. Amorin: At this time we'll take a break and we'll reconvene at 3:00 p.m.

A recess was called at 2:53 p.m., and the meeting was reconvened at 3:00 p.m.

Ms. Amorin: ... 2008 is back in session. Colleen.

Ms. Suyama: Okay to react to Mr. Guard's concerns about the reuse water, what we would suggest is that Condition No. 20 which deals with it, "that the applicant, its assigns or successors shall participate to the extent of its fair share in the construction of the reclaimed water system from the Lahaina wastewater reclamation facility to North Beach prior to issuance of final certificate of occupancy." So that would ensure that the monies are there, they are starting to get the system in place. So it's not going to take years down the line for this to happen. And further the second sentence would be, "Further the

applicant, its assigns or successors shall connect to and utilize the County's reclaimed water system for irrigation purposes once it becomes available." And this will give the County the opportunity that once the monies are made available to do the necessary permitting, design and construction of the R1 water system. So like we're not talking like the bypass that it's something that's going to happen years down the line. So before they get their certificate, final certificate of occupancy they need to make sure that this thing starts.

Ms. Amorin: Commissioner Guard.

Mr. Guard: They can start the design now because they'll know the money is coming in in a few years, right.

Ms. Suyama: Right. What we're saying is that SVO for Lots 1, 2 and 3 will start participating by making the funding available to the County to get the R1 system on line.

Mr. Guard: Okay. One last question.

Ms. Amorin: Commissioner Guard.

Mr. Guard: I just don't know, I can't quantify that like who is, is fair share the resort area or 300 units versus all of West Maui or versus Maui County residents?

Ms. Suyama: What it is is that it's going to based upon to get the R1 water to the Kaanapali Resort for this participants as well as other participants what will that take in terms of upgrading the system and then the County of Maui will determine what is the fair share for each of the participants.

Mr. Guard: So the participant isn't –

Ms. Suyama: It's not only SVO, the participants would be Honua Kai. The participants would I believe the Royal Lahaina had a similar condition attached to it and if Hyatt Regency ever gets out of this committee, I mean, this commission, Hyatt Regency also has a similar condition. So right now we know at least there's going to be, if this project gets approved by the commission, there's at least four – five properties right now that have this condition attached to it.

Mr. Guard: Okay, super. So it's not individual homeowners down in Honokowai that all of a sudden they're going to be hey we got a special assessment for you, we want you to build the reclaimed water.

Ms. Suyama: No, this is only to the ones that are being attached with this condition.

Mr. Guard: With this condition.

Ms. Suyama: And the County may have you know, a \$46 million project in the future, but the County then for the other portions of West Maui that they want to see the R1 reuse water being handled will have to find some method of funding for those portions of it.

Mr. Guard: Well, HC&S seems to send water all across the island, I'm sure these guys can figure out a way to get it across the road.

Ms. Suyama: Okay.

Ms. Amarin: Thank you. Colleen just for clarity, so what we have done, we have amended Condition No. 20.

Ms. Suyama: That's correct.

Ms. Amarin: And everything else stays as it.

Ms. Suyama: Right. As all the other amendments that the commission have already approved would stay as part of the motion.

Ms. Amarin: Thank you. So we have a total of seven amended conditions.

Mr. Munekiyo: Madam Chair.

Ms. Amarin: Yes, applicant.

Mr. Munekiyo: I wonder if I could just briefly summarize the amendments just for clarity purposes.

Ms. Amarin: Yes, before you do that, Commissioner Guard.

Mr. Guard: Yeah, I have one more question. This was somewhat news to me on the one for four so I apologize. I might not have been here when that vote or that agreement came in for the affordable housing. I was at a meeting where a member of Hawaiian Homes was telling us it cost them a \$100,000 a lot for infrastructure on free land. So taking your number of \$4 million, that's only going to be 40 vacant lots ready to build for someone in that scenario and that just doesn't seem like it equates to one to four. I guess you're looking at an old system of, what is that per unit? Like \$40,000 per unit?

Mr. Munekiyo: \$40,000 right.

Mr. Guard: Okay, and so that's based on a pretty old workforce. We had testimony today that you can't do that for those prices anymore. I wonder if –

Mr. Munekiyo: Right, it was based at a time on the differential between what a market housing would cost or sell for versus what the subsidized requirement would be to get it to the affordable level and that difference was \$40,000. And that's correct, Commissioner, it was something that was agreed to a couple years ago.

Mr. Guard: Okay, so it just has nothing to do, it doesn't float up how we discussed with either rise in workman's comp or rise in material costs or that there's no such thing as a \$90,000 Harbor Lights Condo, they're now \$200,000, anything like that. So I guess that's just mistakes from either previous commissions or department to not have those numbers float. That we're relying on a bygone era of housing for such a trendsetting development.

Mr. Munekiyo: Right. Yeah, I guess the terms and conditions of the agreement were set a couple years ago.

Ms. Amarin: Thank you. Commissioner Starr did you have a question?

Mr. Starr: Yeah, I have a comment before this goes to a vote, would this be the time for that?

Ms. Amarin: Well, Mr. – Well, Mike was going to go over the conditions summarizing, making sure everything is clear.

Mr. Starr: Oh right. Just let him go.

Mr. Munekiyo: Yeah, again, I just want to make sure that we are all understanding what the amendments were very briefly. First of all, Colleen just spoke of Condition No. 20 as it relates to making that contribution prior to final C.O. So Condition No. 20 has been amended.

The next condition, Condition No. 34, and that relates to Commissioner Hiranaga's request that the net zero TIP, well this condition also encompass programs, monitoring and penalties and so, that was the intent of Condition No. 34, as amended.

Ms. Amarin: No. 33.

Mr. Munekiyo: No. 34.

Ms. Amarin: There was an amendment on No. 33.

Mr. Fasi: I think you're referring to putting in the wording of no caps in Condition No. 33.

Ms. Amarin: Okay.

Mr. Munekiyo: And think what Commissioner Hiranaga has done is accomplished that same objective by amending Condition No. 34, by adding penalties, the word, "penalties" to the condition. So we have Condition No. 20, Condition No. 34.

Next we move onto Condition No. 42 where we would add the sentence, I'll just read the last sentence that basically says, "said biannual surveys shall continue until 18 months after the completion of construction. And thereafter, monitoring shall continue annually for two years, after that time the Department of Planning may determine whether there is any basis for additional monitoring." And pursuant to Commissioner Pawsat's request we would further add, "that the applicant will take corrective measures as necessary to mitigate impacts it causes to ocean water quality along North Beach." So that would be Condition No. 42.

Next Condition No. 45, and this is the condition where – I'll just read it just for simplification, "as represented by the applicant, to minimize any Lot 3 impact on the Lahaina wastewater reclamation facility the applicant, its assigns or successors shall maximize the use of R1 water in the County's reclaimed water system for irrigation purposes. The applicant will, if available, receive as much R1 water for Lots 1, 2 and 3 as the amount of wastewater Lot 3 transmits to the Lahaina wastewater reclamation facility." So that's Condition No. 45.

Condition No. 47 we've amended by adding a new sentence at the end which basically states, "the applicant will take corrective measures as necessary to mitigate impact it causes to ocean water quality along North Beach."

And that, Madam Chair and Commissioners is what we have as the amendments discussed on the floor this afternoon.

Mr. Fasi: That last sentence it was a request by Commissioner Pawsat to add that last sentence to Condition No. 42 as well.

Mr. Munekiyo: That's correct. That's correct. So that last sentence that I just read also applies to Condition No. 42.

Ms. Amarin: That is correct. Thank you. So we have a total of five amendments to conditions.

Mr. Munekiyo: Yes Madam Chair.

Ms. Amarin: Commissioner Ward.

Mr. Mardfin: I just wanted to check with Paul. On Condition 33, I mean, there was a mention of no caps. Could that be handled by the penalty if any will be assessed annually from the second year of implementation without limitation or something like that?

Mr. Fasi: That is correct.

Mr. Mardfin: So you'd add without limitation to 33 or some phrase?

Mr. Fasi: Correct.

Mr. Mardfin: Okay. So 33 is also being amended?

Mr. Fasi: No, 33 is not being amended. It's being addressed by Condition 34 by adding the word "penalties and thereafter monitoring."

Mr. Mardfin: And that's clear that there wouldn't be a cap by doing that?

Mr. Fasi: If you feel more comfortable in putting the words "no caps" we can add that to Condition No. 33, is that where you're suggesting?

Mr. Mardfin: Yeah. I think that's their intent anyway, so it shouldn't be a problem. I don't know the exact wording though.

Mr. Fasi: Okay, we can do that if the applicant's agreeable to that.

Mr. Munekiyo: Yes, may I suggest some wording?

Mr. Fasi: Sure.

Mr. Munekiyo: Just to be clear so we understand what the amendment. This is going back to Condition No. 33, the last sentence reads, "that the penalty if any will be assessed annually from the second year of implementation." And perhaps we could add a final sentence at the end there, "that there shall be no cap on the penalty amounts."

Mr. Mardfin: Yeah, that would be fine. Thank you.

Ms. Amarin: So we have a total of six conditions amended. Paul you had any other

comments on your recommendations?

Mr. Fasi: No, I didn't. I think we're complete. Okay, thank you very much. We have a motion on the floor. Commissioner Starr.

Mr. Starr: Yeah, I'd like to comment that I still feel very strongly that it would be wrong to approve this project at this time and there are a number of reasons. I feel that the department has allowed the applicant to cherry pick ancient and new parts of the process from which to take – and take advantage at will at – and of what they adhere to and what they don't. I can only feel that the department is feeling what they call "Patty Hurst Syndrome" where the kidnaped victim starts to identify with the kidnapper after a certain period of time and starts to do their bidding.

There is underlying from '87, there's an EIS that the department won't even give us so we can see what it says. There's an old SMA application, they won't show it to us. But apparently, you know, there is a 2006 application. There is the issue of workforce housing which in this case chump change, \$40,000 times 100 units. That's maybe one-tenth of what anyone else trying to build legitimate housing for people who actually – you know, Maui residents would actually have to provide. It's kind of a joke, you know, and here they're building – it's time share which was just frankly a mechanism for taking the capital making it go away and leaving the things in the hands of people who are going to let it possibly degrade.

I have seen today our Corp. Counsel explain to us how the trigger has been met for an EIS because of the infiltration into the shoreline area of the brine from the injection wells. I did see a study from the applicant but I don't believe it. It said it won't, you know, it may not have an impact, but we've also heard from the OEQC that this EIS matter will be reviewed and what's going to happen when it turns out that an EIS is required and the whole thing has to stop after this body has given the approval. This is a wrong process and we're being guided improperly by the department for whatever reason it has and once again I state that I'm very much against this because the proper process has not been met and I think it's very likely that this is a case where it will come back to haunt us if it is approved. Thank you.

Ms. Amorin: Thank you Commissioner for your comments. Director.

Mr. Hunt: You know, we live in a democracy and there's nothing wrong with having a difference of opinions, different interpretations, but I think when it comes to making insults to people and insulting professionalism I don't think that's necessary and I don't think it's constructive and I hope Mr. Starr that someday you'll learn to express opinions and to make your requests for additional information without having to insult people.

Ms. Amarin: Commissioner Hedani.

Mr. Hedani: Yes, with the approval of the second, I would like to restate my motion so that it includes all of the modifications and amendments that we've discussed at today's meeting so that we don't have to vote on the individual amendments individually.

Mr. U'u: Second.

Ms. Amarin: We have a motion on the floor to accept changes to the conditions with I believe six amendments to six conditions is that what it is? And seconded by Commissioner U'u. Any discussion?

Mr. Mardfin: Point of information.

Ms. Amarin: Commissioner Ward.

Mr. Mardfin: I just want to make sure what an aye vote and nay vote means. The vote is on adding the conditions to the bill. We're not voting on the overall package right now?

Ms. Amarin: We are with the changes.

Mr. Mardfin: So the changes have been accepted.

Ms. Amarin: Yes.

Mr. Mardfin: So now's the time to have discussion about the overall merits of the project?

Ms. Amarin: Yes. Commissioner Ward.

Mr. Mardfin: Two meetings ago when we discussed this it was new to me about what was going on. I'm still new on the commission. I had some serious concerns about reefs. I had some minor considerations about Hawaiian cultural practices. I was one of those that voted to ask for more information. I was – I read the extra information carefully. I didn't know, we said at the time, maybe they're going to have to do a new EIS, maybe they won't. I'm personally happy with what they came up with. They found – as I mentioned earlier, Dr. Brock's study in particular impressed me and gave me a lot of education which I badly needed. I was glad to hear that a person, an independent person basically supported that study who wasn't paid for by the consultants, by the developer, so my concerns about that have been alleviated. I was very happy to hear from Mr. Lindsey, Ms. Nishiyama and there was one other gentleman about their concerns and I was happy with that. I like a lot of the things they're trying to do. I think some of it very experimental and innovative with the net

traffic. I share with Jonathan, Commissioner Starr, the concern that weren't given earlier information. I think he's absolutely right on this point. I'm glad that the Corp. Counsel supported the position that if we did want to require an EIS we could do so, but I think the additional information provided has been sufficient for me to vote in favor of this project.

Ms. Amorin: Thank you. Any other discussion Commissioners? Commissioner Pawsat.

Ms. Pawsat: Yeah, I just wanted to basically say that I mean, what has been stated before from testifiers about the cooperative nature of SVO throughout this process has been one of my reasons why I plan to vote in favor of this because it's also – I mean, development's development, but I will say SVO as far as everything I've suggested have always been really cooperative with my suggestions beginning back with their traffic impact plan, and that's something I've appreciated and truly hope and I trust that SVO will continue to be so cooperative with the County and the public and their concerns.

Ms. Amorin: Thank you. Any other discussion? Commissioner Guard.

Mr. Guard: There are a lot of great merits of the project. I'm still having trouble with now mainly the affordable housing component. Smaller entities trying to develop anything like this have one to two ratio and they would get buried. They wouldn't even get off the ground. And I just don't want this to open the door for other people to try to hop through a loophole on that. I think there's – the support is there for SVO to move forward, but hopefully they'll do their best to – maybe they'll figure out a way to create a partnership to put more people in houses out there.

Ms. Amorin: Any other discussion? Commissioner U'u.

Mr. U'u: I am a little disappointed that I asked them to follow the current County ordinance and they didn't comply but the overall it's a good project. I guess you guys addressed a lot of conditions that cost a lot of money but I would have liked to see the money being put in affordable housing. I'll be honest.

Ms. Amorin: Commissioner Hedani.

Mr. Hedani: In retrospect, you know, when I think about the North Beach area and I think about the commitments that have been made, although we look at the project on an individual basis and we're considering the project on an individual basis in this case, it's easy to forget all of the commitments that have been made in the pass with the overall subdivision of the North Beach property and I think what we need to not lose sight of is that they're committing to 10 acres along the ocean in park. They're committing to a park at the north end, they're committing to a park at the south end which is about eight acres

combined. And when you look at 15 acres that's contributed to the public good at no cost of North Beach property that's probably worth \$3 million an acre, that's a significant contribution to the public good. They've also made contributions toward 13 acres at the Lahaina Recreation Center in Lahaina as well as the development of Kilauea Mauka phases 1, 2 and 3 which added housing to West Maui to the tune of like 300 homes as well as other projects that were done in Lahaina in conjunction with the North Beach development as well as the development of Kaanapali itself. So although it seems like this is not complete from the perspective of the individual parcel, many of the obligations that were made in the past also contribute toward the meeting of the needs of West Maui.

Ms. Amarin: Thank you. Any other discussion or comments Commissioners? I'd just like to throw in my own, this whole project to me is all about innovation, technology, imua as the Hawaiians say go forward. I can respect Commissioner Starr because documentation as he read it he opposed the project and other areas that he has a lot of knowledge on, but this project to me is a good project. We have heard the citizens that live there on the west side and they support the project. It's about culture and it's about again, imua, moving forward.

I have been on an island same size as Maui, they have four million people. Desalination they were into their third year when I was visiting. That place is called Singapore. It's clean, it's sustainability, it presents everything wonderful to the people. I'm not talking about their government. I'm talking about other things. But we need to go forward. A lot of people in Asia this is old school to them. We need to catch up, for who? For our communities. Thank you. We have a motion on the floor, any other discussion? All those in favor.

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

**VOTED: To Accept the Recommendation of Approval of the Special Management Area Use Permit, With the Amendments Discussed.
(Assenting - W. Hedani, B. U'u, K. Hiranaga, W. Mardfin,
J. Pawsat)
(Dissenting - J. Guard, W. Iaconetti, J. Starr)**

Ms. Amarin: Can I have a raise of hands, one, two, three, four, five. Those opposed? One, two, three. Motion carries. Thank you. Director.

Mr. Munekiyo: Thank you very much Commissioners.

Mr. Hunt: Your next item involves Wailea MF-7 LLC requesting a Step 3 Planned Development Approval for the proposed Kai Malu at Wailea project for the development of 75 multi-family residential units and related improvements on approximately 13 acres.

Ms. Amorin: Okay, we'll take a five-minute break. We'll in recess until 3:30 p.m.

A recess was called at 3:25 p.m., and the meeting was reconvened at 3:32 p.m.

Ms. Amorin: ... back in session. Director.

D. COMMUNICATIONS

- 1. WAILEA MF-7 LLC requesting a Step 3 Planned Development Approval for the proposed Kai Malu at Wailea project for the development of 75 multi-family residential units and related improvements on approximately 13 acres of land at TMK: 2-1-008: 116, Wailea, Island of Maui. (PD3 2007/0004) (P. Fasi)**

The Commission may take action on this request.

Mr. Hunt: Your next item involves Wailea MF-7 LLC requesting a Step 3 Planned Development Approval for the proposed Kai Malu at Wailea project for the development of 75 multi-family residential units and related improvements on approximately 13 acres at TMK: 2-1-008:116 in Wailea. The file number is PD3 2007/0004 and the project planner assigned to this is Paul Fasi.

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

Ms. Amorin: Commissioners any questions to the applicant? Commissioner Ward.

Mr. Mardfin: Since I'm still learning, I got the impression that a Step 3 Planned Development is something special but I don't understand what it means exactly.

Mr. Fasi: The Step 3 process is when they're applying for their building permits. They've already gone through the conceptual stage and the planning stage, they've gone before the Urban Design Review body and right now they're applying for building permits. So this is kind of like a final approval for this project.

Mr. Mardfin: Thank you.

Ms. Amorin: Director.

Mr. Hunt: Just to follow up on that. The way the steps work, generally speaking Steps 1 and 2 are combined. Step 1 would be very, very conceptual. Step 2 is site planning and that's where the real analysis takes place and that has gone through as Paul said, that has

already gone through Step 2 before this board in a previous date. Then the Planning Department looks at whether the 3rd step merely meets what was already approved. So we've advised this board in the past that this isn't the appropriate time to start site planning the project all over again. It's just a determination as to whether the construction plans meet what you guys approved in the Step 2.

Mr. Mardfin: So in a sense, it's a pro forma, not exactly pro forma because we have to make sure that things are met but this is not to bring up new objections or anything like that I would take it.

Mr. Hunt: Staff doesn't believe it's the appropriate time. There's some argument among staff and other places that this really shouldn't be a planning commission issue or agenda item, but it is at this point and so we follow the law.

Mr. Fasi: Step 3 is basically to let you know that we have reviewed the product and let this body know that they have met the conditions of what they presented to you in Step 1 and 2.

Ms. Amarin: Corporation Counsel wants to make a comment and then followed by Commissioner Starr.

Mr. Hopper: Well, just a comment for your information, in your report listed under, "Applicable Regulations" it does cite the exact section of the code that deals with what a Step 3 approval is so you can look at the criteria and what exactly you'll be doing so that would be a helpful thing to read.

Ms. Amarin: Commissioner Starr followed by Commissioner Hedani.

Mr. Starr: Yeah, on the previous go round on this there was discussion about how much runoff was going to be retained on site and if my memory serves me well, there was the applicant had made a claim that they would work to retain I believe it was 30% over or 20 or 30% over the – 30% of the predevelopment runoff, in other words, it would not only retain all the, you know, the delta, the increase in runoff but some additional and I just want to see if that has been complied with.

Mr. Mich Hirano: My name is Mich Hirano with Munekiyo and Hiraga and our firm is representing the applicant with this proposal. We have in the basin volume calculations that the available storage is greater than required. The required storage I believe is 328 cubic yards and what will be stored is 493.7 cubic yards. That's how I read this table from the engineer.

Mr. Starr: Okay, thank you Mich and thank you for being proactive and complying.

Ms. Amarin: Thank you. Any other questions Commissioners? Commissioner Hedani.

Mr. Hedani: Yes, Paul, this particular project how did it relate to the affordable housing criteria and was that, I assume that's met, right?

Mr. Hirano: Yes, Commissioner Hedani I understand that this application I think was submitted prior to the affordable housing, workforce housing, was that – I'm sorry I'll ask Stanley Lu, Project Manager, to discuss how they're doing the affordable housing.

Mr. Stanley Lu: Yes, we are subject to the affordable housing, workforce housing requirement and we're looking at various options right now, but we will meet the 50% requirement.

Mr. Hedani: Thank you.

Ms. Amarin: Thank you. Commissioner Pawsat.

Ms. Pawsat: Is this a gated community?

Mr. Fasi: Yes it is a gated community in Wailea.

Ms. Amarin: Any follow ups? Any other questions Commissioners? Seeing none, do we have any other individual – At this time I'll open it up for public testimony. We have any individual in the audience, I see none that wishes to come up and speak on this agenda item. Public testimony is closed. Your recommendation Paul.

Mr. Fasi presented the Recommendation.

Ms. Amarin: Commissioner Hedani.

Mr. Hedani: So move.

Mr. U'u: Second.

Ms. Amarin: We have a motion on the floor to approve by Commissioner Hedani and seconded by Commissioner U'u. Discussion? Commissioner Ward.

Mr. Mardfin: Is it too late to ask a question?

Ms. Amarin: No.

Mr. Mardfin: I wanted to know what, you have an archaeological preservation area, I was wondering what was there.

Mr. Hirano: There are two archaeological preservation areas that have been retained on site. This one I believe is a cave feature with some archaeological petroglyphs on this particular site. There is a, is it a 30-foot buffer around the archaeological site and this is some rock formations, this particular site right next to it and that's being preserved.

Mr. Mardfin: And how will the petroglyphs be preserved?

Mr. Hirano: There's just going to be a barrier. They're going to be basically in their natural state and they will just be preserved through a buffer area around the site, a 30-foot buffer area. There will be no other markings or anything to bring attention to that area actually, and that was recommended and approved by the State Historic Preservation Division. But there will be no barrier around the site if that is what you were kind of asking for, asking.

Mr. Mardfin: I was just curious what you were going to do because they're real easy to deface.

Mr. Hirano: I'm sorry, it's a 10-foot buffer around the site, 10-foot buffer I stand corrected.

Ms. Amarin: Commissioner Pawsat.

Ms. Pawsat: And so, is – but it's not accessible to the public? I mean, this is still all surrounded by a big fence, right? Or where is the fence line?

Mr. Hirano: Is there a – I don't think – there's a wall.

Mr. Lu: It's a steep gulch where the drainage goes.

Mr. Fasi: I've seen the area where the petroglyphs are, it's not an area you'd want to go into. It's just a deep, steep ravine.

Ms. Amarin: Commissioner U'u followed by Commissioner Ward.

Mr. U'u: I've been in projects and areas where they found petroglyphs and by leaving them at times in a natural state, nobody knows. It's mostly covered with brush and the people who go and look at these really got to search and find. If they don't pinpoint it, you will never know. But I seen some in that area throughout that gulch, I think if that's the gulch

it starts off from Kula and comes down to Kihei, but I've seen it and sometimes leaving it in a natural state because you would never know at times. So I give the guys a lot of credit for finding the petroglyphs because it is looking for a needle in a haystack or even less because certain times of the day you can't see it. I think in the morning is more visible when the sun is not on it, but when the sun is directly on it it's almost invisible. So if you see it early in the morning, best chances behind the brush you'll be able to see it, but in the afternoon it gets tough. That's my mana'o.

Ms. Amarin: Commissioner Ward.

Mr. Mardfin: It's probably already been done, but I'd suggest that somebody photograph it well under good conditions so it could be and I wouldn't know what to do with it from that point, but something ought to be done.

Mr. Hirano: Yes, there was a archeological inventory survey done of the project area and all the resources that were found were recorded and documented and filed with the State Historic Preservation Division and there are photographs of this particular site and drawings of what those petroglyphs look like.

Mr. Mardfin: Thanks.

Ms. Amarin: Any other discussion or questions for the applicant, Commissioners? Seeing none, we have a motion on the floor. All those in favor?

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

VOTED: To Approve the Step 3 Planned Development Approval.
(Assenting - W. Hedani, B. U'u, K. Hiranaga, J. Guard, W. Mardfin,
W. Iaconetti, J. Starr)
(Dissenting - J. Pawsat)

Ms. Amarin: Any opposed, we have one opposed. And we have seven in favor. Motion carries.

Mr. Hirano: Thank you very much Commissioners.

Ms. Amarin: Paul.

Mr. Fasi: On the Planning Department's behalf in the future if the Commissioners require any type of information that you feel we haven't sent to you please call because we're not aware that we'd be requiring something and so use us, you know, we're your resource and

if you want something, you just have to make it known to us and we'll get it to you. Thank you.

Ms. Amarin: Thank you Paul. Director.

E. APPROVAL OF MINUTES AND ACTION MINUTES OF THE OCTOBER 23, 2007 MEETING

Mr. Hunt: Your next item involves the approval of the minutes from October 23rd.

Mr. Hedani: Move to approve.

Ms. Amarin: We have a second?

Mr. Iaconetti: Second.

Ms. Amarin: We have a motion on the floor to approve minutes of October 23rd by Commissioner Hedani and seconded by Commissioner Iaconetti. Any discussion?

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

**VOTED: To Approve the Minutes and Action Minutes of October 23, 2007.
(Assenting - W. Hedani, W. Iaconetti, K. Hiranaga, J. Guard,
B. U'u, W. Mardfin, W. Iaconetti, J. Pawsat, J. Starr)**

F. DIRECTOR'S REPORT

1. Planning Department's Follow-Up Report on Matters raised by the Maui Planning Commission at the February 12 meeting.

Mr. Hunt: The next item involves the Director's Report. The first item under that is the Planning Department's follow-up report on matters raised at February 12th planning commission meeting and I have not had a chance to do any follow-up on that.

2. Planning Commission Projects/Issues

Mr. Hunt: The second item involves planning commission projects and issues. This item is an agenda item where you can bring issues and projects to our attention or even amongst yourselves.

Ms. Amarin: For the good of the commission, we have any comments from the

commissioners.

Mr. Guard: We're still being overburdened with our agendas.

Mr. Hunt: There's, I believe there's another item further on, Item 4 under Director's Report where we will talk about scheduling.

Ms. Amarin: Any other comments? Commissioner Ward.

Mr. Mardfin: On Item 3. I had checked in advance, but I had attended this meeting. They did have a meeting of the Hana Advisory Committee last week, I think it was last week Thursday and they asked that they publicize it some more and hold another hearing in Hana. I guess that was it.

Mr. Hiranaga: Are we getting ahead of the ball here?

Mr. Hunt: Technically we haven't closed out Item No. 2 which is for non-agendaed issues and projects. You folks can talk about, bring them to my attention, etc., and then Commissioner Ward we'll go to Item 3 after that, is that okay?

Mr. Mardfin: Oh, I apologize.

Ms. Amarin: Any other comments on Director's Report No. 2.

Mr. Guard: I got a comment just to follow up from something a long time ago. Anything ever happening with possible signage on projects to notify the general public that doesn't live within 500 feet? I know we talked about this last Summer I believe and someone said they were – it was already being worked on, I just don't know how long that's going to take. The Big Island does it, they put a big billboard letting you know that this site's going to be developed. So I think it would help the general public, have a little – they'd know how much is out there.

Mr. Hunt: Without to committing to doing that, I will commit to talking to staff in reviewing that issue.

Mr. Guard: Yeah, without your commitment, but we'd already talked about it and people said it was in the works last Summer so it's more of a follow up than anything.

Mr. Hunt: Yeah, I'll ask them what they meant by in the works.

Ms. Amarin: Any other comments or questions Commissioners on No. 2? Moving along,

Director. Commissioner Ward's question.

3. **February 1, 2008 Transmittal of Council Resolution No. 08-5 received on February 5, 2008 referring A Draft Bill to Authorize Home Occupations in Various Zoning Districts to the Lanai, Maui, and Molokai Planning Commissions. In the resolution, the Council requests that the Maui Planning Commission obtain the advice of the Hana Advisory Committee prior to transmitting its recommendations to the Council. (J. Alueta)**

The Commission may act to authorize the Hana Advisory Committee to provide input on the draft bill before the Commission considers its recommendations on the draft bill.

Mr. Hunt: The third item involves transmittal of Council Resolution 08-5 received on February 5, 2008 referring a draft bill to authorize home occupations in various zoning districts to the Lanai, Maui and Molokai Planning Commissions. In the resolution, the council requests the planning commission obtain the advice of the Hana Advisory Committee prior to transmitting its recommendations regarding these bills to the Council.

Ms. Amorin: Again, Commissioner Ward.

Mr. Mardfin: Yeah, I was wrong in what I said a few minutes ago. This wasn't what we dealt with at the Hana Advisory Committee. The Hana Advisory Committee dealt with two major issues one of which was a new development for low income house lots and they were bringing that for preliminary thing.

Mr. Hunt: Was the other one the hospital or medical facility?

Mr. Hopper: No, the other one – I wouldn't get too far off the agenda. I know this is a broad item to be scheduled on the – but I think what Hana did discuss was the landfill.

Mr. Mardfin: Yes.

Mr. Hopper: And that was deferred.

Mr. Hiranaga: Madam Chair, lets stick to the agenda please. The agenda is whether we're going to forward this draft bill to the Hana Advisory Committee not what occurred at the Hana Advisory Commission meeting.

Ms. Amorin: Okay, Commissioner Ward stands corrected. Commissioner Starr.

Mr. Starr: Yeah, move that it be forwarded to the Hana Advisory Committee.

Mr. Hedani: Second.

Ms. Amarin: We have a motion on the floor by Commissioner Starr, seconded by Commissioner Hedani to forward this to the Hana Advisory Committee. Director.

Mr. Hunt: Just an FYI, the bills intend to streamline and allow for home occupations in more zones. Right now technically they're not allowed in most zones and they require special permits. The Planning Department and the Council both believe this is arduous and it's not good planning. And so in essence the bills would provide for home occupations as permitted uses in most of the zones. So just to give you some background information.

Ms. Amarin: Any other discussion? We have a motion on the floor.

It was moved by Mr. Starr, seconded by Mr. Hedani, then

VOTED: To Forward the Bills to the Hana Advisory Committee for Comment.
(Assenting - J. Starr, W. Hedani, K. Hiranaga, J. Guard, B. U'u, W. Mardfin, W. Iaconetti, J. Pawsat)

Ms. Amarin: Motion carries. Director.

4. Possible scheduling of special meeting(s) to reduce the current backlog of project applications ready to go to the Commission.

The Commission may take action to schedule special meeting (s).

Mr. Hunt: Item No. 4 involves possible scheduling of special meetings to reduce the current backlog of project applications ready to go to the commission.

We talked about this I believe in a recent meeting, was it last, I thought it was, I believe the consensus was that the commission didn't want to schedule special meetings at this time. That we would start meeting at 8:30, earlier, we would take a 45-minute lunch, shorter breaks, manage our time better including the public and our own deliberations and I thought that was the consensus. We're okay with going along with that, we have a number of issues that will be coming your way and I guess what we're saying is we just need to monitor make sure we do implement that and check back in and see if the list is getting pared down or not. And if it's not getting pared down then staff will come back and ask that we revisit that, but it's an issue, the list at this point is growing and we're also looking at

managing it better in terms of the agenda, setting the items in order.

We have to hold public hearings for certain things by law so we're scheduling those first then comes the communications which are either items that don't need a public hearing or are follow-ups where the public hearing already went. So today, that was the Lot 3 was a follow-up and then other item was the Step 3 which doesn't require a public hearing. So we are attempting to put what I would call old business ahead of new business that doesn't require a public hearing. So for instance this afternoon's agenda we scheduled the Lot 3 because it was old business ahead of the Step3. We think that's fair. So that's one of the items that we're doing on managing the agenda.

Ms. Amorin: Commissioner Hedani.

Mr. Hedani: Well, actually I apologize for being late for today's meeting again. I thought it was at 9:00 a.m. But I wouldn't be adverse to having special meetings if it's something like the General Plan, you know, that has a time fuse attached to it that needs to be hurdled within a certain number of days personally.

Ms. Amorin: Commissioner Hiranaga.

Mr. Hiranaga: Yeah, I agree. At that point in time when the community plan or General Plan update comes before us, I'm not opposed to having special meetings for those, but at this point I really want us to concentrate on time management within the allotted meeting schedule we have now. And hopefully what we discussed in detail at the last meeting will start to be applied.

Ms. Amorin: Commissioner Starr.

Mr. Starr: You know, I disagree and that I think we should add some more meetings because I know there's a huge backlog, but I do accept the time constraints that a lot of the commissioners are under, you know, I'm under some myself. But I do think that what might help us get through stuff and also the kind of fairer to the applicants would be when we have a large item that we'll have testimony and we'll have, you know, a lot of consultants and so on that those be put at the top of the agenda or after, specifically after lunch so that we don't end up with 30 people sitting and waiting while we deal with a, I wouldn't say a more trivial item but an item that has, you know, kind of a narrower degree of consequence. And then when we do have a number of similar type of items say a bunch of B&Bs or TVRs or something that we stack those together and it may enable us to get through stuff faster and we can avoid the issue of having a room full of people sit and have to wait while we go through something that may not concern them.

Ms. Amarin: Thank you good comments. Director.

Mr. Hunt: Is there consensus on stacking or grouping similar applications especially ones that we consider more administrative such as B&Bs and TVRs because we are going to be getting a bunch of those coming through? You guys okay with that?

Ms. Amarin: Commissioner Hedani.

Mr. Hedani: Is there a way that we can avoid it altogether?

Mr. Hunt: We're working on legislation.

Mr. Starr: Yeah, get the bills done.

Ms. Amarin: Commissioner Hiranaga.

Mr. Hiranaga: Previously we had the discussion about the Chair becoming more involved in the scheduling of the agenda. We had requested the Chair meet with the department as far as scheduling of the agenda. I'm hoping that that is happening because I think that's one of the roles of the Chair is to be involved in the scheduling of the agenda and not leave it to the total discretion of the department. So I'm hoping the Chair will be involved in the scheduling of the agenda with the department.

Ms. Amarin: You know I'm into fifth year and this is the first year that the Chair got involved as far as I know with the Planning Department and I don't mind it. I did have two meetings with them, with Clayton and our Director here. We try to schedule an appropriate agenda for a meetings. But if the body requests and want this so be it. I have no qualms about not doing it. It's for the best of the commission and this body. Director.

Mr. Hunt: And we have no problem in even, we're fine with meeting with the Chair to coordinate the agenda. I think everyone needs to realize that there's last-minute things that happen and Clayton just, if something's not ready he just has to pull it off the agenda because someone's rushing out the door to get it to print, those kind of last minute things. So as long as people understand, every day to day crises that we all deal with.

Ms. Amarin: Any other comments, Commissioners? Commissioner Hedani.

Mr. Hedani: You know I was concerned when I got the letter from William McCorrison about passing a hurdle date or a drop dead date for approval whereby it becomes automatically approved so my perspective on that is if we could just double check and be cognizant of the fact that there are fuses attached to certain things and see whether or not

there's a technological way of clubbing ourselves over the head before it passes that date somehow.

Ms. Amorin: Director.

Mr. Hunt: Yeah, I agree with the Corporation Counsel's opinion that it only applied to non-SMA or other non-Federal, State delegation. So I think that gives us some breathing room. I think the idea of a time line is good, it forces us to move along and be more efficient and we'll explore it in relation to the or how it affects the non-SMA applications.

Ms. Amorin: Any other comments on this agenda item? Moving along, Director.

- 5. EA/EIS Report**
- 6. SMA Minor Permit Report**
- 7. SMA Exemptions Report**

The next three we usually just discuss them in sync with each other, 5, 6, and 7 involve reports of the EAs which are environmental exceptions. SMA Minor Permits which are under a \$125,000 and the SMA Exemptions which are exempt from the SMA regulations.

Mr. Hiranaga: Madam Chair.

Ms. Amorin: Commissioner Hiranaga.

Mr. Hiranaga: I'd like to suggest that when commissioners have questions regarding this report that then send an email to the director with their questions and if they're not satisfied with the answer then they could possibly bring it up at the meeting versus just asking the director what about this, what about that because I've never known the director to have the answer. So we get this report how far in advance – I mean, we get this I don't know 10 days before the meeting so send the emails to the director so he can have the answers and then he'll send that answer to you and if you're not satisfied then bring it up to the meeting so we don't have to go through this report and listen 10 inquiries as to what this is. I find emails very effective.

Ms. Amorin: Should I have your comment or response to that Director?

Mr. Hunt: I think it's a good idea. I think it actually would be beneficial. My one request is please try and include the file number otherwise we're just lost.

Ms. Amorin: Any your email address?

Mr. Hunt: Jeff.hunt@mauicounty.gov

Ms. Amorin: Commissioner Hedani.

Mr. Hedani: Is it a requirement that you bring it before the commission which is why it's on the agenda or is there a way we can administratively delegate it back to you?

Mr. Hunt: I'll look into that, I believe – well, I better not speak because I don't want to say something wrong. I'll look into that.

Mr. Hedani: Okay.

Ms. Amorin: Any other questions on this item? Moving along, Director.

G. NEXT REGULAR MEETING DATE: March 11, 2008

Mr. Hunt: Next regular meeting date is March 11, 2008. What we generally try and do is ask, is anyone not going to be here on that date? The idea we're trying to confirm quorum.

Ms. Amorin: I'll be here. Anyone who will not be here?

Mr. Hunt: So I hear everyone will be here. Is anyone going to be leaving early, that's the next question we're trying to – in the past, we've had people leave early and we understand that and we're not trying to pick on anyone. It's just information because we lose quorum, it hurts.

Ms. Amorin: Our scheduling will be 8:30 a.m. to 5:00 p.m. Commissioner Hedani.

Mr. Hedani: Just for everybody's information, I did submit a letter to the Board of Ethics for a determination on whether or not I can vote on matters that involve KOA members within Kaanapali and the letter is on file with the Board of Ethics if anybody's interested.

Ms. Amorin: Thank you. So noted. Director.

Mr. Hunt: That's all I have.

Ms. Amorin: With that said, well thank you very much commissioners for your time, your presence.

Mr. Hedani: We finished early.

Ms. Amarin: Yes, and we finished early. This meeting is now adjourned.

H. ADJOURNMENT

The meeting was adjourned at 4:04 p.m.

Submitted by,

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

RECORD OF ATTENDANCE

Present

Johanna Amarin, Chairperson
Wayne Hedani, Vice Chairperson (in attendance @ 9:04 a.m.)
Kent Hiranaga (in attendance @ 9:00 a.m.)
John Guard
Bruce U'u
William Iaconetti
Joan Pawsat (in attendance @ 9.27 a.m.)
Jonathan Starr
Ward Mardfin

Others

Colleen Suyama, Planning Department
Clayton Yoshida, Planning Department
Jeff Hunt, Planning Department
Mike Hopper, Department of the Corporation Counsel
Mike Miyamoto, Department of Public Works