

**MAUI PLANNING COMMISSION
REGULAR MINUTES
APRIL 22, 2008**

Approved: 7/22/08

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Vice Chairperson Wayne Hedani at approximately 8:30 a.m., Tuesday, April 22, 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.)

Mr. Hedani: The meeting of April 22nd, will come to order. Public testimony will be taken at the start of the meeting on any agenda item in order to accommodate those individuals who cannot be present at the meeting when the agenda items are considered. Public testimony will also be taken when the agenda item is taken up by the commission. Maximum time limits on individual testimony is three minutes and a person testifying at this time will not be allowed to testify again when the agenda item comes up before the commission unless new or additional information will be offered. Are there any members of the public that would like to offer testimony at this time? Seeing none, public testimony is closed.

B. ELECTION OF OFFICERS FOR 2008-2009 YEAR - CHAIRPERSON AND VICE-CHAIRPERSON

Mr. Hedani: The first item on our agenda is election of officers for 2008-2009. Since we don't have a full representation at the meeting at this point, I would suggest that we defer this item unless there are objections or if anybody has decided to change their vote. Okay so we'll move onto Item C, Unfinished Business. Director.

C. UNFINISHED BUSINESS

- 1. WAILEA GATEWAY, LLC requesting a Step III Planned Development Approval for the Wailea Gateway Center and related improvements at TMK: 2-1-008: 144 (por.), Wailea, Island of Maui. (PD3 2007/0003) (P. Fasi) (Deferred at the April 8, 2008 meeting.)**

Mr. Hunt: Your first item on your agenda involves Wailea Gateway, LLC requesting a Step III Planned Development Approval for the Wailea Gateway Center and related improvements at TMK 2-1-008: a portion of lot 144 in Wailea. The file number (PD3 2007/0003) and the planner assigned to this Paul Fasi. I believe this is in response to a request for additional information and so perhaps the applicant can provide that information at this time?

Mr. Hedani: The applicant, could you step to the microphone and identify yourself for the record?

Mr. Chris Hart: My name is Chris Hart of Chris Hart and Partners and with me I have Jack Kean who is our client and Steve Marlette who is the architect and I won't go through all the other consultants and Jordan Hart was the planner on the project.

At our last meeting we discussed this project in the context of the approval of Planned Development

Step 3 and at that time we discussed the fact that all of Wailea and all of Kapalua are planned developments and that this project has received its special management area permit by the Planning Commission, approved by the Planning Commission. Also, Planned Development Step 1 and Step 2 and that Step 3, Step 3 Planned Development Approval is essentially what we're asking for and again, our approval for an SMA Permit and Step 1 and Step 2 was October 10, 2006.

According to Chapter 19.32 which is the Planned Development ordinance, Step 3 is essentially approval unified site and building program which is actually the project construction documents that are about 80% completed. So in the context of the approval of the SMA permit in October 2006, the applicant has been pursuing the actual preparation of construction drawings and specifications for the project and has submitted the application for Step 3 Planned Development Approval.

The basic standards essentially, that the development shall meet the construction standards and requirements of the various government agencies.

Also there's a requirement that not less than 20% of the total area of the site,...(inaudible)... shall be common protected open space integrated with lot layout and street system and so. on. If the open space is to be owned in common, by the individual owners within the development and maintained in open space for their common use and enjoyment.

Each building and structure shall be individually designed by a registered architect to conform with the intent of the planned development. And for this project Steve Marlette is the architect.

I should indicate that Bill Mitchell of our office is the registered landscape architect and the project has been reviewed and recommended for approval by the Maui County Urban Design Review Board. That landscaping for the entire development including along streets, within lots and open space shall be provided and then it talks about in terms of the overall Wailea Resort planned development that adequate recreational community facilities be provided and that provision shall be made for adequate and continuing management of all open space and community facilities to ensure property maintenance and policing. Document to said effect shall be prepared – be required.

The project profile. There are two commercial buildings comprising 37,872 square feet. There is outdoor common areas and five kiosks, onsite parking for a 168 stalls, landscape planting and sidewalks, associated on and off site infrastructure improvements on 28,950 square feet of open space which in this particular site calculates to 20.93%.

The parcel location again is at the intersection of Piilani Highway and Wailea Ike Drive right at the main entrance to the Wailea Resort.

This is MF-11 which is a 12-lot A & B site subdivision which has been approved and is under construction and this is our Wailea Gateway site.

This is the landscape planting plan for the project. This would be Piilani Highway at the intersection at Wailea Ike Drive and the project, building A is setback from Piilani Highway and building B is actually built into the bank and essentially appears as a one-story building.

This slide shows substantial drop. This is the Piilani Highway. You can see that the bank drops down. This would be building B, this would be building A and then this actually shows the section across the site from Wailea Ike Drive shows that building B is built into the site and appears actually as a one-story building and this would be building A.

This shows the difference in elevation. Again, Piilani Highway and the intersection at Wailea Ike Drive. The actual elevation at Piilani Highway is 318 feet, that's the topographic elevation and a person riding in a car would actually your eye sight because of you know, just the change in height would be approximately four feet above that so it would be 322 feet and then the elevation basically at the building, building A is 300 feet. It's also important to note that the distance from Piilani to the building is 290 feet. That's quite substantially - it's quite a distance away. It's not in your face.

This would be essentially, basically the landscape planting elevation of building A and this would show basically the elevation of building B which again appears as a one-story building because it's built into the bank.

I might ask Bill Mitchell to come up and just explain a little bit about some of the landscape planting at this time.

Mr. Bill Mitchell: Thanks Chris. I think you've all seen this a couple of times, but I think the emphasis as the Urban Design Review Board and your board as well has indicated is to create a landscape that is mature as possible upon installation so that's what we're striving for. Field stock coconut trees, field stock pink tacoma trees along the right of way and the hedging material along the right of way as well will give its initial impact to the project that I think will satisfy everybody as the rest of the material grows in. Thank you.

Mr. Hart: I'd also like to mention that going back to the landscape plan that all the lighting will down lit essentially in accordance with the night lighting ordinance.

This is something that obviously the commission wanted us to provide at the last meeting and I again, apologize that it wasn't covered in the same detail that's been covered this morning but this gives you a sense of the view simulation. Again, this is Piilani Highway, this is building A and I might add that 290 feet is almost the length of a football field you know, from basically where you're sitting and looking at the building. This is building B which is again built into the site. So from the public view aspects of it you're essentially seeing similar to one-story building. And again, this would actually be approximately 22 feet below your sight, your eyes as you were driving by on Piilani Highway, building A would be 22 feet below.

This is essentially the preproject condition that exists, you know, at the site. So driving along Piilani Highway this is what actually appears or did appear. This is a simulation of of MF-11 which shows the single family residential structures that are actually under construction at this time. Again, this is another simulation of 11 structures with street tree planting incorporated into the project.

This is the Wailea Gateway Center reduced the height by approximately 3'8" so it's not four feet, it's 3'8", three to four feet. And this was done again by essentially decreasing of the grade of the parking lot. In other words, increasing the slope across the parking lot so that the elevation in this

area is basically three feet lower and then there were some modifications of course, that were made architecturally to the building in terms of height.

This shows Wailea Gateway Center and the MF-11 simulation. So this would be building A and building B and these would be the MF-11 homes. This would be the Wailea Gateway Center with the mature landscape planting and again, these are trees that are not going to be 25 gallon trees that are going to be put into the ground. We were required by the Urban Design Review Board once again, to do basically field stock specimen trees. So this is essentially the appearance of the project, you know, with the incorporation of the landscape planting and the parking.

And again, we were asked to basically address essentially the principles, you know, of LEEDs certification in the context of our project and at the time, this was basically a period when the planning commission was raising the bar and there wasn't really a requirement that the building actually become LEED certified but that basically we would incorporate the principles of LEED certification into the building and so that it could be considered basically more energy efficient and more green, and we did that and we are very close to being LEED certified. We have enough points to be LEED certified.

And this shows basically the roof plan with the solar collectors and the other mechanical equipment. Again, Steve Marlette is here and if we want to discuss this further we can certainly do that with him. Thank you very much.

Mr. Hedani: Questions for the applicant from the commission? Commissioner Guard.

Mr. Guard: The base elevation of 300 feet is that pre- going down another 3'8" or is that the end result?

Mr. Hart: That's after.

Mr. Guard: So right now it's 303'8".

Mr. Hart: Yes.

Mr. Guard: Okay. And then what's the peak elevation? I'm just flipping through this but you might be able to answer that faster. On building A mainly. Building B I don't think is an issue.

Mr. Steve Marlette: My name's Steve Marlette with MT Architects. I'm the project architect. Generally, when we brought this through the commission the first time, the first two times for SMA approval, our finished floor elevation was at 302. Since that point in time we lowered the finished floor elevation to elevation 300. So we knocked off about two feet on the overall site and then lowered the overall building height from 35 feet total height down to 33'4" I believe is what it was. So generally what we - to attempt to reduce the overall mass we've lowered the site and then we pulled the parapets and squished the building down as much as we possibly can to still keep all of the screening of the air-conditioning units in place. So overall it's about a 10% reduction in overall height. I believe the red line that you saw in those overall projections was the previous height that was previously approved.

Mr. Hedani: Other questions from the Commissioners? Commissioner Starr.

Mr. Starr: Thank you for doing a good simulation. You did a good job with it. Could you bring it up again and switch back and forth directly between the predevelopment and finished, you know, with the buildings and trees in it, just those two slides.

Mr. Marlette: Would you like to see the individual or you're just looking for the two?

Mr. Starr: Just those two, back to the predevelopment. Thank you.

Mr. Hedani: Any additional questions? Commissioner U'u.

Mr. U'u: Yeah, what is the elevation of the road? Did you guys bring it up or I missed it? Road elevation?

Mr. Marlette: It's at – it varies a little bit, but directly in front of the center is at elevation 318. The elevation of the road is 318.

Mr. U'u: Okay.

Mr. Marlette: And then what we have done is we've brought it up to eye level generally, roughly four feet higher than that.

Mr. Hedani: Additional questions from the Commission? Commissioner Guard.

Mr. Guard: Regarding the landscaping, I don't know if there'd be – the potential to possibly hedge out that whole guardrail system. There's a similar project that was built in a view area and they promised everyone you weren't going to see the buildings above the highway, that this wasn't going to be an issue and it was going to have this country town feel. So I guess every new development has to address these concerns that in previous years people have come and promised these things and it – they didn't work out. I mean, the bay is blocked by these buildings, they're well above the fence. There was supposed to be this country town feel and people just are afraid that the same thing is going to happen possibly here. So to put in pink tacomas I don't know if there'd be the potential to put in a thicker aalii hedge all the way across that might be a little more drought tolerant down there and maybe I'm wrong on what type of plant to use. Obviously the view impact is there. If you look at the houses they have significant setbacks. I believe there's a setback between every dwelling and then this one is – It's a massive wall. So I don't know if there's – the potential to just almost hide that whole thing and then the only view is going to be once you pass that turn down, bam there's Kahoolawe, there's the bay, there's Lanai in the background. But until then, it's obviously that that's blocking a significant amount of view.

Mr. Hart: Which is blocking, the building or the –

Mr. Guard: Well, I guess the landscaping, right? I guess if we could get – we don't need to very high that people would have to – their only line of sight would be up versus down.

Mr. Marlette: Exactly. Steve and I were just talking about that. The reality is that we have bougainvillea on the slope but right behind the guardrail we have that natal plum hedge and that natal plum hedge maintained about three and half to four feet will do exactly what you're describing.

Mr. Guard: Okay, well, three and a half to four feet is about what we were just discussing. If I'm sitting in this chair,

Mr. Marlette: Correct.

Mr. Guard: I could look right over that hedge and still look down.

Mr. Marlette: Depending on the height of the car. The three and half to four feet it's going to basically put you at eye elevation on the roof peak, beyond it. So you'll see over the top – right over the top of the hedge and right over the roof peak without getting higher than roof peak so it's not taking any of the ocean view beyond that. But essentially accomplishing, you don't see the parking lot in front. You might see a little bit of the elevation of the roof beyond because the distance, the horizontal distance you have but it does accomplish that. I think the other concern and it's well-spoken is the issue of maintenance on these projects is – we design a plan, the architect has a plan and then it really comes down to the long term maintenance of these projects. The advantage we have here is twofold. One is the developer is going to own and maintain the project. The second is it's in the WCA, and Wailea Community Association is extremely uptight about quality and level of landscape maintenance within the district. So I think we have a much greater probability of maintaining this and I know Jack wants it to look, you know, attractive.

Mr. Guard: Does bougainvillea have the potential of getting ratty looking versus something more native. If you're riding a bike on that, along that guardrail and all of a sudden you have to go into traffic because the bougainvillea thorns are coming at you.

Mr. Marlette: Well, the bougainvillea is planted down the slope. If you want to flip back to the landscape plan, the bougainvillea is planted down within the body of the slope and we tend not to use the purple which is the one gets ratty, gets real big, woody, and almost goes to a tree form. We like the more prostrate forms and the idea on that it breaks up the massing, the slope and it gives you a lot of color and it's very low maintenance as well. But point well made. Yeah, it's all about the variety.

Mr. Guard: Okay, because that's in the project. I'm just trying to think about what general public is going to have to see. More people are going to drive there to go past and not everyone is going to be making that U-turn to come to this project I'm assuming.

Mr. Marlette: Sure, sure.

Mr. Guard: With how many visitor count come to Wailea area.

Mr. Marlette: Yeah, the primary view from the highway is going to be natal plum hedge, the top of the pink tacoma trees and then we've also framed both sides of the project with coconut trees to give you a sense of approach to the Wailea entry there on Ike Drive as you come down. So we're giving it some vertical view framing before you get to the intersection. So you'll notice a cluster of

coconut palms here and there's another cluster here in front of the walls and this is the existing coconut grove feature there at the Wailea entry.

Mr. Guard: And pink tacomas are fairly drought tolerant? I mean, they're good for Kihei terrain?

Mr. Marlette: Extremely drought tolerant.

Mr. Guard: For being – trying to go after LEED certification here.

Mr. Marlette: We used natives as well, milo and kukui and a couple of others. The pink tacoma gives us a little more color and it's a smaller tree, real maintainable versus the shower trees and some of the larger trees. And the developer secured the field stock trees that are going to be along the highway here and I was just mentioning to Blanca, we're recommending that they contract grow all the trees for the project to have a quality and size right off the bat. Just the pressure of landscape material in Maui County it's been hard to secure nice quality trees for the initial installation on projects.

Mr. Hedani: Additional questions? Commissioner Guard.

Mr. Guard: That's one of my fears is I don't want it to come back saying, oh we couldn't find the proper size trees and we're stuck with zero landscaping looking right down at the building in a barren landscape and having the excuse, oh shoot, all these other developments been taking all the good trees.

Mr. Marlette: Point well taken and we've – and Jack has agreed that they will contract grow material especially the trees, the smaller plant materials are not the issue but trees and they've already secured the coconut trees, the field stock coconut trees for the bank and then the area in front of the building. But it's certainly an important component of the initial impact of the whole plan for sure.

Mr. Guard: Additional questions from the Commission? Commissioner Pawsat.

Mr. Pawsat: Yeah, looking at this I don't have any real big problems with it, I mean, just in general I mean it's very suburban you know. Considering we're trying to get away from sprawl this is really kind of sprawl but just nicer and this is a strip mall but it's nicer. But that being said, so do you suppose you can make the parking lot nicer too. Chris in other projects you used different materials, can you guys, since you have more money start like designing the parking lot? Like put different materials in there and make it interesting. I don't know what that would be, but actually design the parking lot, you know, nicer. Use different materials and not just like a couple crosswalks but actually design it. You know, make it really nice like it should.

Mr. Marlette: Sure.

Ms. Pawsat: I don't even know what that means. I mean, you guys could make some sort of, you know, foliage pattern with different pavers or something like that that go throughout that – a whole design that goes throughout the whole parking lot, something like that and then I think that would

just – it goes with Wailea more.

Mr. Marlette: It breaks it up. Sure. We can take a look at that.

Mr. Hedani: Additional questions from the Commission? Commissioner Guard.

Mr. Guard: I feel like I'm beating a dead horse because I did approve this earlier on but it was based – this isn't actually for landscaping any more, if there's other questions for landscaping, I'll let those go first.

Mr. Marlette: Thank you.

Mr. Guard: Building A, 12,000 feet so I'm assuming 6,000 each floor. Is that correct?

Mr. Marlette: It's actually a little bit bigger than that. It's about 7,000 or so each floor.

Mr. Guard: Oh, it's not 12,460?

Mr. Marlette: Pardon me?

Mr. Guard: Oh, outdoor seating area.

Mr. Marlette: Yeah.

Mr. Guard: Okay. So give or take that, I guess in October '06, I'm starting to feel like I was had or that I went on promises of oh, we're really going to evaluate the view and dropping it three feet versus possibly giving up a few hundred feet either in the middle to create a keyhole, if you look at building A right below there is the subdivision cul de sac and I believe if there as a cut in there with either like a nice trellis like they used to have at the Maui Onion down In Wailea. People like to sit outside and you already have some outdoor seating. The Shops at Wailea have outdoor seating on a few of their restaurants.

I know the issue was oh, we don't want noise for the 11 houses around us, but I feel like it would create a very interesting addition to your architecture to have more of a double side or cutting it off. It would take away from the massing. And I guess being the dreamer that I was, on oh hey we really want to do the right thing, we know you guys are here to protect the shoreline that would have really helped. And I don't know if that was even considered. I mean we're talking about 500 to a thousand feet. So I guess that's the only answer is to heavily landscape it. Is that?

Mr. Marlette: No, we did investigate this in half a dozen different location and everything. As you recall in all of the previous submittals during –

Mr. Guard: Well, the parallel buildings, the –

Mr. Marlette: Move the building around and things like and – go back to the site plan. What we did determine is there is, you know, keyhole view that you're talking about is developed generally down

at this point. We did options for reducing a piece of this in areas and everything else – you know, we weighed the odds of okay, we've got the whole backside of this – where we're really trying to screen the backside of this out very heavily to protect the privacy and everything of these various homes back in here. So there was a little give and take one way or the other actually and still came back to the conclusion that you know, lets attempt to preserve the privacy of what's going on here as much as possible. I believe that keyhole view that you're I think referring to at this location and attempt to reduce the mass of this as much as we possibly can in its entirety down rather than taking a piece off of the end or something like that.

Mr. Guard: On either end.

Mr. Marlette: So invest heavily I guess you might say in what we have to work with which is back at this point for your keyhole view and reduce the mass of this as much as we possibly can. But it's sort of, I think what you're talking about is a little bit of and we still need to give and take between protection of the neighbors in the back and buffering of the neighbors in the back versus opening the whole thing up which is I think just the opposite. So the people on the other side of us have a little bit different motivations I guess you might say.

Mr. Guard: Yeah, but they'll be eating at that restaurant.

Mr. Marlette: They probably will.

Mr. Guard: So they might live with it better. Okay, yeah, I just – I really don't know what my job is in protecting the view. I don't know, if someone was asking me to protect something and I really feel like I'm not protecting anything.

Mr. Hart: Could I just point – Commissioner Guard, I understand you know, your concern but, you know, when we were looking at this, the mass of the building because or the fact that it's basically 22 feet below the road and the other aspect of it is that it's 290 feet away, if it was in your face, if it was built up Piilani Highway, the concept of basically architecturally changing the roof line and actually opening it up with a view would be you know, a really relevant proposal. But you know, when you're essentially looking at something that's basically 22 feet, the elevation is 22 feet down and it's 290 feet away, you know, the actual amount of view that you're going to get by just separating the elements of the roof is going to be just so negligible and that's what we looked at. So what Steve Marlette was talking about in terms of you know, the actual features that exist in terms of an open space in the site you know become more relevant in terms of opening the project. And I think that the intention here was to basically screen the building as much as possible from the view – from the highway view, Piilani Highway view and so that's the approach that was taken.

Mr. Hedani: Additional questions Commissioner Pawsat.

Ms. Pawsat: Just to follow up, just comment wise on what Commissioner Guard was saying. You know, architecturally, I mean, technically there's infinite possibilities of what you guys can do and it can be nicer and I see this a lot with all these projects going on architecturally. You know, I just, I look at them and I'm not convinced you guys spend a whole lot of time designing the project. I think you spend a lot of time preparing the presentation materials but I just, you know, it's – to think

of all the things you could build right there and then that's what – you guys have all this money and like that's what you come up with. It's just kind of sad actually.

And what's on the second floor? Is that all shops too?

Mr. Hart: It wouldn't be shops, there'd probably be offices. Jack maybe you would like to comment.

Mr. Jack Kean: We haven't leased it all yet, so the zoning allows for office, stores or restaurant. We've been getting inquiries from a variety. My guess is it won't be your prime retail, it would be more office oriented because that seems to be more the inquiries we have on that level.

The other thing I wanted to mention too about the design, we actually reviewed in detail between our last SMA hearing and this, what we can do about the roof and so forth and we, our approval is very specific what we had. We had an SMA approval for a building that allowed us to start working on working drawings and it was the context of that building. So when we went back to look at how to reduce the mass lower the elevation was the most appropriate way because we're not allowed to change the building a lot under what was already approved, not that we really wanted to, but the reality is that was what our approval process had come up with so we stuck with it and we talked about how to get the building down.

Mr. Hedani: Commissioner Pawsat.

Ms. Pawsat: Let me make this one point. These buildings remind me there's that building. It's a office building in the parking lot of Queen Kaahumanu Center. It's kind of if you're looking at Queen Kaahumanu Center from Kaahumanu Avenue, it's in the right, it's in the parking lot and that's basically what this project is. You know, that's all I'm saying. I really feel like you guys need. I mean, you guys could create something really – I mean, this is a great spot. You know, it's in Wailea. You guys have an opportunity to build something and you're building a box, a couple of boxes in the parking lot really. And not going to negate, you know, I'm not going to say you guys can't – I'm not going to vote no on it, I'm just trying to get you guys to build something interesting. I mean, you guys need to loosen up. I mean, you know.

Mr. Hedani: If there's no questions from the Commission – Commissioner Guard.

Mr. Guard: I guess going back to the October meeting, maybe in the minutes I seem to remember being told let us keep moving forward we're going to look at the view. So either we need to just not have people say that, and I guess, I'll take the blame for letting it go through then and maybe we could have stopped it then. I know Steve is probably going to be back in front of us again and Jack probably will as well. So, I mean, I feel like you got me.

I want to talk about materials of being used. I'm looking at materials and resources on LEED certification of not being really that high. So I don't know if this is going to be a concrete building. We want to make sure if we're going to look at this building it should be nice for 40, 50 years and what kind of materials you're thinking about using, insulation benefits to reduce the electric bill for LEED certification I think that would – you must have a lot of background in that.

Mr. Marlette: We do have a lot of background in that.

Mr. Hedani: Mr. Marlette.

Mr. Marlette: Steve Marlette, MC Architects. Yes, when we went through this general checklist and how we developed the building and everything else we've looked at the various line items and generally what we would qualify for points and we used the LEED core and shell checklist with the various listings of things that qualify for various things. So general building construction is concrete with metal studs and EIFS exterior finish system which is probably half of the buildings in Wailea are generally the same product type. We've beefed up the insulation values, the R values in the walls to – are 11 plus, the roof are 19 plus. We're using the reflective roof materials to cut down on solar absorption on the overall building. There's a tremendous list of other things that we have looked into for energy efficiency as far as air conditioning systems, high efficiency air conditioning systems. Air conditioning that is not a full building air conditioning system but individual units for individual suites such that the whole building doesn't have to be running and sucking electricity when only one tenant is open the rest of the building can generally be shut down. Energy efficient lighting, everything on photo sensors and things like that. So we're using waterless urinals, low flow toilets.

Mr. Guard: Because regional materials, like is concrete regional material? Do you know? Either on Oahu or other buildings? I'm just looking at material and resource. I was just –

Mr. Marlette: It's tough to get the regional materials here –

Mr. Guard: Because you're bringing in the cement.

Mr. Marlette: Because you're bringing just about everything because we don't actually make anything. You can use things that are recycled if possible and if available there are becoming a few more things like that like a jyp board product or becoming a little bit available but that's hit and miss because of supply.

Mr. Guard: So concrete doesn't account a building material?

Mr. Marlette: Not typically because it's all imported, mixed here, but it's all imported.

Mr. Guard: Just the cement is imported, correct?

Mr. Marlette: The cement is imported. Yeah.

Mr. Guard: Okay.

Mr. Marlette: I mean the aggregate, they're using all the local aggregates and things like that but no, it generally, that doesn't actually – you don't get points for that.

Mr. Hedani: Thank you. Commissioner U'u.

Mr. U'u: Yeah, question Steve. So the finished floor elevation's at 300.

Mr. Marlette: Correct.

Mr. U'u: The road elevation is at 318.

Mr. Marlette: Correct.

Mr. U'u: When sitting in your car or depending your car type it's at 322 which would make it a 12-foot difference. That's not bad.

Mr. Guard: 33-foot high building.

Mr. U'u: 33 feet high building, but my house is about 30 feet.

Mr. Marlette: Most houses will be up that high if not higher actually.

Mr. U'u: For me I can swallow that. I can swallow that being it's set back and it's dropped. You know, nothing's perfect but 12 feet difference, that's not bad. I think why you guys take the brunt, take the blow is because it's in a high visible area, I think that is why. But sitting in my car with a 12 feet that's heavily landscaped wouldn't be too bad. Nothing good, nothing great but not too bad.

Mr. Hedani: Other questions? Commissioner Pawsat.

Ms. Pawsat: Do you have to use EIFS? I just am not convinced EIFS ages really well. I think it stains easily and I know you can kick it and put a hole in it.

Mr. Marlette: The plan is using an upgraded form of EIFS that's called Stolit and we're seeing it on a couple of houses recently in Wailea and it doesn't have the necessarily the texture to it. It almost looks like a stone product by the time you're done. And it goes directly on like a dense glass or cement board substrate which it makes it a awful lot harder. So it doesn't have – it's on foam in other words.

Ms. Pawsat: So you can't spot it. It's not like that ceiling speckled, you can't spot it as easily as it's far away.

Mr. Marlette: No.

Ms. Pawsat: Yeah, EIFS I'm not a big fan but if there's been like I don't know new developments in EIFS, you know, that's –

Mr. Marlette: There has been. There's some vandal resistance and things like that over time. You know, everybody's getting away from using the form which you can kick a hole in and you can cut and things like that and so generally, we will only use a foam product once you're way up out of reach and things like that on some ascent, things like that.

Ms. Pawsat: Is there a warranty on the EIFS?

Mr. Marlette: Typically. It typically comes with a 25-year warranty.

Ms. Pawsat: 25-year warranty, and so what do you guys do after that? It's just maintenance? How do you guys replace?

Mr. Marlette: You know, it's just like everything else it takes maintenance on it and an EIFS building generally is meant to be power washed every once in a while.

Ms. Pawsat: Oh that's what it is, you don't have to – does it crack do you have to put product over it?

Mr. Marlette: Not typically. It's an(inaudible)... coating generally that goes over the top of it and it bridges all the cracks. So most of the people are using it now versus like a stucco plaster system does do a lot of cracking. So with synthetics seems to be working out a little bit better than the stucco systems.

Mr. Hedani: Additional questions? Seeing none, thank you very much. Commissioners, what's your pleasure? Commissioner Starr.

Mr. Starr: Yes, you know, I voted against this project when it first came before us because I had concerns over the view. I'm sorry I'll miss that view I'm sorry to see it go, but I do feel that their stuck within the framework that we gave them and I don't want to punish them for trying to do the best they can with it and I appreciate some of the things they done. And I do feel that, you know, we need to keep trying to raise the bar as far as you know, architectural and efficiency. But in any case, I move that we approve the Step 3 Planned Development Approval for this project.

Mr. Hedani: Motion by Commissioner Starr to approve Step 3. Is there a second?

Mr. U'u: Second.

Mr. Hedani: Seconded by Commissioner U'u. Discussion? Seeing none – oh, Commissioner U'u.

Mr. U'u: Just a comment. I'd like to thank Chris Hart for bringing up and showing us the photos that we asked for.

Mr. Hedani: Commissioner Guard.

Mr. Guard: Yeah, I would second that comment. It was good for us to see. I mean, we know it's going to be there and I really think the landscaping is going to be our best alternative and I just – I apologize to the developer if you had been the first guy in line but I think previous projects in the neighbors and previous commercial developments have made promises that didn't work out and now future people bear the brunt of that.

Mr. Hedani: Additional discussion? Commissioner Pawsat.

Ms. Pawsat: Yeah, I'm fine with passing this but just because it just seems like yeah, upping the bar architecturally on this island seems to maybe it's a transition process, but it really kind of kills me to approve this because just architecturally the massing of it, it is too just rectal, and your buildings in the middle of the parking lot, you know, and I feel fine approving this now, but yeah, I don't know how long I can like toss these bones in to gnaw on, you know, because it seems like whenever we have criticism everyone takes the attitude like, oh, we're being a pain in the ass and we're just trying to kill the project but it's about you know, making the island have nicer architecture because you know, if you guys just developed strip malls everywhere it's not going to be that interesting for anybody. Urban planning wise it doesn't work, so -

Mr. Hedani: Thank you. Additional Comments? Director.

Mr. Hunt: I just want to be sure you're approving what's proposed today. This is before you for a second time. The original proposal has been revised based on today's presentation and so that's what the Planning Department will expect from the developer.

Mr. Hedani: Additional discussion? Question to the developer. You folks will take into account the comments that were made today relative to addressing taking another look at the parking lot?

Mr. Hart: Yes, Commissioner Hedani and Commissioner Pawsat, we did talk about that and we talked about using some different textures like concrete, patterned concrete and so on in key areas, entries and to parking lanes. So I think that yes, we'll definitely look at that. There is already an incorporation of some decorative concrete crosswalks and so on, raised crosswalks in the parking area so yes, we will look at that.

Mr. Hedani: Thank you. Additional discussions? Ready for the question? All those in favor signify by saying aye. Opposed nay.

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

**VOTED: To Approve the Step 3 Planned Development Approval.
(Assenting - J. Starr, B. U'u, K. Hiranaga, J. Guard, W. Mardfin,
D. Domingo, W. Iaconetti, J. Pawsat)**

Mr. Hedani: Carried. Thank you.

Mr. Hart: Thank you very much.

Mr. Kean: Thank you. Some good comments.

Mr. Hedani: Okay, going back to Item B, Election of Officers for 2008 - 2009 Year, Chairperson and Vice Chairperson.

B. ELECTION OF OFFICERS FOR 2008-2009 YEAR - CHAIRPERSON AND VICE-CHAIRPERSON

Mr. Hedani: We had two nominations at our last meeting. Some of the commissioners were not here. Commissioner Starr as well as myself were nominated for chairman and we voted and deadlocked and punted and we're here today. Are there any other nominations that you would like to make for the position of chair at this time? Okay, seeing none, Commissioner Starr do you want to make a statement?

Mr. Starr: Just that I think we are looking at opportunity of continuing to raise the bar and whatever happens lets work together to try to do that.

Mr. Hedani: All those in favor of Commissioner Starr for chairman, please signify by raising your hand.

The following commissioners raised their hands: J. Guard, W. Mardfin, W. Iaconetti, J. Pawsat and J. Starr.

Mr. Hedani: Five. We have five votes. Commissioner Starr, can you please take over the meeting.

Mr. Starr: Okay, thank you. Can we take a short recess? Five minutes.

Mr. Hedani: Five minutes.

A recess was called at 9:18 a.m., and the meeting was reconvened at 9:27 a.m.

Mr. Starr: Okay, our planning commission meeting is back in order. The floor is open for nominations for the position of vice-chair.

Mr. Iaconetti: I'd like to nominate J. B.

Mr. Hedani: Microphone.

Mr. Iaconetti: I'd like to nominate J. B. for vice-chair.

Mr. Starr: Okay, do we have a second to the nomination of J. B. Guard?

Mr. U'u: I second that.

Mr. Starr: Okay, are there any other nominations for the position of vice-chair? Seeing none the nominations are closed. So all in favor of election of J. B. Guard for the position of vice-chair please say aye. Any opposed? Congratulations.

Mr. Guard was unanimously voted as vice-chairperson.

Mr. Guard: Thank you. I'll do my best to limit my other extracurricular activities, but the reason I was concerned about it is just my highschool coaching but I'll try to work around that in the next. I'm done until November, December so it's only a few meetings.

Mr. Starr: Well, thank you for being willing to serve and I'd like to thank Wayne for taking us this far and doing it well. And just a really brief statement in that I want to thank you for giving me the honor and I do look at it as an honor and I look at it as an opportunity for us to really try to work together as a team, find ways to be more efficient and spend time on the important issues and doing so, try to raise the bar in terms of keeping and making Maui a better place and that our future and the future of the people want out in the community is what we help bring them.

So I'll be looking for commissioners to come forward with ideas. I intend to be innovative and thoughtful on how we can be more efficient. How we can be more effective and get some of the stuff that is maybe a little less important off our plate and some of the stuff that is more important give more thought to it. So ideas in that direction and help in doing that I'd love to hear about it and work with the department and Corp. Counsel. I think we can have a really good year and do a lot of good.

Any way, moving right along. We have three items that are really similar in terms of items 1, 3 and 4. In the middle of them we have item 2 which is kind of a separate issue. Perhaps the resolutions and bill for ordinances on the three items we might want to take together in which case we would want to move the Lahaina Christian Fellowship either ahead or behind those other items on the agenda. So if that's the pleasure of the body someone is welcome to make a motion to move Item 2 which was recommended by the director.

Mr. Mardfin: I move that we deal with Item No. 2 at this point, move it ahead of Item 1.

Mr. Iaconetti: Second.

Mr. Starr: Okay, all those for that? Raise your hand. Anyone opposed?

It was moved by Mr. Mardfin, seconded by Mr. Iaconetti, then unanimously

**VOTED: To Take Up Item No. D-2, Before Item No. D-1.
(Assenting - W. Mardfin, W. Iaconetti, K. Hiranaga, J. Guard,
B. U'u, D. Domingo, J. Pawsat, W. Hedani)**

Mr. Starr: So we're going to be moving Item 2, the Lahaina Christian Fellowship up ahead of the three items that are county initiated actions. So I'll turn it over to the Director an introduction to this item.

Mr. Hunt: Just to clarify on rearranging your agenda, I believe it takes a super majority and since there were no votes, we'll assume that was unanimous. So just to clarify.

Mr. Starr: That was unanimous.

Mr. Hunt: The item that we're going to take up now involves Pastor Larry, I'm sorry if I mispronounce it, Elies of Lahaina Christian Fellowship requesting a time extension of a Land Use Commission Use Permit for the Lahaina Christian Fellowship sanctuary located on approximately 2.2 acres of land in the state agricultural district at TMK 4-3-010:031, Kahana. The file number is

SUP2 95/0005 and the staff planner assigned to this is Simone Bosco.

D. PUBLIC HEARING

2. PASTOR LARRY ELIES of LAHAINA CHRISTIAN FELLOWSHIP requesting a time extension of a Land Use Commission Special Use Permit for the Lahaina Christian Fellowship Sanctuary located on approximately 2.28 acres of land in the State Agricultural District at TMK: 4-3-010: 031, Kahana, Island of Maui. (SUP2 950005) (S. Bosco)

Ms. Simone Bosco: Good morning Commissioners, I have letters of testimony as well that I need to hand out and while Carolyn is handing out the other exhibits, I'm going to go ahead and pass these out. I believe there's about 10 letters of testimony in support of the request. Okay, thank you, sorry about that.

Okay, what I had passed out or what Carolyn has passed out actually is a site map of the property. It also shows the drainage patterns. It has a topo map on it. Shows where the property is located at the corner of Ala Hoku Place and Honoapiilani Highway in Kahana. There's also some photographs provided for you of the completed church, the Lahaina Christian Fellowship and I'm just going to give a brief summary of the project.

Ms. Bosco then summarized the Maui Planning Department's Report.

Mr. Starr: Okay, members any questions? Dr. Iaconetti.

Mr. Iaconetti: I pass this area very frequently and the building is a great addition to what we had there with the tent. I'm wondering if you have plans to have more planting so that it looks a little more – looks better.

Ms. Bosco: Yes, very good. The applicant's landscape planting person is here. The person that did the landscape planting plan so I can bring her forward if you'd like. I can't answer that question immediately because she knows the entire plan, but we did approve a landscape planting plan for the project and I was very happy with what they provided on paper, but I'm not quite sure how far they are along on the landscaping so I can bring her forward if you want.

Mr. Starr: Doc, do you want to see a detail on that?

Ms. Bosco: I have the map if you want to see it. I have the landscape planting plan.

Mr. Iaconetti: Yeah, I'd like that and the view from the highway looking at it there is still a lot of construction material around. I assume that's all going to be cleaned up and the view from the highway is going to look a lot better.

Ms. Bosco: I'll have the applicant answer to that. Thanks.

Mr. Starr: Okay, can we hear from the applicant? Really briefly on that.

Ms. Bosco: Can you introduce yourself?

Mr. Larry Elies: I'm Larry Elies and I'm the original applicant for Lahaina Christian Fellowship and as far as the cleaning up, yes, we're just waiting till every – you know, we're a little bit unsure of exactly what is going to have to be done to clear up the remaining issues. So if – but as soon as that's cleared up, yes, everything will be removed. So it will be – and that whole front area we intend to grass that whole front as soon as we can so that will look real nice from the highway. And I think you can tell from some of those pictures a lot of those trees and plants are young but they are in. All the hedge around, you know for the snow bush. So it's just now a matter of growth but most of those trees are in, in fact, I think all the trees are in at this point.

Mr. Starr: Okay, thank you very much. Any other questions for the applicant or for Simone? Joan.

Ms. Pawsat: Yeah, I just want to say I agree with Commissioner Iaconetti, that's the only concern I had about looking at this was the landscaping and if that berm which it looks like it's going to be a berm with grass on in it if you guys at some point in the future when you can, you know, I just encourage more landscaping. I realize it's undergrown, but it's still you know, you can't have enough really.

Mr. Starr: Okay. Yes, Commissioner Mardfin.

Mr. Mardfin: I have two questions. First one is, my understanding is what you're asking for is a time extension on fulfilling some of the conditions is that correct?

Mr. Elies: Well, no actually it's for our special use permit because it's in a –

Mr. Mardfin: A time extension on your special use permit?

Mr. Elies: Yes.

Mr. Mardfin: So that you can finish up what?

Mr. Elies: Well basically we have to have the special use permit, right? Oh, I guess – okay.

Ms. Bosco: You're required to keep a special use permit current through time extensions. It has a sunset. So time extensions will always have – I mean, special use permits will always have time extensions, that's the reason why the department is recommending a 10-year, otherwise they would need to keep coming back and keep coming back. So the construction of the church is completed by and large but we want to try and give them a more than what would be typical which is a five-year.

Mr. Mardfin: Okay. And so they're doing this, one, so they don't have to come back as often and it's a special use permit because it's not a regular permitted function to have a church in this particular area.

Ms. Bosco: That's correct. You're needing a special use permit in this state and county – the state

land use district actually requires a special use permit for a church here because it's agriculture.

Mr. Starr: Okay, Ward go ahead.

Mr. Mardfin: And my second question has to do with, it seems that you had a problem with noise. It also seems like you've taken care of that problem. The letter of May 19th from Robin Clark, I was very impressed by the way they said, we got these complaints, this is what we do. We got this complaint, this is what we did. I take it there's nothing that's come up in terms of complaints. Your neighbors are all satisfied?

Mr. Elies: Actually we were hoping to have written testimonies from several of our neighbors that are very happy with our – the situation right now. In the building you cannot – you have to listen real careful on the outside to hear anything that goes on inside the building even if it's loud. So the building has taken care of all of the noise problems. The tent because of course it had no sound help was a problem. So we had to basically we couldn't use anything electronic under the tent just because of the sound issue.

Mr. Mardfin: Good. Good luck. Convey to Robin Clark that I thought she did a good job of responding to things. I like to see that. This, that, this, that, this, that and I really liked it.

Mr. Starr: Okay, Commissioners any other questions? Seeing none, I'd like to open the floor for public testimony on this item. Any members of the public if you wish to testify please step forward and I request you to be as brief as possible, in no case longer than three minutes, but less is better please.

a. Public Hearing

Ms. Robin Clark: I'm Robin Clark. Good morning Members of the Planning Commission. I've been a resident of Maui for the past 30 years. I've also been a member of Lahaina Christian Fellowship for about the same and I currently am on staff. Being a part of this church I've experienced a variety of ministries that have opened its doors to many people.

Through Lahaina Christian Fellowship, one of the ministries that was brought to Maui was Teen Challenge. Some of you are familiar with the ministry to young and old alike with life controlling problems, drug addiction, alcoholism, abuse. I'm here as a spouse of a graduate. Because of this ministry many people are now contributing members of our community becoming pastors and business owners. Giving back by helping others turn their lives around. One of the graduates went on to obtain her PhD at the University of Hawaii.

Lahaina Christian Fellowship was directly involved with Teen Challenge being a support to the graduates as they continued their rehab in the outside world. But sadly the facility of Teen Challenge was taken back by the owners and consequently shut the door on ministry and help to the community. Today as our communities struggle with many people suffering from abuse there is one less resource to help because of lack of facilities.

I appeal to you renew our special use permit because having our building makes a difference. Just about a month ago, a man walked in the foyer of the church and said, help me everything's falling

apart, I need help right away. I need help for my wife and kids. He was a recovering alcoholic and needed as much support to make it through. Because we were there we accommodated him and his family and he's been doing much better than the day he walked in. Now he has more hope and strength to deal with life without turning back to alcoholism.

Another man came recently to the island to work as an electrician at the Ritz Carlton and he came to heal from family problems and he was drawn to our church partly because he said it looked like a nice building, a place I would like to come to and he noticed our building every time he passed to go to work.

As we waited to complete our new building we were operating temporarily out of our tent. I would suggest to our ministry leaders and volunteers to keep up our first class service and heart to everyone who comes in the doors and don't wait for the building. Like, oh if we build it they will come. During our tent years we maintained a really small congregation and to my surprise when our building came up, was completed with a beautiful foyer, equally beautiful restrooms, closed in safe rooms for our children's ministries and I say that because in the tent they were on the patio. It leaked when it rained. There's now restrooms for the kids, a nursery for babies. We had no nursery at all. And again, to my surprise, when we built it they came. I don't know from where. All of a sudden they were showing up every weekend. Our congregation has tripled. We started –

Mr. Starr: Please wrap Robin.

Ms. Clark: Okay. For our families, we started serving families that businessmen, high performance people and people with credentials. So I, you know, want to appeal to you that if we can continue our special use permit, we could reach lives so they can make a difference in the community. Thank you.

Mr. Starr: Thank you. Any questions? Any other testimony? Please come forward and please try to keep it brief.

Ms. Melany Turner: Hi, I'm Melany Turner and first I'd like to thank Simone. She was a great help with the landscaping input. So that was, thank you very much. I've been with Lahaina Christian Fellowship for 21 years and I would like to say that Maui County needs Lahaina Christian Fellowship. Absolutely, you know, I have watched and we still, Maui and LCF helps people that are need, whether they're homeless, whether they're addicted to drugs, alcohol, behavioral problems. I have seen it and it continues to happen. It's been active for 40 years. We have seen generations, not just one, but more than one generation. I took a road trip around America and when people leave Maui they go and they make better life for their families and their children. When they stay on Maui they make better life for their families and children.

Lahaina Christian Fellowship meets the needs of the spiritual side of Maui County. It is very important that we catch that. We focus on reaching, it's not about us, it's about reaching others, it's about helping others. Whatever the problem is, we help families, we help individuals. That's what Lahaina Christian Fellowship is about.

I asked my daughter this morning, she's 13, I said, Heidi do you think LCF should be here? She

said, mom, tell them it's a place to hang out and have fun, that's encouraging rather than being on the streets. I asked two young men today, one in the late 20's and another early 30's, tell, we need it, we young men need it because we want a place to hang out that's healthy. It's a healthy environment and these guys are just work class young men. Maui needs Lahaina Christian Fellowship. The County of Maui needs LCF because we need and we're part of the tag team to see Maui County move and improve. Thank you.

Mr. Starr: Thank you. Any questions? Any other testifiers? Please come forward.

Ms. Jill Hess: Hi, good morning. My name is Jill Hess. I'm an employee of the Department of Education and I'd like to read my personal testimony. I remember as a teen walking through the door of Lahaina Civic Center and finding Lahaina Christian Fellowship. An overwhelming sense of a place of acceptance resided amongst the congregation. Pastor Larry and Diane Elies welcomed me with a safety net of love and encouragement. I found a place that I could make the right choices for my life with a group of precious people cheering my every step. That was over 25 years ago.

Through the years I've seen this church persevere meeting in a variety of locations purposely focused on the day that they would have a permanent building to call their own. Each step of the way Pastor Larry and the congregation of Lahaina Christian Fellowship never lost their vision of welcoming all and being a safe, loving church who have been instrumental in such a positive way to so many.

After moving back to Maui after many years I was thrilled to see that Lahaina Christian Fellowship had built beautiful church building. I have witnessed over and over again, people coming through the doors finding not only a congregation of faithful people filled with aloha, but a home, a permanent building, a stable environment, something to represent consistency for all who come. There are quite a few young people as well who now call LCF home. I see something familiar in many. Their lives filled with chaos, a stable environment is far from what their home lives represent and yet they find a safe place and a positive growth within the four walls of this church.

I cannot stress enough the importance of allowing this building to be all that needs to be for the people of West Maui. The location is easy to access and the response to the open doors has been more than wonderful. Thank you for this consideration in granting us this permit. Thank you so much.

Mr. Starr: Thank you very much. Any questions? Any other members of the public wishing to testify please come forward. Please try to keep it brief as possible. Thank you.

Mr. Lon Briggs: Briefly as possible. My name is Lon Briggs, 24 years ago, I was hooked on drugs, hooked on alcohol. Because of Lahaina Christian Fellowship being in the community my life has absolutely and totally changed. I haven't had to do drugs, haven't had to do alcohol, 24 years. Not being a productive citizen in the community back then now for the last 12 years I've had my own electrical contracting company. I've been a part of building all of the Emerald Plazas in Lahaina which has been a blessing to the business community. So anyway, because of Lahaina Christian Fellowship being there and still there, it's changed my whole life. Thanks.

Mr. Starr: Thank you. Questions? Next testify? Seeing none, public hearing is closed.

b. Action

Mr. Starr: Members what's your pleasure? Commissioner Mardfin.

Mr. Mardfin: May I ask a quick question of the applicant?

Mr. Starr: Yeah, please.

Mr. Mardfin: Two things. One, can you tell me what, in general, how you're financed? You wouldn't be getting government funds would you?

Mr. Elies: No we don't.

Mr. Mardfin: So the faith-based initiative doesn't –

Mr. Elies: No, it's totally from within the congregation, ...(inaudible)...

Mr. Mardfin: The second thing I'd like to say, it sounds like you do a lot of work with special problem areas. It sounds like more than most churches although I could be wrong on that. And there's a lot of places where the NIMBY principle, not in my backyard, but it sounds like you've overcome that and people in your backyard don't mind you being there. So congratulations.

Mr. Elies: Thank you. Thank you.

Mr. Starr: Okay, Members? Yes, Commissioner Hedani.

Mr. Hedani: Can we get the recommendation?

Mr. Starr: Yes, staff recommendation.

Ms. Bosco presented the Recommendation.

Mr. Starr: Okay, Commissioner Hedani.

Mr. Hedani: Simone, although the renderings and the photo perhaps and the construction seems to indicate that they have downlighting in the park lot was that a requirement of the standard conditions that we normally attached?

Ms. Bosco: No, it wasn't a requirement. And it usually – actually, I would have to direct that question to the applicant to see if it's downlit, but I know that the lighting was inspected by the Department of Planning. So it went through an inspection and they approved it.

Mr. Hedani: I guess my question is why it wasn't just a standard condition that we normally attach?

Ms. Bosco: Didn't come up in any of the extensions as something that the commission wanted and I don't normally – you know, I can't say, this was in 2001. If you would like we can add something like that, yeah.

Mr. Hedani: I don't think it's necessary since it's already built at this point.

Ms. Bosco: Okay.

Mr. Starr: Okay, Commissioner U'u.

Mr. U'u: Motion to approve.

Mr. Hedani: Second.

Mr. Starr: Just for clarification does the motion include the conditions as amended?

Mr. U'u: Yes, amended.

Mr. Starr: So any further discussion? Seeing none, all in favor of the motion to approve with conditions as amended and with the new project specific condition added by staff, please signify by raising your hand. Okay, it's unanimously. There's obviously no opposed since everyone is for.

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

**VOTED: To Approve the Time Extension of the Land Use Commission Special Use Permit, with Conditions as Amended.
(Assenting - B. U'u, W. Hedani, K. Hiranaga, J. Guard, W. Mardfin, D. Domingo, W. Iaconetti, J. Pawsat, J. Starr)**

Ms. Simone: Okay, thank you. I'm sure the church is very happy, so thank you.

Mr. Starr: And welcome Staff Planner Simone, but I know you'll be missed on the other side.

Before we proceed with our next three items, I had a request during the break by our former Planning Director, Mike Foley, who could not be with us earlier and cannot be with us later and he had, was wishing to give a short testimony on the Pali to Puamana and had made a request that he be allowed to testify out of order. I know that's unusual and certainly if any member objects to that we will not do it. Is there support for allowing previous Director Foley to give us his manao on this? Yeah, go ahead Wayne.

Mr. Hedani: I'd like to encourage us to go ahead and take his testimony at this time as long as his knees aren't visible on the camera.

Mr. Starr: I think that's a fair condition. Does anyone have a problem with this? Go ahead, you've got three minutes.

Mr. Mike Foley: I'm speechless. Thank you very much for allowing me to speak out of order. I had no idea that you had moved the meeting start from 9:00 a.m. to 8:30 a.m. I always had trouble getting here at 9:00 a.m.

My name is Mike Foley and I'm speaking as an individual. I live in Lahaina and I'm not representing any organization. So Chairman Starr, Members of the Commission, Director Hunt and staff, I want to briefly address the final Environmental Assessment for the Pali to Puamana Parkway project. I encourage you to adopt the environmental assessment. The commission last reviewed it almost exactly a year ago and I hope that you will accept the environmental assessment and I also want to encourage the commission to proceed as soon as possible with the community plan amendment for the Pali to Puamana Parkway and the change in zoning for the parkway area from agriculture to park.

I hope that you will not wait for the adoption of the Maui Island Plan and the new West Maui Community Plan before you change this area from agriculture to park because there will be parcels of land sold during that time that may be acquired by State or Federal or County or private non profits to help create this park. So it's important that this project proceed as soon as possible. It's been a long time in the making, the parkway.

I also wanted to very briefly correct a couple of mistakes that are in the paper this morning. There's a letter to the editor that includes a couple of mistakes about this project. The most significant of which is that from the beginning the goal of this project has been to create eight miles of open space from the Pali to Puamana or the Pali to Lahaina. It's never been the intention of having manicured parks during that whole area. There would be individual beach parks operated by the County and State as there are now with the majority of the land would be open space for surfing and fishing and public access not manicured parks. And it's never been goal for the area to be all maintained by the County. It seems like it would be an impossible solution, but rather that it be a combination of State maintenance of their parks, County maintenance of some parks and private adoption perhaps by homeowners associations of some of the areas along the eight-mile stretch and maybe a bike club would like to adopt the bike path for eight miles.

Mr. Starr: Okay, try to wrap Mike.

Mr. Foley: That's all I have unless there are any questions?

Mr. Starr: Questions for the testifier? Doc Iaconetti.

Mr. Iaconetti: Mike, I'm sure you've heard the same concerns I've heard about the likelihood that much of the shoreline will be developed by developers and rather than having it – leaving it in ag and switching it to park does that prevent development in that area?

Mr. Foley: It would be a strong step in that direction. Right now the majority of the property is zoned agriculture and it's being divided up as we speak into ag subdivisions which don't require any public hearings or any planning commission review and it's possible that parcels along Launiupoko, Makila and Olowalu would be sold and developed while, you know, we're waiting for this community plan amendment to happen and change in zoning. So changing it to park is putting people notice that

it's the intention of the County and State and the Feds to buy this property for a parkway. So yes, it would be a step in the right direction to preventing development along the shoreline. We don't know exactly how far mauka the highway will be moved, that's being studied as you know by a Department of Transportation Taskforce. I've been attending those meetings as have County representatives. But the plan is to have a parkway from the ocean up to that new alignment if possible for the entire eight miles. There would be some difference in Olowalu because there would be some development between the new highway and the old highway. But the goal is to avoid any more development right along the coastline for that eight miles.

Mr. Iaconetti: And then I'm clear that changing it to park would make it less likely or very unlikely to have private development along here?

Mr. Foley: Yes.

Mr. Iaconetti: Thank you.

Mr. Starr: Any other questions? Okay thank you for – Oh, Commissioner Hedani, please.

Mr. Hedani: Hi, you know, the concern over development on the makai side of the highway I think is a very significant one and I think the step that we're taking is in the right direction. The other thing that I noticed that's disturbing is that in the agriculturally zoned areas there's a very precious view towards the mountains that should be preserved and I'm seeing development occur in the most bizarre fashions where they're actually chopping up the top of bridges, they excavating into the side of mountain with a driveway for an agricultural use that is shibai. I mean, it's not real, it's baloney.

Mr. Foley: Right.

Mr. Hedani: And I was wondering if you had a comment on that?

Mr. Foley: Yeah, basically the problem is that there are inadequate standards or inadequate process for the review of ag subdivisions they should be reviewed by a public hearing before the planning commission. There was legislation to that effect three years ago but there was disagreement about who would have the public hearings and how large the subdivisions would have to be before they would be reviewed by the planning commission so the whole idea of having public hearings on ag subdivisions just basically got shelved about three years ago.

There are also inadequate standards regarding grading. I notice the Public Works Department is represented here but the County doesn't really have any strong standards allowing or prohibiting the grading of very steep property even if it creates future drainage problems. And only in the last six months or so have there been roads carved into that hillside above Launiupoko and above Makila and I think a lot of people are alarmed that grading was allowed. But those are private driveways and the County doesn't really have adequate regulation for grading on steep slopes. But the main thing we need is public hearings and planning commission review of large agricultural subdivisions, not one or two or three lots, but large agricultural subdivisions with, you know, 10 more lots.

I wanted to mention also that the County did purchase a hundred acres at Ukumehame for \$4 million about three years ago and the County, it would be really nice if the County put some money in the budget every year to buy a parcel or two along this eight-mile stretch because the view of the mountains is every important as well as the view of the ocean and the view is going to be changed really dramatically when the highway is moved 800 or 1,200 feet mauka.

Several years ago the taskforce on this parkway and the consultants and the staff walked the proposed alignment and we were really surprised to see how different the coastline looks when you're 800 or 1,200 feet away from it instead of right now when you're being washed by the waves.

Mr. Starr: Okay, any other questions? Okay, thank you Mike. And thanks for your work in helping preserve the shoreline.

Mr. Foley: Thank you. And thank you for letting me speak out of turn.

Ms. Starr: Okay, Director next item.

Mr. Hunt: Next item involves the Planning Department transmitted Council Resolution No. 08-05 containing a draft bill to authorize Home Occupations in various zoning districts to the Lanai, Maui and Molokai Planning Commissions. The planner in charge of this is Joe Alueta.

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

1. MR. JEFFREY S. HUNT, Planning Director transmitting Council Resolution No. 08-05 containing A Draft Bill to Authorize Home Occupations in Various Zoning Districts to the Lanai, Maui, and Molokai Planning Commissions. (J. Alueta)

Mr. Joe Alueta: Good morning Commissioners as you know I'm your administrative planning officer and I handle your legislation and rule changes for all the commissions as well as when you get like resolutions. So there's two methods that which we could get bills or laws adopted. One can be by resolution which comes down from the County Council or one is initiated by our department. With regards to amendments to Title 19, the Charter requires that all three commissions or the commissions that are impacted by the rule change to Title 19 review it. You're allowed, there's a 120-day window in which you get to have it, where you have to hold the meeting within a certain period but you must return comments within a 120 days back to the County Council. As I like say, we don't have a zoning jail so if you don't make the 120 days no one is going to come and arrest your or me, thank you, but they do have the ability to act without your comments. So that's all.

Today we actually have one resolution from the County Council dealing with home occupation and then we also have two other ordinances that are initiated by our department. The first one is, again, is the resolution coming out of the County Council. You have till June 4, 2008 based on my calculations to return comments back to them.

Basically what this bill does is establish home occupation. There's currently a definition within the Maui County Code called defining what a home occupation is. I copied that out to give you an idea

of what the existing code says and that's attached as your Exhibit 2. So if you go to Exhibit 2 in the staff report, that's how the home occupation is defined currently. Okay.

And what the Council resolution does, their proposed resolution and bill, and that's attached as Exhibit 1 of the staff report is all it does is add home occupations to make it clear that home occupations are allowed within – in the residential districts as an outright permitted uses.

Prior to this resolution, even though home occupations were defined it wasn't clear as to where it was allowed. We did have administrative rules that basically allowed for home occupations within the residential districts and we created our own standards to interpret it. However, this resolution would provide clarity that it is an allowed use with ...(inaudible - changing of tape)...

.... all of the residential districts and the standards would be set forth as defined. It is unusual that you have the standards for home occupation within a definition, however we will – later on I'll explain that we have some changes that will come forward to you in a few months with our own amendments to the residential district as well as other sections of Title 19. As you know, we are trying to update Title 19 in its entirety, but we are trying to hit the immediate fires and things that's need to be corrected now and cannot wait for a comprehensive review.

So again, the proposed ordinance would add home occupation to the residential districts. It also adds them to the business districts which from our department standpoint we do not feel is necessary. In the review of this ordinance our recommendations primarily we are in support of it and we don't want to delay the passage of it because it does provide clarity. It is a quick fix to Title 19. Again, we would be coming back with more comprehensive change to the residential districts and to other sections of Title 19.

However, things that could be added, we feel that the home occupations should be also listed in 19.29 which is the County Rural District. All of you should be familiar with the County Rural as well as State Rural. The principal use within those districts is single family residences is a principal use. So we feel that wherever is single family residences is concerned the principal use we feel that home occupation would be okay. So therefore, we would recommend adding to it.

We feel that an amendment potentially to 19.04 should be more clear. Right now it says no more than 25% of a house could be used for home occupation. Given the mansions that have been built you could theoretically have if you built a 4,000 square foot house you could have a 1,000 square as dedicated to a home occupation. It's not – I've seen, you know, plans for 8,000 square foot homes as well as 10,000 square foot homes. So you could in theory have someone have a significant size dedicated to what could be still defined as a home occupation. Therefore we would want to see the – add the language where, "it would be no more than 25% not to exceed 250 square feet of floor area." That would just amend the 19.04 definition.

But again, we are in support of the Council's quick fix. We are proposing at some time in the next few months to come forward to you. I did give you a draft of that and that was on page 4, I'm sorry, Exhibit 4 of the staff report. That's kind of just giving you the highlights, again, this is an early draft. I'm not looking for comments today on this, but it's just something that we are working on in a more comprehensive manner with regards to how we want to deal with amendments to Title 19.

Other issues or concerns I guess you could say is the Department of Water Supply. They were one of the only agencies to comment. In summary, they don't have much of an issue with it except for when they – if there is a building permit that is going to be required at the same time or right after they would then hit them with commercial standards. But if you have an existing single family home which is the intent and you come in and you do a – convert one of your bedrooms or two bedrooms for a home office, it would – it wouldn't be required to increase the fire flow and be subject to commercial standards and that's the intent of the home occupation. Are there any questions at this time?

Mr. Starr: Yeah, Commissioner Hedani.

Mr. Hedani: Joe, why would you restrict it to 250 square feet?

Mr. Alueta: We came up with it just out of the air, I mean, based on the size of a room, say a couple of rooms.

Mr. Hedani: Is it the department's perspective that larger than 250 square feet would be a problem?

Mr. Alueta: Could be a potential have an impact. And so we didn't want to leave it open-ended with a 25% cap because we felt that there's the potential I guess abuse with regards to larger structures could create more of a problem.

Mr. Hedani: Okay, I just thought 250 square feet seemed like it was just arbitrary and quite small actually.

Mr. Alueta: We felt that there needs to be a cap. Currently that's under a policy. The initial number came out as a policy when it said 25% but it didn't define exactly where home occupations were allowed. The department policy came up with the 250 square feet. Most rooms if you figure – if you figure a 12' x 12' or a 10' x 12' room is a 120. So I think some people had like 240 square feet and then we just bumped it to 250 to round it up.

Mr. Starr: Commissioner Guard.

Mr. Guard: Thank you. I have a few friends that have kind of home based businesses and they just use their garage. Would there be a problem with that under this bill except for the 250? I mean, a standard garage might be 480 or 500 square feet. So they'd be non compliant?

Mr. Alueta: That is correct because according to the – actually they couldn't be allowed in the garage either based on the existing definition that the County has you have to be within – it has to be within the structure itself not within the garage.

Mr. Guard: Oh, okay. I thought you said something about using the garage or porte cochere, I mean, if it's like a lot of storage for –

Mr. Alueta: It prohibits you to use.

Mr. Guard: As storage as well?

Mr. Alueta: Yes. This is intended to be for like, you have a lot of internet based businesses that can easily operate. Home offices such as, you know, accountants, that a lot of times they go out to clients by they have a dedicated area. And this kind of helps also because people will also from a tax perspective will dedicate an office that's consistent with the Federal IRS tax codes.

Mr. Starr: Commissioner Pawsat.

Ms. Pawsat: Yeah, I work from home and I have an architects office at home and technically like I think the 250 square feet is pretty small. Like me just with like a big printer and all that can – I mean, like 20' x 20' would be like an ideal – I don't have that big – well, yeah, actually my space is 20' x 20' that I use and that's like about the right size but I'm only one person, you know. I don't want to prohibit myself.

Mr. Starr: Are there questions? Yeah, Commissioner Mardfin.

Mr. Mardfin: I have two. One is, in Exhibit 4, page I guess it's not page numbered, it's this page here, it's very hard for me, you don't page number them so it hard to figure out, but Item H says,
–

Mr. Alueta: Pardon me?

Mr. Mardfin: On this page.

Mr. Alueta: No, I'm aware of it. Again, this is a draft copy of what we will come back to you within another month or so.

Mr. Mardfin: I just wanted to comment, it says under H, "traditional domestic type businesses in the home that do not meet the home occupation standards provided there be no detrimental or nuisance effect upon the neighbors." It looks like that only, I can't tell whether that paragraph applies to everything, but that's a very important consideration to have in mind for all home businesses if they don't have a detrimental or nuisance effect upon the neighbors. And if that is read narrowly for some category but not for the whole thing, I think you ought to make it more broad.

The second thing, this is going to take a little bit of time, I went down a whole lot of ideas of things that I think go on in Hana and I'm curious. I'm going to list them off and you can give me quick yes or no is about whether these would be allowed.

Mr. Alueta: Okay.

Mr. Mardfin: A doctor's office operating out of his home.

Mr. Alueta: No.

Mr. Mardfin: A chiropractor.

Mr. Alueta: No.

Mr. Mardfin: Massage.

Mr. Alueta: No.

Mr. Mardfin: Why would then not be? Because they're getting paid at the time?

Mr. Alueta: Again, the definition of home occupation is already there in 19.04, all we're doing is adding it. Again, those types of uses that you talked about either belong in a commercial environment hence, we have BCT, B-1, B-2, B-3 Business Districts. The residential district, the primary, principal purpose of a residential district is to house long term residents of this county. We do have – and so the home occupation, right, needs to be subordinate and incidental to the principal use of that single family residence.

Now in our proposal we do have – future proposal which we are not taking up or approving or anything of that nature on Exhibit 4, I have put in that as a special use permit which would require a public hearing, and come before the appropriate commission. So if you have a doctor's office, a single – or chiropractor, massage where you do not meet the standards of a home occupation as defined you could then petition the planning commission and make your case that you are necessary and that you do not have an adverse impact or nuisance effect on your neighbors. That is something that needs to be determined on a case by case basis. That's why it's under the special use permit category.

Home occupations based on the strict limitations of the home occupation which does not allow for outside clients, outside employees, is deemed based on those strict limitations not to have an impact on your neighbors as well as the neighborhood as well as making it very clear that is subordinate to the principal use of the single family residence.

Mr. Mardfin: So the problem with the three things that I suggested is that they'd have clients and so that's why that would not be considered.

Mr. Alueta: That is correct.

Mr. Mardfin: How about bake brownies, roast chicken, make uliulis.

Mr. Alueta: That would be under home occupation.

Mr. Mardfin: Yes.

Mr. Alueta: Yes.

Mr. Mardfin: It would be.

Mr. Alueta: Yes. According to – if you read the definition of home occupation that's –

Mr. Mardfin: Because you could do things in there.

Mr. Alueta: Yes.

Mr. Mardfin: Computer repair.

Mr. Alueta: As long as you picked it up.

Mr. Mardfin: Mail order company.

Mr. Alueta: Yes.

Mr. Mardfin: Lawyer if you didn't meet clients there.

Mr. Alueta: Yes.

Mr. Mardfin: Catering.

Mr. Alueta: Yes.

Mr. Mardfin: I'm just going down – stuff that occurs in my neighborhood. I'm just trying to figure out what's allowed and what isn't allowed.

Mr. Guard: Don't turn any addresses.

Mr. Mardfin: I won't. Economic consulting.

Mr. Alueta: Yes.

Mr. Mardfin: That's mine. Okay, thank you very much.

Mr. Starr: Commissioner Guard.

Mr. Guard: Two questions. Definition of a flower and truck garden, mainly the truck garden. That's Exhibit A as already being.

Mr. Starr: How do you grow trucks?

Mr. Guard: Just making sure my derelict truck aren't out of the code.

Mr. Alueta: Where did you see that again?

Mr. Guard: Exhibit A.

Mr. Alueta: Oh, the County Council's?

Mr. Guard: That was like the – where was it – more out of curiosity.

Mr. Alueta: Basically you have a greenhouse, you grow bromelia or anthuriums and then when you sell it, you load it up on your little pick up truck and you take it over to Home Depot or Lowes or Ace Garden, but you do not sell from your site, but you have a greenhouse or something like that at your backyard.

Mr. Guard: And then last one is back to the 200 feet, I know it happens a lot upcountry and I did it as well and it's happening in quite a few areas. You'll have someone's garage and they'll have a bunch of weight equipment and people will come in for training and is the problem –

Mr. Alueta: Special use permit.

Mr. Guard: Special use permit no matter what.

Mr. Alueta: Yeah, because one, it's not in the house itself. Two, you have people coming there other than people who live on the premises.

Mr. Guard: Even if you're baby sitting them?

Mr. Alueta: That's you know – I'm not going to get into details but that's how – when the drafted, crafted that definition way back when, I mean, back in the late '90's I think and came up with that definition the Council wrestled with it long and hard and remember, you're trying to not make it commercial. You're trying to just – for those, the 80% of the people out there who are doing "home occupations" this is going to resolve their problem, 80, 90%. These are the ebay people, home consulting people, okay. It's when you try to Christmas tree hang that I like to call it and that is, you got a bill that's really great and all of a sudden, well, what about this situation? You know, I got this and I want to have – and you keep adding stuff and all of a sudden you lose the intent of that bill. All of a sudden you blow it for the 90% because when it gets to Council, they go, oh my God, you just turned the residential district into the commercial core and that's not the intent. And we see that, and you see that a lot with other bills, but that's the whole point of have a State special or a County special use permit is that you then come in, if you don't meet this criteria you have to come and have a public hearing and convince the community as well as this commission or any other commission that you are not going to be detrimental for those unique situations. And you get your permit or you don't get your permit.

And over the years that I've processed many State special use permits as well as County special use permits, we've had people who have grown their business to the point where they go you know what, I like my neighbors more than making this. I've already taken up my entire house with candle making or chocolates, I'm going to go – and they go out and they rent or they go buy a commercial space and they find themselves, when they're to that point in the growth in their business it's well worth it to move to the commercial core. We've had many chocolate companies, candy companies that are huge now that started from their kitchen and us got to make that decision. Every business got to make the decision when do I step out of being that home based operation to a real

commercial core.

And so this is just to address those who are you know, I live at home or I have some night business on the internet that I do and I not impact anybody, but I want to make sure that I'm legal so I don't have – so I got a disgruntled neighbor, hey that guy is operating an accounting firm out of it.

Mr. Starr: Commissioner U'u.

Mr. U'u: Is there a cost that goes with a special use permit? And if it is, what would be the average cost?

Mr. Alueta: I don't know what the – it's set by the ordinance by fee. I don't have that in front of me right now. As far as a special use permit goes. Right now it's either – right now I should say is that a lot of the home based businesses that don't meet home occupation or whatever and they don't meet the criteria or what's listed as a special use permit under the existing code you have to go through a conditional permit which is Council which is way expensive. Whereas in our proposal, in our proposal, you'll see within the next month or so is that we're going to move it to the commission so it's a county special use permit. It clearly says that if don't meet the criteria of a home occupation, you can come in for a County special use permit rather than going to the Council level.

Mr. U'u: On that lines, what would be the time line? Say, the day you submit that permit to come in before the commission roughly.

Mr. Alueta: Depends how fast – in my day, probably three to four months you know. That's the thing. Again, your commission agendas get full and you have a lot of carry over and some times it's no so much that we're ready to process or schedule you, it's that you don't have any room. I mean, you know that you have a backlog on your agenda. So I think that – that's all I can say.

Mr. Starr: Commissioner Pawsat.

Ms. Pawsat: Yeah, I guess like the masseuse was a good example like they have like one person coming over every now and then and to think that the planning commission would have to approve like a single person coming up and being like, hi can I give massages in my house? It seems a little bit of a inefficiency. You know what I mean? I mean, I understand you know the planning commission, but some things are so easy you know what I mean? Like the masseuse thing. You know it just seems kind of a – but if that's the only way to do it, but I was just wondering if there's some little in between category for little piddly ones or something?

Mr. Starr: Director.

Mr. Hunt: Just to remind you, the bill that's before you is actually to allow home occupations in more zones. The department is going to – the department did suggest that we add one clause the 240 feet and we've gotten a lot of response on that so we'll reconsider that. But other than that, the debate that's going on which is a healthy debate will be more appropriate when the department comes back to actually present a draft bill to you folks about what is a home occupation.

Really today all we're saying is lets allow them in more zones. Contrary to a lot of comments in the community, the administration isn't against home occupations. We're here to try and get these in more areas. We're actually saying not only the zones that the Council's suggesting but lets add them to the rural zone to. Lets simplify this, streamline it. Then we'll come back in a couple months or a month or so with a bill that actually gets into the details where we start talking about where do you draw line between, as Joe was talking about, a residential neighborhood, a residential use and a commercial use, a home occupation incubator business and that's going to be a very important discussion because we don't want the residences to turn into commercial uses but we want to allow a certain home occupations, massage, perhaps – different jurisdictions do it different and they draw the line in different places and that will be up to you folks and so we can come back with that and give you some examples.

Group lessons is another one that has come up a lot. What's wrong with a group lesson? Well, maybe if you have a number then we allow it. But the whole discussion, we will be having another discussion on this in the future.

Today is, okay do we want home occupations in the residential zones, the business zones which we don't think is needed, in the rural zone, in the apartment zone.

Mr. Starr: Just a quick comment from – one of the things on my list is to try to find ways to help expedite these types of special uses where there's no opposition in the community to find ways that we can help expedite it through the director and maybe having one commissioner work with the director and then report back to the commission and we can move it through faster rather than spending a lot of time with it. Commissioner Hedani.

Mr. Hedani: You know, without hanging thing up, I'm supportive of the bill. I'm supportive of the effort to add the home occupations. I think we should give some consideration to expanding the 250 maybe up to 400 or 500 square feet from my perspective anyway. And I think we need to be a little less restrictive on some of the things that we have in this bill that can be corrected later like if the U. S. mail cannot pick up materials produced in the home. You know, if I read a real strict reading of the bill as it stands, you can't deliver stuff to the mailman to have them take it out to your customers, you know.

Mr. Alueta: No, you can.

Mr. Hedani: Not to according to this language.

Mr. Alueta: You can't have like big warehouse trucks. You have to do it within your own personal vehicle.

Mr. Hedani: Okay. The other question that I had was no group sales meetings. So a Tupperware party wouldn't work?

Mr. Alueta: That's something that we would address within our future bill within the coming months again because the issues that I brought up a Council when this bill was first introduced is one, it doesn't deal with garage sales which I'm going to add, which we're adding. Garage sales, Amway,

Pampered Chef, not to promote anybody or anything, but it's like that – you know, like I say, those are the kind of things that or hula halaus that practice. There's some hula halaus that come out of the garage. So it's how do you balance that need and the easiest way because again, I can think of a lot and I don't want to list them all, okay and –

Mr. Hedani: I think my concern, my concern is that although I'm supportive of it, to have it have to kick up to the point of an SUP and come back to the commission, you know, I think this is kind of the wave of the future where more and more people are becoming much more entrepreneurial, so instead of having a few SUPs come in here you might end up with a situation where you have a flood of things coming in.

Mr. Alueta: But you also have to understand is that we're not kicking it up to an SUP, we're kicking it down to an SUP from a conditional permit. Don't look at it that way, I mean I –

Mr. Hedani: So one step at a time.

Mr. Alueta: Yeah. So I'm not looking at as going from – we're making these people come in for an SUP, we're making these people either one, you have to get a conditional permit or do the right thing if you're big enough and that is go lease land in the business district, you know.

Mr. Starr: Okay, Ward.

Mr. Mardfin: A couple things. One, I really appreciate the way this is going. I like it very much and I like the idea of extending it to more areas. Will this include agricultural?

Mr. Hunt: Not as proposed. The Council didn't propose that and the department hasn't at this time. When you get into the agricultural district there's state laws that we have to deal and it's a whole nother layer of protecting ag use, having the ag us be the primary use. The department will be analyzing that. At this point we're not ready to recommend it.

Mr. Mardfin: Sort of one step at a time.

Mr. Hunt: Correct.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: I just wanted to make this comment. The primary purpose of residentially zoned land is residential use and if you're providing a commercial service that does not impact your names that's fine and well. But if you are impacting your neighbors then this ordinance allows an enforcement vehicle that you can call the Planning Department and say, hey they're doing an illegal activity. If you're not impacting your neighbors, I don't think your neighbors will be calling the Planning Department. So it's not why can't we allow this, why can't we allow that, it's they're not allowed, but if you're doing it right nobody's going to care.

Mr. Starr: Go ahead Ward.

Mr. Mardfin: One other thing. I did notice you had garage sales in there and limited to a certain number of times a year and I think that's a good thing. There's a difference between – and for a lot of things, there's a difference between – I sort of let my neighbors have a couple of big parties a year where I'm not going to complain to the police about noise. If they had it very weekend I'd start to be calling the police and it's the same thing for these certain kinds of businesses. If you have it – an Amway party two or three times a year nobody's going to, you know, you got to cut your neighbor some slack, if it's every weekend it could get real old real fast.

Mr. Starr: I've got a couple. First of all, Hana, I understand that the Council specifically requested that it be taken to Hana and I'm really confused at what happened and what we can look forward to.

Mr. Alueta: Scheduled it twice for Hana, no quorum, twice. So we are again, they asked for their comments, we're going to try to get back to them before the deadline hits, but that's pretty much how we're trying to deal with. I mean, we can schedule meetings but if they don't show up and you can't hold a meeting then you're kind of out of luck.

Mr. Starr: I served on that commission for years, you know, you staffed it then and I know how tough it is. But should we I guess maybe looking for a consensus it may be we give them one more shot at it and if they don't have quorum – Commissioner Hedani.

Mr. Hedani: My suggestion would be since the Council is looking for comments and recommendations that we request that they convene a meeting and even if they don't have a quorum take whatever comments come from the people that are there.

Mr. Starr: That it be considered a workshop if it's not a official meeting. Can you handle that Joe?

Mr. Alueta: I can talk it over and see and look at our Corp. Counsel over there reaching for the mike, but at this point in time I believe that because this is a resolution, right, I do not believe that you forwarded this to the Hana Advisory Committee. It was just asked in the resolution that the Hana Advisory Committee comment on it. So what can happen is that if we do not meet – We're going to try to schedule again, if we do not meet the 120 days deadline, right, then we will forward it to the Council and advise them that we tried meeting with them and if we don't get a quorum...(inaudible)... 120 days for us to return it came up and we transmitted it up to them. And it would be up to Council, if Council feels that there's a strong desire to get public input then they can schedule their own meeting as far as in Hana. They can then guarantee they're going to have a quorum because they're going to show up in Hana and then take their own public testimony rather than having it filtered through the Hana Advisory Committee. At this point in time my understanding is that we are going to try and schedule it one more time to go out there. Again, it is a very expensive endeavor for some of our rural communities we do charter a flight and fly out there. And so, it's taxpayer's money but we do want to service the rural communities as best we can.

Mr. Starr: Okay, then you know, from that standpoint, I encourage to try one more time and if not, we do have Commissioner Mardfin who does have the pulse of Hana. I also reside in Kaupo which is part of that district. So we'll give that one more shot. Next question is, going back, I think it was a question that Commissioner Guard asked about, say someone's got a gym, a workout room

operating in their house and it's not a commercial venture, it's someone buys some weight equipment and guys that you know, they paddle with or they run with or whatever come over after their activity and you know, workout. But there's no commercial transaction taking place, is that still –

Mr. Alueta: Yeah, that's not a home occupation. That's just – most people – you have friends coming over.

Mr. Starr: And then, as long as beer served it's okay I guess.

Mr. Alueta: Yeah.

Mr. Starr: I also feel that 400 feet, square feet would be a better number than the 250. I feel that if we do – if we want to put our blessing on these type of activities we should allow people to do it well. We shouldn't try to restrict them too a substandard office or type of situation.

And my last question is, what action if any is – should we be taking. I'm kind of confused about the process?

Mr. Alueta: Currently the department is recommending that it be expanded to the rural district as well as establishing some form of cap and that's – and our initial proposal is for 250 square feet. So we would recommend that you have a – you recommend approval of the home occupation bill as presented by the Council with the addition that rural district, county rural district be included as well as that some type of cap other than the open-ended 25%. So you'd a motion in some fashion and then vote on it.

Mr. Starr: Okay, but if it's going to Hana then we should wait until a subsequent meeting.

Mr. Alueta: This is where I guess, I'll it to Corp. Counsel to explain because my understanding is that it Council's wanted Hana's comment, not necessarily you deferred to the Hana to hold the public hearing on your behalf. There's a difference. You see if you have an SMA permit that's in Hana and rather than you hold the public hearing, you grant the authority to the Hana Advisory Committee to hold the public hearing on your behalf. This is not one of those issues. This is where it's a legislative action coming down from the County Council and my understanding, I mean, I could be wrong, maybe I misread it was that they're saying that they want comments from Hana, separate and distinct from the Maui Planning Commission and so there is no real, I guess you could say need for you to wait because they're going to provide their own comments separately.

Mr. Starr: First James. Okay, –

Mr. Hunt: You could wait until Hana reviews it and hopefully we'd get a quorum on the third try in the theory that perhaps their comments might influence you that's the general thought process is you send it to Hana, their comments come back. On the other hand, as Joe said, if you guys want to move along on it, you could just simply pass your comments and then we could – if we get comments from Hana send those separately to Council. So whatever the pleasure of the board is.

Mr. Starr: Yeah, Commissioner Guard.

Mr. Guard: Yeah, I think that's the way to go because we don't need to filter Hana's comments and if we don't like it we don't pass them on. They could all be coming in concurrently. But when you started the thing it sounded like it was coming back prior to June 22nd, I think he said is when Council wants it back.

Mr. Alueta: June 14th.

Mr. Guard: Oh, June 14th, okay. So it sounded like it was a draft and you were bringing it back to us and I thought we didn't even need to give comments but I think the main one sounded like maybe increasing the span to 500 feet because I have people – I know people that are retired, I mean, they didn't build huge homes but they didn't have kids so they only built a two-bedroom home but they had two master suites and he was a retired attorney still consulting. So he had a fairly grandiose home office just for himself, but technically he would noncompliant even though I don't think I ever saw a single person come and visit him. He just had a big desk in there that wouldn't fit, like a CEO desk would not fit in a 200-foot room, right, and it was also a guest room. This was friends of my cousins, his grandparents. So I think the 400 to 500 shouldn't really be an issue but it's all positive anyway, it's a change from – it's less restriction so that's a good thing.

Mr. Starr: I'd like to read the –

Mr. Alueta: Yeah, I stand corrected Mr. Chair, I did read that and it says, "to request obtain advice from the Hana Advisory Committee."

Mr. Starr: Yeah, I'll read it from the County Council Planning Committee. "Your committee voted to further revise the revised draft resolution to request that the Maui Planning Commission obtain the advice of the Hana Advisory Committee. So with that in mind, I feel that we should probably defer action on this giving the Hana Advisory Committee one more shot at being able to hold a meeting and maybe it's possible for the department to make sure someone calls all the members and applies the guilt tool on them for a quorum.

Mr. Hunt: I just wanted to say I agree with you. I think it's a better approach generally for you folks to take their advice and you can take it or leave it and perhaps it will influence your comments, perhaps not.

Mr. Starr: So I guess, you've got our comments and maybe you can come back with those comments added and those of Hana and we can have action at a subsequent meeting if that's acceptable. Commissioner U'u.

Mr. U'u: I make a motion to defer.

Mr. Iaconetti: Second.

Mr. Starr: Motion by Commissioner U'u, seconded by Commissioner Iaconetti to defer and I think staff, any other questions Joe before we go? Any discussion? Okay, all in favor of deferral please

say aye. Any opposed?

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

**VOTED: To Defer the Matter in Order to Obtain Comments from the Hana Advisory Committee.
(Assenting - B. U'u, W. Iaconetti, K. Hiranaga, J. Guard,
W. Mardfin, D. Domingo, J. Pawsat, W. Hedani,
J. Starr)**

Mr. Starr: Okay matter is deferred. We're going to take five-minute recess and we're going to hold to five minutes. The gavel is coming down at five minutes to 11:00 on that clock.

A recess was called at 10:50 a.m., and the meeting was reconvened at 11:00 a.m.

3. MR. JEFFREY S. HUNT, Planning Director transmitting A Bill for an Ordinance Repealing Chapter 19.02 of the Maui County Code and adding Chapter 19.02A regarding Interim Zoning Districts. (J. Alueta)

Mr. Joe Alueta: Working on a bill to amend Chapter 19.02 of the Maui County Code. This has to do with Interim Zoning provisions of the Maui County Code. In my memo report I outlined the reasons for that whole purpose of the interim district. We have in several times attempted to slowly get rid of the interim District and rezone it. However, we still have lots of work to be done. But in the meantime, again, certain fires cannot wait for our comprehensive amendments and update to Title 19, one of them being that the Housing Code as I had brought to you before earlier with regards to the Rural District, the Housing Code is being repealed and the Interim District as well as the Rural District so some reason never had any setback standards, height limits and that was all regulated by the Housing Code.

We again, added the Rural District previously. This is basically to add the same type of deal of standards, development standards as far as height setbacks to the Interim Zoning District. At this time I'm also updating Interim District. Basically we're repealing all of 19.02 and replacing it with 19.02A and that's why you don't see any – on Exhibit 2 you don't see any "Ramseyer version."

The primary things that we've done is I've added tables to it to make it a little easier to read as far as the standards for the different types of developments.

Other things that we've added, we've updated the definition for commercial agriculture. It used to be 1,500 we just changed it to be 2,500 because that was recommendation that came out during whole transient vacation rental and B & B process.

Other significant amendment, we did add bed and breakfasts as an allowed use in the Interim District because, again, single family residences are listed as principal use within the Interim District.

You got to understand the Interim District is kind of a, I don't want to say a hodge podge, if it wasn't

zoned, it was interim. Okay. And back in '58 when the state zoning came about there was already existing uses and that's why you have this shotgun effect I guess you could say in the sense of all the uses that are allowed from single family residences to duplexes to hospitals to expansion of existing playgrounds to commercial ag. So it has a lot of wide variety of things that are in there.

Right now under the Interim District if you wanted to build a house or any kind of building the Housing Code was the principle regulatory body as well as the State Legislature as far as State Rural and State Ag would also create the limitations on the use and size of the structure.

Mr. Starr: Commissioner Guard.

Mr. Guard: So you can have a hospital or like a doctor's office in Interim right now?

Mr. Alueta: Yes. If you were consistent with – consistent with the state zoning.

Mr. Guard: Oh, it would have to be business zoned or urban, just urban.

Mr. Alueta: Yeah.

Mr. Guard: Because there's some interim ag, right, like in Paia some was ag interim.

Mr. Alueta: A lot of times you have ag interim, conservation – I mean, yeah, a lot of ag interim especially in Hana way out. So it's basically interim district doesn't come into play because the overriding state law handles the regulations or restrictions on the uses.

Mr. Guard: Okay, from talking to Francis over the years, it's always been I guess either my knowledge or it's changed, one house per 6,000 and you could, you get an ADU as well over 12,000? So if you have like a 18,000 foot lot you could have two houses plus a accessory dwelling unit.

Mr. Alueta: Correct.

Mr. Guard: In interim. So is that being repealed in here?

Mr. Alueta: No, it doesn't change that at all.

Mr. Guard: So people that have like an 18,000 foot lot can still get their two houses and a cottage or something?

Mr. Alueta: Correct. It doesn't change. If I had a 20,000 square foot lot in the R-2 district, half acre in the R-2 I could by law I could build three full houses and an ohana unit.

Mr. Guard: If you had the water.

Mr. Alueta: If you had the water. And again, the same, so it doesn't matter as far as –

Mr. Guard: Okay, I just didn't see that part addressed. So that's in a different subsection of Title 19.

Mr. Alueta: Correct. Right. And it applies not only to the interim district but also to the resident –

Mr. Guard: Everything, okay.

Mr. Alueta: Any time you build a house.

Mr. Guard: Okay.

Mr. Starr: Okay, Mardfin.

Mr. Mardfin: Your section 4 on adding a new definition of commercial ag, and I did notice that you had changed, there was a change – earlier it had \$1,500 and now you're up to \$2,500. This is page 6.

Mr. Alueta: Correct.

Mr. Mardfin: I would just comment that I hate to see dollar values of things put into bills because of inflation. It's one thing to say a certain number of square feet because that's not going to change but the value of a dollar changes as you well know and I would – I don't care what the number is, but if you put in a number I would say, index to the GDP price deflator or consumer price index or something like that so that it changes over time. I mean it's a pain to keep track of it but it's the only way to keep from doing really strange things with law that had unintended consequences.

Mr. Alueta: Commissioner I totally agree in that. However, two issues, one an enforcement, you'll have to have increased math capabilities on a lot of people because you're going to have to say, okay, \$2,000 in 1989, the dollars subject to the GDP or whatever, however at the same I believe, and the philosophy I've taken as far as laws go, all laws and rules need to be reviewed okay, every year. You need to say, yes that law still applies or no, that law needs to be amended. Laws should be organic. It's should be changed and be updated and think that with regards to the interim district since 1958 it's remained static because the intent was to get rid of it all altogether. But we in our department are trying to review our laws and you know as we become aware we update them but I think it needs to be more comprehensively.

I have no problem if want to make such a proposal. Right now it's \$1,500. That could have been 1958, \$1,500. So if you modified to today's dollars –

Mr. Mardfin: \$10,000 maybe.

Mr. Alueta: Yeah, –

Mr. Mardfin: I'm just guessing.

Mr. Alueta: Yeah, it's going to be a significant amount. But if that's the consensus of the

commission we can add, we can make those recommendations to Council.

Mr. Mardfin: Given that it's been 50 years since this thing was dealt with, I agree with you things should be reviewed but they're not. So given that this could last a while and I don't care what number you stick in there, you can put \$5,000, you can put \$10,000, you can put anything you want, but whatever it is, if it's in dollars it should be indexed to GDP price deflator or consumer price index.

Mr. Alueta: Right. You need to have a – you need two things, you need the indicator as well as your starting date. So whatever dollar so if you're going to use 1980's dollars or –

Mr. Mardfin: My view would be, I'd leave it to your judgement because I have no idea what the right number is in there and you have much more experience with this and I and you understand the indexing issues. So what I would just comment I would like to see some sort of indexing in there with a base here.

Mr. Starr: Members your pleasure? No other questions on this? Commissioner Guard.

Mr. Guard: Do we fall under the same predicament with Hana on this? We're going to wait for comment? Does Hana have any interim district?

Mr. Alueta: They do, but we're not taking it to Hana. You are the body. The Charter requires that we get comments from the three commissions that are impacted.

Mr. Starr: Okay, before we go to public hearing, I want to hear what the recommended, I don't want your recommendation but what action are we being put in a position to take?

Mr. Alueta: As indicated in the staff report, page 3, obviously we recommend approval of proposed changes. The commission has the option to recommend approval of the proposed bill to the Maui County Council to recommend approval of the proposed bill with amendments to the Maui County Council, recommend denial of the proposed bill to the Maui County Council or vote to defer action on the proposed bill in order to gather more specific additional information.

Mr. Starr: So once again we're making recommendations to the Council on a bill that they generated?

Mr. Alueta: That is correct. – No, it's a bill that we generated.

Mr. Starr: That the department generated.

Mr. Alueta: Correct. So you are making a recommendation to the County Council. All of the bills that I bring before you either a resolution or a department initiated ordinance is always a recommendation to the County Council. You are only the final authority when I have proposed rule changes that affect your rules specifically.

Mr. Starr: Okay, Commissioner Mardfin.

Mr. Mardfin: Are we to make motions at this time?

Mr. Starr: No, it wouldn't be in order yet because we need to have public hearing. Any other questions. Okay, members of the public who would wish to comment please step up to the mike.

a. Public Hearing

Mr. Starr: Seeing none, public hearing closed. Now the Chair would entertain questions or a motion.

b. Action

Mr. Starr: Commissioner Guard.

Mr. Guard: One last question. So this is similar to the rural one with interim? Currently what are the setbacks?

Mr. Alueta: Housing Code is six feet and ten feet.

Mr. Guard: Okay, so it's already in that for interim anyway.

Mr. Alueta: That is correct. We're proposing.

Mr. Guard: I guess I'm just not seeing anything like striked out where the actual changes are.

Mr. Alueta: I apologize that's the way – I'll blame Corp. Counsel at this point because I sent it up them as a Ramseyer version but they felt there were too many Ramseyer corrections so they felt it was easier to repeal the whole 19.02. That's why Exhibit 1 of the whole thing is the existing 19.02 as it is now and then – so you can see the format change that –

Mr. Guard: Mainly with your boxes and what –

Mr. Alueta: Correct. Mostly with – the main changes that occurred were, are putting it into table format, as well as adding bed and breakfasts to the interim district and that was pretty much at a specific request by the Molokai Planning Commission.

Mr. Starr: Commissioner Guard.

Mr. Guard: Okay, I live in the interim district so I don't know if I need to recuse myself, am I giving away property value by – am I shooting myself in the foot by going with this new one?

Mr. Alueta: I do not think so.

Mr. Starr: Commissioner Hedani.

Mr. Hedani: If a motion is in order, I move to approve as recommended.

Mr. U'u: Second.

Mr. Starr: Okay, motion by Commissioner Hedani to approve as recommended, seconded by Commissioner U'u and the floor is open for discussion or possible amendments. Go ahead Commissioner Mardfin.

Mr. Mardfin: I thought we were still asking questions and I'm going – I just want to make sure I understand. This is like the previous issue we dealt with where this is liberalizing the use of – to liberalize the use of zoning is that correct?

Mr. Hunt: Joe, correct me if I'm wrong, but essentially the interim district has been regulated through the Housing Code standards. With the repeal of the Housing Code, Planning Department was afraid there wouldn't be any standards to regulate the interim district. Essentially what we done is mimic the Housing Code and we're inserting it into the interim district. So once the Housing Code's deleted, there will be standards with a couple of very minor additions that Joe has alluded to, the addition of bed and breakfasts and changing of the income tax.

Mr. Alueta: Yes. So if you look at Exhibit 1 which is the existing interim ordinance, if you read it, it's like again, my favorite is word math problems, you know, train A leaving Chicago headed east to Philadelphia, another train leaving – I have those and so I prefer just straight table what is it and I can figure it out. And that's what a lot of our ordinances is and that's what style is going to be is changing it from word math problems to table format. That being said, if you read that section and you get to it there's no where in that that it says what the setback is. If you look at it, it doesn't say what your sideyard setback, it has a minimum lot size of 6,000 square feet. It doesn't say there should be a setback of six feet or ten feet for two stories or what you front yard setback should be. None of that is in there and therefore we're adding that into the existing code because right now if you built in the interim district today, the only thing regulating your setbacks is what we call the Housing Code where the Housing Code has that similar and dealing with light and ventilation issues. That is being currently repealed by the Department of Public Works. So we feel that it's imperative that to maintain setbacks and health and safety issues we feel that there needs to be a setback issue incorporated and so that's what we've done with our proposal in addition to formatting.

Mr. Mardfin: I'm very happy with this but I'm going to vote against the motion because I wanted to make a motion to defer to get a real number, you know, reconsider the commercial agriculture definition so it would be indexed and so I'm going to vote against since an non indexed number at this point.

Mr. Starr: May I make a suggestion? Why don't you – I mean, you're the economist in the room, why don't you offer an amendment? You can think about that. Who else has questions? Yeah go ahead.

Mr. Hunt: Mr. Mardfin, I guess I would echo that. Is you have an opportunity to make an amendment to the motion. You don't have to just accept this proposal as it is if there's something

that you feel needs to be added to it, propose it and the body will react to that.

Mr. Mardfin: Well, then my issue is – can I ask Joe a question?

Mr. Starr: Yeah.

Mr. Mardfin: At this point in time at 2008, do you think \$2,500 is the right number?

Mr. Alueta: I didn't agree with it when it was discussed at the TVR legislation so obviously I don't agree with it.

Mr. Mardfin: Would you make a higher number of a lower number?

Mr. Alueta: Higher number obviously. But I think it should be, if you wanted to be safe, you could say that that's your condition – that's your only addition in your comments that you approve it but that the Council introject some type of indexed base to whatever number and leave the number open but say that it should be indexed based to 2008 dollars and to either GDP or CIP or whatever index. That can be open ended and we can just explain that to the Council when it goes up there. And then they can as you say debate how much they think is – how much money do you have to make as far as being commercial ag.

Mr. Mardfin: I'd like to propose an amendment. My amendment would be that we approve this – well, the motion is to approve, the amendment would be that we think that the dollar value for be reconsidered probably to a higher value and that whatever number is chosen it be indexed to the GDP price deflator with 2008 being the base year.

Mr. Iaconetti: I'll second it.

Mr. Starr: Okay, so we have a motion from Commissioner Mardfin. A second by Commissioner Iaconetti and I'm going to ask the department to read back the motion.

Mr. Alueta: That a GDP price deflator with a 2008 base index be incorporated into the valuation for commercial ag.

Mr. Starr: I believe there was another portion.

Mr. Alueta: Oh, I'm sorry.

Mr. Starr: Jeff.

Mr. Hunt: And to consider amending the dollar value for the agricultural – I can't even read my own writing.

Mr. Mardfin: To a much higher value.

Mr. Alueta: Amending the ag value.

Mr. Starr: So in essence this amendment is recommending that the dollar value be increased, that the Council consider increasing the dollar value and then whatever that value is that it be indexed to rise with inflation. Do I have that correct? Okay, any discussion on the amendment? Seeing none, all in favor of the amendment as stated please raise your hand. All opposed to the amendment.

It was moved by Mr. Mardfin, seconded by Mr. Iaconetti, then

VOTED: That the dollar value be increased for the commercial agriculture definition and that whatever that value is be indexed to the GDP price deflator with 2008 being the base year.
(Assenting - W. Mardfin, W. Iaconetti, K. Hiranaga, B. U'u, D. Domingo, J. Pawsat, J. Starr)
(Dissenting - J. Guard, W. Hedani)

Mr. Starr: We have eight in – J. B. are you in favor?

Mr. Guard: I don't know if it's safe for me to recuse myself if this doesn't go through and the housing bill is repealed. I have a pretty good lot to build on.

Mr. Starr: If you don't vote then that's considered a vote in favor. But I think a number – I have property in Hana also, I think is interim. I don't know if it's relevant. Corp. Counsel.

Mr. Giroux: No, at this stage because you're just making a recommendation on a legislative issue I wouldn't recuse myself, but then that's me.

Mr. Starr: So which way you like go?

Mr. Guard: I would go against it just cause I think Council's probably not going to piddle around with that realistically.

Mr. Starr: So we have seven in favor, two against and so then the amendment passes.

And now we move onto the main motion of if any one wants to offer any other amendments or discussion please make yourself known. Seeing none. We have a main motion to recommend approval to the County Council as recommended by staff with the addition of the amendment that was just passed. All in favor please raise your hand. All opposed.

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

VOTED: To Recommend to the County Council Approval with the Addition of the Amendment: "That the dollar value be increased for the commercial agriculture definition and that whatever that value is be indexed."
(Assenting - W. Hedani, B. U'u, K. Hiranaga, J. Guard, W. Mardfin, D. Domingo, W. Iaconetti, J. Pawsat, J. Starr)

Mr. Starr: Okay, unanimously our recommendation has passed. Thank you. And we'll move along to Item No. 3. Joe, to you.

4. MR. JEFFREY S. HUNT, Planning Director transmitting A Bill for an Ordinance to modify and add definitions found in Chapter 19.04 of the Maui County Code. Definitions to be modified are: "basement," "building," "court," "apartment court," and "height." Definitions to be added are: "areaway" and "habitable room." (J. Alueta)

Mr. Joe Alueta: Okay, still morning to you all. This is again 19.04, this is the definition section. Again, Public Works is eliminating the Housing Code and we are attempting to incorporate a few things. One, two definitions that are currently in the Housing Code that need to be moved over into Title 19.04 specifically.

And then at the same time the department is making some updates to the definition section. We don't consider it significant updates but we never know. And as well as, again, with my love for word math problems, I feel a picture says a thousand words, so you'll see this more and more as we update Title 19 it's graphics and tables that make it – in our attempt to make it easier to read not just for professionals but for lay people so they understand when they see something they know what do you mean by how high and what your setback is. And so we've attempted to incorporate graphics into our Title 19.04.

Some of the things in our updates if you look at Exhibit 1 that's our proposal. I'll quickly go through it. On page 2, we're area way.

Mr. Starr: What?

Mr. Alueta: On page 2 of Exhibit 1 of our staff report in bold and underlined you'll see those are the changes that we're making. So on line 42, page 2, we added "area way." And then again on – and that area, I believe is a carryover from the Housing Code.

On page 3, line 27 through 31, you'll see the definition of a basement. I guess, you know, everyone has what a vision of a basement is. It's something below ground, it goes on four sides. However, this has been subject to abuse on a few occasions as far as this is, so we are providing what specifically what we consider a basement is as well as providing a graphic to include that.

Mr. Starr: Commissioner Hedani.

Mr. Hedani: Joe, you know, I have a general question. Why is one department eliminating a code and another department having to reinvent it?

Mr. Alueta: The short answer is, this code, Title 19 actually was enforced by Public Works before the Charter amendment which moved Title 19 to the jurisdiction of Planning. That's one issue.

The Building Code or the Housing Code has, you know, is an old – is more of a Department of Health issue like ...(inaudible)... has certain definitions. And for some reason in Maui County that

enforcement of the Housing Code fell under the Public Works. However, they're updating the code because most of the issues in the Housing Code deal with light, ventilation and are more of a Department of Health issue. In every other – at least they're claiming that in every other jurisdiction, the Housing Code is enforced by the Department of Health and not by Public Works. So that's one of the reasons they're eliminating it. And so we feel that, and I guess when you review these things some people, because there was another code that was enforcing it we never really incorporated it where it should be which is in the zoning and development section of the zoning code. And so no one added it in and so at this point in time, we're just consolidating, making it simplified so people don't have to look at two codes. So when you come in for a building permit you know and you got to 19, and say, well that's my development standard rather than going develop it based on what the zoning is and then you get your building permit in and all of sudden say, well you don't meet the Housing Code. They don't know anything about that. So it's kind of an attempt to consolidate it.

Mr. Hedani: My concern I guess is that it needs to be very clear so that you don't end up with situations like we ended up with the floor elevations in that project on Ikena Street or close to Ikena Street or Palama Drive where you have people end up suing one and other because they can't agree on what the regulations were that covered a particular thing. And it has to be simple enough that the average person can understand it.

Mr. Alueta: Yes, and that's – at least that's my attempt I'm not saying all of our updates are going to eliminate any chance of that happening. Whenever there are lawyers you will always have people fighting. However, my goal is to try to make it as simple as possible so that everybody is clear on it and I'm also attempting to have it as, you know, pictures. I think that it's very clear that when you see a basement, that's a basement and that's my goal, that's our goal is from our department is simplify, streamline the process, but make – if we have a regulation, make it easier to understand.

Mr. Starr: Commissioner Pawsat.

Ms. Pawsat: The basement is a good example. No matter how many times I reread that original definition of basement I just still couldn't get it. And the rest now it's very clear.

Mr. Starr: Okay, additional questions, comments? Commissioner Mardfin.

Mr. Mardfin: I'm just kind of curious. Now I grew up in another part of the country where basements were frequent. I have yet to see a basement in Hawaii. Can you tell me where they generally are?

Mr. Alueta: Again, I got family in Iowa and I've been in a basement and I go into the house and walk downstairs. Well, there's a basement – well, if you go to Napili there is some multi family condos or whatever where they basically built a three-story structure and then pushed the dirt up around three sides. And then entrance is grade level into the ground, okay, into they drive their car and they called that a basement.

Mr. Mardfin: And the intent of this was to get a three-story building where only two would have been

allowed.

Mr. Alueta: You got it.

Mr. Mardfin: But it's not people that really go and – I guess I've seen some commercial buildings where it goes down, in fact right out here and –

Mr. Alueta: Right, and further on in our definition we are attempting to cover all of that and to make it very clear as to where you can and can't have it.

Mr. Mardfin: Would this bill make that former situation you illustrated illegal?

Mr. Alueta: Make it a nonconforming.

Mr. Mardfin: Okay, but they wouldn't be able to do it in the future?

Mr. Alueta: That is correct.

Moving onto page 5, there was the definition of court, it says, you know, I don't know I thought bounded meant you were kind of enclosed in some fashion. So I felt that being bounded, it's hard to vision bounded by one side. So we just added to two to be a court.

On page 8, we have basement garage which means a commercial parking area meeting the definition of basement with the exception for vehicle access located on one side. So again, that's where you're going to have your below grade parking where you're going to be able to access it from one – and there's a – again, a graphic that illustrates what we mean by this.

Habitable room. Again, habitable room is a Housing Code issue. A definition that we're just moving over to Title 19.

And then again, page 9, line 12, our favorite height definition. We are not – as previously we have an amendment up to the Council which they have not acted on as far as the definition of height, so today, but we have another definition that we're hoping that is hopefully less controversial that will make it through the process and that is, and this definition adds on how we're going to deal with measurements of basements and how you measure heights. And we have five illustrations that explain the different circumstances in which you're going to get your measurements from.

So again, this is to prevent the Napili case in which someone could come in with a basement, they go and build a three-story structure and then push dirt up on – instead of all, just three sides, push it up on four sides. This will eliminate that. Okay.

Mr. Starr: Joe.

Mr. Alueta: Yes.

Mr. Starr: When you talk about finished grade, is that the lowest point on the lot or is that tangent to the building? What's the definition of finished grade?

Mr. Alueta: It's either finished grade or lower. So finished grade, when you do your site work whatever you're finished with, but the measurement will be taken from the lower point.

Mr. Starr: So say you have a sloping lot, where is finished grade?

Mr. Alueta: Whatever you – when you're done with your grading, whatever that slope is.

Mr. Starr: You mean it's the lowest point on the TMK or the lowest point –

Mr. Alueta: No, no, it's either finished or original grade. So if you fill, okay, again, just like the existing definition for height, if you put in two feet of fill you've subtracted – you've added two feet and that means your finished grade is now two feet above the original grade, therefore you lost two feet as far as how you measure your height.

Mr. Starr: That works for the flat site but say with a sloping site say there's a sloping site with a hundred feet of elevation difference, does it have to be within a radius of the building buildings, the building or what?

Mr. Alueta: They will measure it going across from the point directly above the roof down to the point of the grade. So the cross section. That's why you have on a sloping lot you have had – you will have a house that terraces because they measure that height from that point and then directly below to the original grade below that point of the roof.

Mr. Starr: And so it's below the roof peak or below –

Mr. Alueta: It's directly below that point of the house. So if you're on the edge of the house, measure directly below the edge – you go straight down to the ground. Make a plumb line and imaginary plumb line and go straight down. Same thing, at the peak of the roof, you take a peak and imaginary plumb line, you go straight down to the ground below. In the case of basements you would just move off to one side of the house parallel with it and get your height. We have several – like I say, there's five exhibits of explaining how you would come up with this calculation so that –

Mr. Starr: Joan.

Ms. Pawsat: I understand what he's saying, I think his question might be clearer if you showed an angled finished grade in one of the drawings and then, so then the building height limit would also be at an angle, correct? It wouldn't be a horizontal line, it'd be an offset of the angle – so maybe if you showed a finished grade at an angle and then the height limit of that finished grade. If the finished grade is at an angle then the height limit is at an angle if the finished angle is the same as the original grade I mean, right?

Mr. Alueta: Yeah, and in the case of – and that's why – in essence, the third diagram that shows two-story single family dwelling, to get the height, and then it shows where the original natural grade is, see where they filled, you would still take the height, natural grade is lower and so therefore, that's why that line extends all the way down to the bottom.

Ms. Pawsat: Yeah, yeah, yeah, I understand it. But there's certain instances where the finished grade – lets say you didn't do anything to change the natural grade and then natural grade was at an angle and the finished grade was an angle then the building height limit would be at angle as well.

Mr. Alueta: That is correct. If you look at the exhibit – I guess the two-story single family dwelling where they have the existing natural grade, okay?

Ms. Pawsat: Right.

Mr. Alueta: You would then – in this case because they cut, in most cases people will cut the natural grade, so in that case you would go down to the finished grade. Now if they left the house on that natural grade, right which is unusual, all you would do is that where it says, say existing natural grade, that line, now it's diagonal you would just – that would be the building height then. And then that top line would just tilt over also.

Ms. Pawsat: Yeah, that's all I'm saying. It's just the ambiguousness of like – because he was trying to get to an elevation height kind of, and then you described how it's stepped down. Because it's stepped down to the building.

Mr. Alueta: We have room for that sixth diagram.

Ms. Pawsat: I don't know if you can put it, but you know, just so that's under – so people realize –

Mr. Alueta: No, I know exactly what you mean. I can draw that in. I can have ... (inaudible)... put it in. And I think that's all as far as the amendments. The rest is just the existing definitions are. We did eliminate chattel from our definition section but that was about it.

Mr. Mardfin: Chattel?

Mr. Alueta: Chattel, which by most definitions is slaves. I don't know, somehow – it's personal property – so we eliminated that from one of our definitions.

Mr. Starr: No more chattel.

Mr. Alueta: Yeah. That's our first run at updating our definition sections. Again, we're recommending, you the four options again. To recommend approval, denial, amendments as such. At this point, we will add another diagram from what I heard and we're agreeable to that.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: These are two...(inaudible)... things. On page 10, line 9, you have home occupation. Would that be the same home occupation definition that you would apply from the early bill that we were discussing?

Mr. Alueta: Yes, whatever gets adopted we would amend it into it.

Mr. Mardfin: My second question has nothing to do with this bill itself, but – directly, but if you have that garage, I'm looking at page 10, and the two-story building with the commercial garage basement, I guess it's the bottom diagram. What do they do about water when it rains so it doesn't flood?

Mr. Alueta: The same as 505 Front Street does which floods, they have a sump pump that pumps the water up into grade because they're – I believe they have garage basement that is right around sea level or slightly below. Same thing with I believe one of the time share condos on North Beach that they have the same situation where they have – they're about three feet below sea level and they have a sump pump that pumps the water out.

Mr. Mardfin: Okay.

Mr. Starr: Members, any additional questions?

Mr. Mardfin: Yeah, one. We've discussed briefly the general purpose of the earlier two amendments, the general purpose here is to what, replace a code that's being? I know there's some changes made defining in definition.

Mr. Alueta: The main purpose is, it is to move definitions that were in the Housing Code into 19 so that we can enforce it. Okay, so we have those definitions and the second fold is to again, add graphics to the existing 19.04 definitions to be clearer to help people out as far as understanding what these definitions are as well as allowing for basements. One of the things is for basements because we are having – with commercial basements as well as home basements people are asking about those.

Mr. Mardfin: And in terms of the basements it's being a little bit more restrictive rather than less restrictive?

Mr. Alueta: Yes, in some aspects it's being more restrictive but at the same time it's being less restricted in the sense that you're able to, if you had a natural grade you could still dig a hole and have a true basement where you enter from the house and you're not changing the topography or the normal vision or line of sight and not penalized for it.

Mr. Mardfin: But if you were trying to job it by building stuff up, you're not letting them do that?

Mr. Alueta: That is correct.

Mr. Mardfin: Thank you.

Mr. Starr: Commissioner Hedani.

Mr. Hedani: Joe, if you take a look on page 8 on the drawing that you have there, you might want to try and take another look at that triangular section because I find it hard to understand what that represents. So you might want to take a look at the drafting of that and see whether or not you're a missing a line or two in there.

Mr. Alueta: Oh, I see what you're saying. Yes, there could be a – one line in the drawing is missing. Good eye. That should be showing a ramp.

Mr. Starr: Okay.

Mr. Hedani: Move to approve as recommended.

Mr. Starr: We haven't had public hearing yet so.

Mr. Hedani: Sorry.

Mr. Starr: Hold that thought.

a. Public Hearing

Mr. Starr: We'd like to welcome any members of the public that wish to testify on this to come up now and be as brief as you can. Not seeing any, we'll move right along.

b. Action

Mr. Starr: Joe a brief recap of what action we can take here.

Mr. Alueta: Again, we are recommending approval and we incorporate an update on one of the diagrams as well as an additional diagram to be more clear as far as the height with regards to sloping topography. So you can adopt that and recommend approval to the County Council, recommend denial of the adoption, defer with good cause or recommend approval with amendments.

Mr. Starr: Okay, Commissioner Hedani.

Mr. Hedani: Move to approve as revised.

Mr. U'u: Second.

Mr. Starr: Seconded by Commissioner U'u. Any discussion? Not seeing any, all in favor please raise thy hand. Any opposed? Kent did I –

Mr. Hiranaga: I'm voting aye.

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

VOTED: To Recommend Approval of the Proposed Bill for an Ordinance to modify and add definitions found in Chapter 19.04 of the Maui County Code with revisions.

(Assenting - W. Hedani, B. U'u, K. Hiranaga, J. Guard, W. Mardfin, D. Domingo, W. Iaconetti, J. Pawsat, J. Starr)

Mr. Starr: Okay, unanimously approved by the Maui Planning Commission.

Mr. Alueta: Thank you very much.

Mr. Starr: Okay good work, and good work Commissioners on moving it along. Members it's a quarter of 12:00 we have a complex item coming up next I understand lunch is ready perhaps we could recess, have our lunch and then come back with full stomachs and sharp brains for the next item. Is that okay with everyone? Okay, with that in mind 45 minutes or one hour.

Mr. Iaconetti: One hour.

Mr. Starr: Okay, we are in recess. We'll be back at fifteen minutes to 1:00 in the afternoon for Pali to Puamana.

A recess was called at 11:45 a.m., and the meeting was reconvened at 12:45 p.m.

Mr. Starr: We're moving onto our next item and hopefully Director is going to show up pretty soon. Who's the planner on this?

Ms. Kathleen Aoki: Good afternoon, my name is Kathleen Ross Aoki and I am a planner with the Long Range Division and I'll be handling it.

Mr. Starr: Go ahead Kathleen.

E. NEW BUSINESS

- 1. MR. JEFFREY HUNT, Planning Director requesting an Environmental Assessment Determination on the Final Environmental Assessment prepared in support of the Pali (Papalaua Park) to Puamana Project at TMK: 4-7-001 (various), 4-8-002 (various), and 4-8-003(various), Lahaina District, Island of Maui. (EA 2006/0020) (J. Hunt and K. Aoki) (Draft EA was reviewed by the Maui Planning Commission on April 24, 2007.)**

As stated in the Draft Environmental Assessment, the EA triggers are for the use of County and State lands and County and/or State funds. A Community Plan Amendment is also contemplated as noted in the Draft Environmental Assessment. The accepting authority for the Environmental Assessment is the Maui Planning Commission.

The Commission may take action to issue a Findings of No Significant Impact (FONSI) or take some other action.

The public hearing on the anticipated Community Plan Amendment and Change in Zoning will be scheduled for a future date after the Chapter 343 process has been completed.

Mr. Iaconetti: Point of order.

Mr. Starr: Yes Doc.

Mr. Iaconetti: I'm wondering, Corp. Counsel are we allowed to progress with the meeting without the Planning Director or his representative?

Mr. Giroux: Yeah, actually you can go without Corp. Counsel or the Director if you want.

Mr. Starr: I believe they're there to serve us, so we're the body.

Ms. Aoki: Okay members today we are going to be going over the final Environmental Assessment for the Pali to Puamana project. All of you should have gotten the final copy at the last meeting. I hope you have it with you today. I'm just going to do a really short power point to just recap the process that we have been through and I also have Chester Koga here from RM Towill, who's our consultant on this project. So moving right along.

Going back a few years back to 2002 when we initially started this project the overall purpose of the Pali to Puamana Parkway Master Plan which was finalized in February 2005 were primarily these things listed up here which for members I've been over this before so I don't want to be too redundant, but it's primarily as previous Director Foley stated was to preserve eight miles of park land or open space from the Pali to Puamana.

Here I just included a couple of slides just showing the – why this is an important thing to do. It's to protect the land. It's to make it safer.

In my last presentation to you last year I went through and every slide had sort of – I went through and I picked out all the things that West Maui Community Plan say that are appropriate to this project, but today I just put in this one. It's one of many and if anybody wants to know I can go over them with you privately or go over even the West Maui Community Plan.

The original Pali to Puamana Master Plan we had three alignments that we looked at and the mid alignment was chosen because it shared features that we liked from both plans and it required a modest amount of acquisition so it seemed feasible.

This is the original Pali to Puamana Parkway Master Plan that Kent you were asking about. So there it is there.

In order to fulfill the dream of this project the next thing we had to do was this environmental assessment because we're asking for community plan amendments so that was a trigger.

Once we get the FONSI, the next step would actually to go through with the community plan amendment and a change in zoning.

So your final map looks like this. It's pretty similar to the original plan but there are a few differences.

Comments for the draft Environmental Assessment closed on March 8, 2007 and then I came before you as a body on April 24, 2007. And at that time, we'd already had these public comments that I shared with you and some of things were, the need to explain the differences in the map. And I just want to make it clear that Pali to Puamana Parkway Master Plan is just that, it's a master plan. You have to start somewhere. You have to come up with a plan. It was not adopted by Council. Is it in essence not really a legal document but it did share the views and opinions that were expressed in the West Maui Community Plan and that's why it was done. It's just like the Upcountry Greenways Master Plan.

So the map that you'll see is little different because when we went to do the EA, the EA kind of addresses this vision and might take it a little bit step further, might take it back depending on what the EA shows. EA might say, you know what it's not so good to put that there. Now that we've looked at it, lets put it somewhere else. The difference in the map is that we added a 400-foot buffer from Kaheleku Street up north towards Puamana Beach Park. So there's that 400-foot strip that we added, that we wanted some kind of separation between if there is to be ag development that it didn't come right down to the original highway. So that's what was added.

Some of the other things was to expand the State DOT's planning effort. So you'll find in the final we talk about their proposal to extend the bypass to Olowalu. I'm still talking with DOT. I talk to them constantly. So I want to make you guys rest assured that we are in communication with one and another.

And then one of the last things that came up with some of the testifiers talked about and some of you commissioners asked that we look at was alternatives for implementing this plan and that was working with the developers. We talked with the developers. I went out with Rory. Jeff and I went out, we did site visits right after we did this April 24th meeting. There was some movement and then I was tasked to doing the General Plan. So for seven, eight months I did not work on this. I was told it was not my priority. I did Molokai, I did Lanai, I did Maui, so now I'm back and I did jot down all the meetings that I've had on this plan with the developers and also the Parks Department and also the State DOT.

In the final assessment you will see that we do talk about the alternatives. There are proposals out there by the developers. We also state in there that these proposals come with the desire for them to increase density. So I'm here to make that decision. I'm just saying that it's in there as an alternative. The point is either we buy it or we work with them but I mean, that's ongoing. The point is, it's in there.

Findings and determination of the final draft is beneficial. We're adding open space and recreational opportunities of nearly 200 acres. We increase public safety. There's minimal impact to infrastructure and it addresses the West Maui Community Plan.

Adverse impacts could be, it could be potentially costly and it could be time to acquire if that's what we end up doing or working with the developers and it could reduce property values for private ownership because you're talking ag land you're changing it to open space or park.

Overall we found, the consultant found that there were no significant impacts. The benefits

outweigh the adverse impacts as these can be mitigated. So we ask that you please find and recommend a Finding of No Significant Impact. Thank you.

Chester did you want to add anything or? Is that okay with the Chair?

Mr. Starr: Yeah, but please introduce yourself and let us know how you're involved in the process.

Mr. Chester Koga: My name is Chester Koga. I'm with the firm RM Towill Corporation and we were hired by the County Planning Department for purposes of assisting in the development of the environmental assessment and we also did the preparation of the master plan.

I just want to add a few comments, ...(inaudible)... statements made by former Director Foley that the plan does not specifically look at, you might say, the development of manicured park for the entire area. A lot of the areas, we'll call it, you know, naturalized state. For someone else, will just call it looks like a bunch of kiawe trees and haole koa, but the idea is that it's part of the charm, it's part of the appearance and it looks – and it's not the intention to manicure the entire eight miles. Where areas around like Launiupoko Park, you know, it's an area that on any given weekend any of us who have gone by there you can see that this place is very well used. Other areas are needing some help like Papalaua Park. You know it's a very popular camping area but for those who live on the west side you know that every time it rains hard, there's a large lake that running parallel to the road. So those kinds of things we'd want to fix but obviously the rest of it we can leave the way it is.

Kathleen did mention there is going to be a severe price tag if the County decides wants to acquire all of it. We are looking at \$60 million plus if we bought it at the current County of Maui tax assessed value. It's not a cheap thing.

But again, the West Maui community saw it back in 1995 when the passed, approved the West Maui Community Plan that this is something that people want. This is not just for the folks of West Maui but this is all of Maui County and it's a vision that they wanted to share with everybody else. With that, thank you.

Mr. Starr: Members, questions? I do have a question which is that there's been a lot of confusion in the community about the ramifications of this. You know, I've heard people say that we'll this will allow, you know, there to be subdivisions below the road and that you know, it's being done to allow development and then today, I also saw a written testimony by the group involved with the Olowalu Lanakila Hawaiian Church who are fearful that this process would make their church I guess nonconforming and they would lose that facility. Could you comment on the ramifications?

Ms. Aoki: Sure, I'd be happy to.

Mr. Starr: On the ramification in regarding this.

Ms. Aoki: It is our intent with this plan to preserve and protect not to take away. So met with the Olowalu people, some of them this morning because I had heard these concerns as well. I informed them that if changing their zoning to open space, one, precludes them from building a new

church that I don't think it's the county's intent to do that and we would not go forward with changing that zoning. We could look at the property and I don't know the property well, so I'm just ab libing here but say for example the burials are in the back part of the property and they want to build a new church in the front part of the property, I don't think the county – I can't say what we would do because I'm just a planner, but my proposal would be to help them change the back part of the property open space so nobody can touch those burials, so nobody can touch those archaeological features. That was the intent of this plan was to help them. If the front part of the property remained in ag, and they could get a special use permit to build a church I mean, that would be for them to do, but it is not our intent to make things more difficult for them. It was always our intent to help them.

As for this plan supporting development makai of the alignment that could be further from the truth because the whole intent of the plan is to protect and preserve open space and park. Whereas right now it's in ag, certain areas are in ag which does allow development. Granted not much, but it does allow it. So you know, I talked to a fellow from Olowalu last night who told me the same thing that he's like, "Kathleen you have our parcel in open space, is that going to –" and I went, "oh you know, when we go forward with the community plan amendment and the change in zoning and we actually have to do the metes and bounds of the property, lets go out together. You tell me where you want protected and where you don't." You know what I mean? It's like if they own that property and it's a church on there it is not the county's intent to take that away from them. I mean, I don't know I'm just speaking. That just bothers me.

Mr. Starr: I perhaps the director could help us understand because my understanding this is a broad brush thing. Jeff, why don't you give us a couple of comments and then we'll go to the members.

Mr. Hunt: I'd like to reiterate what Kathleen said is this is plan that's intended to preserve the coast line for the citizens of the county to have access and to prevent development. It's not intended to infringe upon the church. The church's particular parcel we could analyze that and see how that fits into this plan but this is just a long term master plan. There may be individual parcels that the county doesn't intend to buy, that the county doesn't zone, we can look into that in the future. That's not the intent of this plan. The intent of this plan is open space parkway along the edge of the shoreline to help preserve it for the citizens of the county and not to facilitate development makai of the highway. On the contrary, it's intended to discourage or even prevent development makai of the highway.

Mr. Starr: Thank you. Commissioner Pawsat.

Mr. Pawsat: So yeah, I guess I don't understand what we're really approving. I mean, she seems vague about like what will happen in this path so I mean, she's vague about it and I'm vague about it. Is this the last time we're going to – is this like we approve this and we'll never see this again or have any say on where this path lands? I mean, I think we're all – I mean, at least I'm all for moving the highway back, you know, and preserving park, but then why aren't all these other things on this map. You know, it seems it agrees to more and so if you could elaborate on you know, or summarize what this agrees to? Like why is there all this other stuff? Like all the developments and stuff? You know, I mean, if we were just talking about moving the road back?

Ms. Aoki: Okay, I can address some of your question but the other part I'm going to have to ask for clarification. This is not the last time you will see this. You as a commission have to recommend the community plan amendments and changes in zoning before it goes to Council. So the next step would be for us to go out, do the metes and bounds of the parcels that we would like to change to open space or park. That's where like the church comes in. On your current map it shows it being changed to open space. But once we go out and do the metes and bounds and decide where it is that we actually want to change the zoning, we would come back to you. We can do less than what's on this EA. We just can't do more. If that makes sense to you commissioner.

Ms. Pawsat: Okay.

Ms. Aoki: As for the other stuff that's on the map and the development I'm sorry, I'm unclear what development you're referring to on the map.

Ms. Pawsat: Well, the whole Olowalu, proposed Olowalu development it's on there, correct?

Ms. Aoki: No. The subdivision that you're seeing is the current subdivision.

Ms. Pawsat: That's already there?

Ms. Aoki: Yes. Are you looking at the parcels that are –

Ms. Pawsat: The Figure 2.

Ms. Aoki: Yes. What you see on there is whatever is currently subdivided and approved. It's a TMK map.

Ms. Pawsat: It's all built.

Mr. Starr: I'd like to clarify that what's before us is this, is specifically the environmental assessment.

Ms. Aoki: Correct.

Mr. Starr: I think, you know, those were submitted by other parties, but the environmental assessment which is looking specifically at whether there would be negative environmental or cultural impacts associated with it and not – we're not doing change in zoning, we're not doing SMA, we're not doing anything like that.

Ms. Aoki: That's correct, sir.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: Just from a general statement I guess, since the general plan is currently being updated why do you feel it's appropriate for this to be moving on its own schedule versus waiting for the plan to be updated because with that, you'll have much more community input, you'll have

a lot more publicity regarding this proposed change. I don't think this particular planning commission meeting really caught the attention of the public. So I'm just kind of wondering why you feel it necessary to move this along on its separate schedule?

Ms. Aoki: Several reasons. One being that we've been working on this for the last five years and it's the momentum of the plan and you need to get things – you have to continue on with the process. Second thing is in the General Plan and the Maui Island Plan, P to P is recognized so it is already included in the Maui Island Plan. The third thing is, you know, it could, the process for the General Plan update is a long period of time, six months, six months, a year when – you're right about the timing, it does kind of come into play but it's the chicken or the egg. You know, do you wait for three, four years to go by, two years to go by? So I would just say that, you know, this is something that we have been working on, we've been asked to continue in it, it's been the past administration and this administration's focus. They fully support this plan. I don't know if that answers your question, but –

Mr. Hiranaga: Yeah, I can see when you first started this project it was running its own course, it's separate. But now it seems that the timing is starting to overlap the General Plan update and basically we're going to be doing the same exercise twice it appears. It's just that you're trying to do this like a year sooner than would be if it was to wait for the General Plan update is a year, 18 months. Because you're going on what is currently the plan, right? Which was created in 1992 or adopted in 1992.

Ms. Aoki: The West Maui Community Plan, yeah in '96 I think it was.

Mr. Hiranaga: And they're going through the process now of updating that. So –

Ms. Aoki: Well, they're going through the process of updating the Countywide Policy Plan but not the West Maui Community Plan.

Mr. Hiranaga: They will eventually.

Ms. Aoki: They will eventually that's correct. That's correct.

Mr. Hiranaga: So you don't feel – I guess you've been directed to continue forward.

Ms. Aoki: Well, I've been directed and I support it.

Mr. Hiranaga: Thank you.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: My understanding is that the general purpose of this is one, to do an environmental impact assessment so that part will be done and won't have to be done again in the future.

Ms. Aoki: Correct.

Mr. Mardfin: The second major purpose of this it seems to me is to show an interest of the County in creating such a park so that we – this body would take cognizance of that if anybody came in with development plans that dealt in this area is that correct?

Ms. Aoki: It would make you – definitely it would make you aware of what the county's intention is. How you use that information is up to you, but you're right.

Mr. Mardfin: Thank you.

Ms. Aoki: You're welcome.

Mr. Starr: Okay, members any questions?

Mr. Hunt: Just to reiterate what Mike Foley said this morning. One of the ideas is to try and preserve this land before it gets developed. If we wait until the West Maui Community Plan process is completed it may be too late is the fear. So, that would be an option honestly you could recommend that we just simply wait until the West Maui Community Plan process convenes. The fear or the downside of that is perhaps that land gets committed to development already.

Mr. Starr: Go ahead Commissioner Hedani.

Mr. Hiranaga: I don't oppose the intent of this plan, but I guess my major objection and I've voiced this previously is why does the road have to be so far from the ocean? I've been looking at this and it seems like to me if you took the road out of the tsunami inundation area which is 400 feet, and the erosion rate's 70 feet, I mean, you're taking it out for 200 years from – so why do you have to go so far inland? I mean, you talk about, you know, view vistas and I prefer to see you know, turtles popping their heads out of the water and seeing the waves actually hit the shoreline versus being that far from the ocean. So that's my major objection is why the roadway is being proposed so far from the ocean?

Ms. Aoki: Well, I'd just like to clarify that this is a conceptual proposal. The State DOT comes in and decides where that road is going not us. So when we did this alignment the idea behind it was one, to avoid all the dangers and two, to create that open space and park in between the highway and the road because if you don't do that what happens in 50 years or a hundred years when you got to move that road again or 200 years. You have development that's come right up to that road so you need to preserve – you know, the idea was to create that open space. This road may not go where we propose. I have no guarantee on that. They're doing their EIS corridor study. Where we have it, it might be that we've gone right through a marsh land somewhere, you know. But the idea is, anything makai that we've identified of our proposed road gets preserved. So that's the intent.

Mr. Starr: Commissioner Pawsat.

Ms. Pawsat: Yeah, I just have a question about something you said, like that's the part I don't understand is, where you said about this state – what – does State Department of Transportation, they come in, they just get to determine everything? Like why is there that disconnect, you know?

Ms. Aoki: This is a state highway. So five, six, seven years ago we were asked by the developers at Ukumehame because everybody kind of knew that the road would have to get moved one day but the State wasn't moving on it, so we funded a study which was the original Pali to Puamana Master Plan to kind of determine if you were to put a road and to take all these things into consideration where would you put it? So it was kind of – you could look at it two ways, either we were being proactive or we were stepping on the DOT's toes. Depends how you look at it.

Essentially the DOT now has come in and has funding to do a corridor alignment but it is – you know, we've talked with them, we work with them, there's communication going on constantly, but ultimately because it's a state road, they decide where to put it.

Mr. Starr: Members any other questions? Go ahead Commissioner Guard.

Mr. Guard: There's probably people here that have a little more intimate knowledge that might create more questions that we would have, it might be good to listen to some of the public comment.

Mr. Starr: Yeah, as soon as there's no more questions from the members, we'll take public testimony and then we'll have another opportunity at it again. Commissioner Hiranaga.

Mr. Hiranaga: I just have a couple more questions. So what happens to the existing uses? They become non conforming if their community plan designation is changed? Like you know, there's some residential homes there.

Ms. Aoki: We are not touching any properties with residential – with homes on them. The only lands we're touching or what to change are right now in ag and they don't have — see that's a fallacy.

Mr. Hiranaga: No farm dwellings?

Ms. Aoki: No.

Mr. Hiranaga: So any type of dwelling would exempt that property from the --

Ms. Aoki: We wouldn't go in and change it. It would remain in ag.

Mr. Hiranaga: Or a residential.

Ms. Aoki: Or residential in Olowalu, yeah. We're not proposing to change anybody's private residence into open space or park at all.

Mr. Starr: Dr. Iaconetti.

Mr. Iaconetti: There's one thing that I'm finding difficult to comprehend. You're asking us to declare that there's no fundamental environmental changes that we have to worry about. In other words, you're asking us to declare a FONSI, but we don't know where the new road's going to be, so how

can we declare something nonenvironmentally impacting if we don't even know where the road's going to be?

Ms. Aoki: I understand your question but you have to look at the EA commissioner. The EA is not about the road. The EA does not address where the road is going to go, where the road is going to make the impacts whether it's noise, whether it's on a marsh. It is about those parcels that are identified below our conceptual alignment and whether or not changing that parcel from ag to open space is going to make an environmental impact.

Mr. Iaconetti: At the present time we know where the road is don't we?

Ms. Aoki: Correct.

Mr. Iaconetti: And we know that there are a few areas along that road that are being impacted by the ocean.

Ms. Aoki: Correct.

Mr. Iaconetti: But this is a small, small part of that road. There's a very small area that's really being impacted and that – the present road can be moved away from that area without having to change the entire –

Ms. Aoki: Right. And that could happen. That could be what the State DOT, you know, decides. I can't tell you what the State DOT Task Force or what, you know, they have said that has come up in the meetings. Why are you moving the whole road? You can just kind of put elbows or you know. That doesn't negate what it is that we're trying to do to protect and preserve the shoreline and the open space regardless of where the road goes.

Mr. Iaconetti: Well, all right, let us talk about protecting the open space then. What assurance does the public have, what assurance can you give me that that area makai of the road will not be developed?

Ms. Aoki: Well as Foley stated and I believe you asked that question at the last meeting last year.

Mr. Iaconetti: But I didn't feel assured after he said it.

Ms. Aoki: Well because as I mentioned to you, I have no control over the future. All I can tell you is that if you go in and change it to open space or park you're going in the right direction. And it would be a lot harder to come back and change it back to an urban use. So, but, you either leave it in ag now and there's definitely the opportunity of development or we move forward, go with the change in zoning, make it open space, make it park which prevents the development.

Mr. Iaconetti: Permanently?

Ms. Aoki: Well, as long as it's in – I mean, it prevents residential development. I'm not going to say it prevents all development because that's – you know, we want to build bathrooms or you know,

barbeque pits for the duration that it's in that. It does prevent it. Director Hunt.

Mr. Hunt: Dr. Iaconetti, let me answer or let me try to add a couple comments. In regards to the highway there'll be a separate complete EIS for that highway and so all those issues will be resolved at that point.

In terms of the long term protection, there's no guarantee that the County or somebody else couldn't change the zoning after we designate it open space. But there are mechanisms that you can implement to help prevent that. Perhaps get a third party involved, a land trust so you would have to have the land trust and the County to okay some kind of change in designation. You can't absolutely say that forever and ever that land will be in open space, but there's mechanisms you can adopt to say that there's a really good chance it will be. And it's certainly more protected than leaving it in agriculture as it is now.

Mr. Iaconetti: How difficult is it to get it into a land trust? What would that entail?

Mr. Hunt: You'd have to get the land trust involved and there would have to be some interest in them and to their benefit. Essentially they become a part owner in essence.

Mr. Iaconetti: Do you conceive that this is a possibility?

Mr. Hunt: Well, I think it would be a tool that's worth exploring. We've had conversations with the land trust about some of these pieces of land along here. It's complex, but that's one of the standard tools that people use for or jurisdictions use to assure the long term preservation of land because you don't just leave it in the hands of the county officials.

Mr. Starr: Okay, yeah, I believe we'll be hearing from some of the land trust people in a few minutes they're sitting out there. Commissioner Hedani.

Mr. Hedani: Kathleen, how come everything makai of the highway isn't yellow?

Ms. Aoki: Well, at Olowalu you have parcels that have already been subdivided and have residences on them. So Olowalu is probably the more apparent place where we haven't gone in. I mean, there's a couple, but in this area here there's already two-acre lots that have been subdivided and sold and are private residences. All in the Ukumehame parcel which the County now owns we would change. And there's a little area – I mean, essentially it's only around here that we haven't identified. Along here is that 400-foot buffer that I mentioned to you folks that we added and then there's the extension of Launiupoko Beach Park, then there's open space. This map is kind of hard to tell but it's supposed to be all yellow. So commissioner I'm not sure where if you were referring to this or somewhere else.

Mr. Hedani: Yeah, if you look at Figure 2, the section that you have that between Puamana and Launiupoko Park is white which to me indicates that that would be open to development if the plan is from the Pali to Puamana –

Ms. Aoki: This section here?

Mr. Hedani: Right.

Ms. Aoki: Yeah, it's hard to see but there is a 400-foot buffer. So there is a 400-foot swath that we've identified. So if you look – I handed out to all of you a revised page 12, and on that table which is for Launiupoko, you'll see that lots, the first one 26B portion, and also 30B portion, proposed zoning is open space, open space. Proposed West Maui Community Plan is open space, open space. In your original document, it actually shows it as park, but that's incorrect. It should be open space. So that area there commissioner is where that yellow 400-foot swath would be. Actually there's a detail – Figure 3 on page 13, identifies that area sort of in detail. So you can see there commissioner that there is a continuation of the – does that help you?

Mr. Hedani: Well, yeah, the question would be at that point it would have 400 feet of open space that will be separated between the highway and would be bounded in between the highway and the open space with houses so you wouldn't be able to see the open space because of the houses, right?

Ms. Aoki: The houses if there were any, would be, because here you have the Lahaina bypass and that's pretty much set, that's where it's going.

Mr. Hedani: Are you positive?

Ms. Aoki: Yeah, the EIS has been adopted. There's funding for it. I can't tell you when they're going to do it, but –

Mr. Hedani: I guess my question would be if the 400-foot setback from the ocean is for the purpose of preserving open space views to the ocean, wouldn't you align the highway along the edge of the 400-foot buffer?

Ms. Aoki: There is a proposal from Malika to do a coastal road that would be on the mauka side of that. It's very close to what we have but their proposal is to cut out a piece of their subdivision for the park and make a coastal road on the mauka side of that parcel. So you would have the coastal road on the mauka side and the park below.

Mr. Hedani: It just wouldn't tie to the bypass highway alignment?

Ms. Aoki: It would eventually at Kaheleku.

Mr. Hedani: I'm confused.

Ms. Aoki: I am sorry. That's come up. What's going to happen to this road? What happens to the original highway? Again, from what the state has told us, they would turn it over to us once four lanes are built for the other highway and that's what we would turn into the bikeway, or green –you know, pedestrian path. There has been talk about, well, do you make another coastal road that's along this 400-foot swath which is what Makila Land has proposed. That's something the county could consider.

You know, as Mike Foley mentioned, this plan is conceptual and it's to preserve this area so that you can go in later and decide exactly what's the best use, not what's the best use, but should we have a coastal road. From what I've been told, this existing Honoapiilani Highway is going to be around for a long time. You know, I've been told that by State DOT. Even when they build the bypass this is going to stay. This doesn't negate the capacity that is needed by building the bypass until four lanes are built and they have no intention of building four lanes yet. So for a while, you may have a situation where – well, you will, you have two lanes and two lanes.

They've also talked about keeping this two lanes going one way and building a two-lane new road mauka going two lanes the other way until they have the funding to do another two lanes at which point they would shut this down. There's also the proposal that they're not going to even build another road that they're just going to widen this road.

Okay, so like I say there is as Commissioner Pawsat, there's a lot of unknowns. There is a lot of unknowns what's going to happen with this road. But the known is, this can be developed and there's two issues here. One, do you we preserve the land now for the communities use. Two, and I've talked to DOT about this, if we don't go in and preserve at least this, they could build houses and when they decide to build the road, they're going to have to go through houses and condemn everything because they didn't take the opportunity now, and that's come up with the GPAC these transit corridors that we need to go and start protecting these corridors. So that's kind of what we're looking at too. I mean, this plan is very multi facet so perhaps that makes everybody confused. But I'm not here to tell you, I can't tell you, what the State DOT is going to do. All I can tell you is that if we don't preserve it now then we've lost everything. You have the potential to lose any plans that we have of trying to preserve and protect what the community needs and has asked for.

Mr. Starr: Members can we go to testimony? Looks like no objections.

Mr. Hiranaga: Could I ask one follow up question?

Mr. Starr: Yeah, go ahead.

Mr. Hiranaga: So what's happening with that – on Figure no. 3 you have where the proposed road links up to the proposed Lahaina Bypass and there's a section that's 400 feet that's in green and above it is white between the proposed road – I think that's what Commissioner Hedani was speaking about.

Ms. Aoki: Through here, it just doesn't look like that. The landowners developers have submitted a subdivision proposal to do 15-acre ag lots through that area.

Mr. Hiranaga: So you've taken it out of the redesignation area?

Ms. Aoki: They have the 15-acre lots and like I say where the 400-foot swath is they've identified a park parcel. It doesn't match up exactly to this but it's very close. It kind of meanders. So there are areas where our 400-foot setback would go into some of those 15-acre lots. Not a lot, but there are areas where it would.

Mr. Hiranaga: Thank you.

Mr. Starr: Okay, lets move to public testimony. I'm going to start with Dale Bonar. Please give us our name slowly and who you represent if any and I'm going to ask everyone to keep it as brief as possible and in no case more than three minutes.

Mr. Dale Bonar: Thank you my name is Dale Bonar. I'm the Executive Director of the Maui Coastal Land Trust. I apologize to jumping in the front of the line but I have a conference call to go hit.

We've been a strong supporter of the Pali to Puamana project since our founding seven, eight years ago. The notion of having a coastal park the whole length of the basically Maalaea out to Puamana there has been very attractive to a great many people. The road will need to be moved. I mean, to answer your question about the 400 feet buffer there, those who were involved in climate studies and I've been involved in a lot of these things all of the worst case scenarios that the climate scientists have proposed, the data that's accumulating now is even worse than the worst case scenarios and up until recently we've been told we can expect at least three-foot sea level rise by the end of the century. The current statement coming from the IPCC is it's more likely to be a 10 to 12-foot rise. The Honoapiilani Highway will last for a while but within the lifetimes at least a number of us in this room major sections of that are going to be gone. And so my strong recommendation is getting that highway back as far as we can. I'd also love to see everything makai of that kept in open space, park available for all of those uses that the public needs.

We have worked with various land owners along there. We worked with voluntary willing land owners to protect land. Our personal philosophy is not to be involved in situations where there may be condemnation of land, that there are ways to do things in a win-win manner. And so we have regular contact with all the land owners to try and determine how to do this.

I should say that if land is set aside like that, if conservation easements are put on it with an organization such as ours or could be the county, those things are perpetual, however the point that Kathleen made is eminent domain trumps everything. Should someday a hundred years from now the county decide they just wants a sewage treatment plant along the whole coast or the state or whatever, they can trump even these kind of protections. Our strength is that we rally the public. We get strong public support to do these. The things that we have been involved in protecting and the land trusts around the nations are involved in protecting in do have a extremely high level of permanence. For some strange reason there's a lot of people who don't trust the government and consequently land trusts take a great deal of action in helping protect lands because they bring another layer in there that challenge government should they want to change things.

So I strongly support the plan. Get the road back as far as you can. We will work with the county, with the land owners, with fundraisers to try and help identify the funds to reimburse the land owners for what they are giving up by doing this but the more we do now the better we're going to be respected by our great great grandkids in the future. Thank you.

Mr. Starr: Questions? I actually have one. Dale, could you mention some of the mechanism and tools you use to preserve coastal lands?

Mr. Bonar: Okay, typically land trusts work three ways. One is you buy the land outright. That's what we did with Waihee Refuge which is now being restored for cultural educational center. The second and most common way is a land owner will give or sometimes sell an easement on their property. It's a conservation easement. It's kind of the opposite of an access easement. It defines what can and cannot happen on that property. So for example the first easement we took was on some 40 plus acres of land out in Hana that Hana Ranch had, coastal land, seven different TMKs, could have been 14 mega and mini mansions there. The easement says they can use it for pasture and it's there for scenic views. It can't be built on, it can't be subdivided, they can't sell the pieces individually. Our job as a land trust is to make sure that the current landowner and all future landowners stick to that agreement. And so it's in perpetuity. That's why we're working to build an organization that will be here in perpetuity to look after that. That's the most common way.

The third way is sometimes brokering a deal where the land ultimately gets turned over to a county park or national park system or some other protective type of an agency. Seventy percent of the land protected in the United States now and there's something like 37 million acres as the end of last year had been protected this way. Seventy percent of those protected with conservation easements. So the owner still owns the land, can use it for approved purposes.

Mr. Starr: What benefit does the owner get? Why would they do that?

Mr. Bonar: Well, when you give up your development rights, you're giving up real value. The IRS recognizes that as a donation. So if your land goes from being worth a million dollars to a hundred thousand dollars, that's the same as if you wrote a check for \$900,000 to a nonprofit and so it's a deduction across the board and there are very attractive tax advantages to doing that and they're more working their way through the state senate or state legislature and through the federal congress as we speak.

Mr. Starr: Dr. Iaconetti.

Mr. Iaconetti: How likely would it be that that property along the coast there would be turned into a land trust?

Mr. Bonar: I don't know, I beat Peter over the head regularly about here.

Mr. Iaconetti: Peter who?

Mr. Bonar: I mean, we're in discussion. One of the land owners there. I mean, we're in discussion. The reality is we're talking current value of that land with current ...(inaudible)... is substantial. I mean, whether it's \$60 million or \$40 million or \$100 million I don't know. It's got to be – our take is things have to be fair to everybody and so if we can come up, we, the greater we can come up with lets say \$60 million to be able to purchase it and the land owners are willing to sell it, that's one way of doing it.

Mr. Iaconetti: So the likelihood is pretty small?

Mr. Bonar: That would be my evaluation. The reality is, out there – there's not a lot of other funding

out there whether you're looking at federal funding or state or whatever. I also happen to be Chair of the Legacy Lands Commission, the State Legacy Lands Commission and there's \$4.7 million a year that gets allocated out to purchase things. So those things don't go very far. They help leverage but –

Mr. Iaconetti: So in your – your feeling, the best way of preserving that area in perpetuity is what? That's feasible, you could see happening.

Mr. Bonar: Well, the best way, the best possible way is for it to be under the outright control of an agency or an organization that's never going to develop it. How do we get to that point? I frankly think given the market nowadays, given the reality of the economy, given the cost that it would be to do it in an adverse possession mechanism, it's working with the landowners to find a middle of the road win-win, where either we're sort of equally happy or equally unhappy. Our democracy.

Mr. Iaconetti: Thanks.

Mr. Bonar: I should say, this isn't shared by all of my board, but it's the way – it's the reality that we deal in when we have land that is worth such an extraordinary values that we see in Hawaii today.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: Do I take that you're totally in support of this EA and the acceptance of a FONSI?

Mr. Bonar: I have not read through the thorough EA. There are a lot of mistakes in EA that as it currently exist. Some of the maps are wrong and some of the areas are wrong there. I would like to see all of those corrected. In a general sense, yes, I am in support of it and would give it a FONSI.

Mr. Starr: Commissioner Hedani.

Mr. Hedani: One of the things that was done way back I guess in the '50's or '60's when they laid out the alignment of the highway for West Maui was they aligned the highway pretty much as close to the ocean as they could get it. Following the thinking that Commissioner Hiranaga brought up that what they were creating by doing that was consistent beach access for the entire length of the roadway which allowed the public access to the ocean narrow enough that you couldn't develop anything between the ocean and the highway. So what you have was preserved open space by the alignment of the highway. By moving it back 800 feet or a thousand feet or whatever we do it – unless the nails are down super tight it creates two problems. One is that you'll have development occurring between the highway and the ocean preventing access of the public to the ocean and the second problem would be, the actual access to the ocean would be difficult because you would have to create accesses to the ocean from the highway and it wouldn't be continuous. From your perspective in managing land say if it was in a coastal land trust how would you manage those lands so that you can preserve access to the ocean without say, creating a 10-mile long homeless refuge.

Mr. Bonar: We're painfully aware of this. You do it a number of ways, you do it through

partnerships. You do it by having whether it's a canoe halau that utilizes part of it, whether you have some public park areas there and there's some successful examples of this in the other islands where the local communities, you know, even the homeowners association will support that local park there. And you build an endowment that enables taking care of the land. The current budget – I was over at budgetary hearings in Honolulu yesterday. The state budget for the parks, state parks is likely to be cut a million and a half dollars and you know, as bad as things are now, it's going to get worse. You have to have either local community groups taking responsibility to help do it or you have the private side do it and as a land trust even though we're nonprofit we're private ...(inaudible)... you build up those endowments by which you can afford to help take care of it. There's other things that I personally would see as being adequate. Running a campground for example, and you know, it could be sort of a quasi public or private campground. You know, if you have your select a mainland style KOAs and people want to pay the higher end there but you got the local \$2.00 a night tent sites there. There's a number of different kinds of things like that could be done. And that would rely on the greater community effort.

Mr. Starr: Okay, thank you Dale. I'm going to go down our list here. George Lavenson. Please try to keep it fairly short.

Mr. George Lavenson: Yes sir. Mr. Chairman and Members, I'm on the Board of Directors of Maui Unite and we share some of the concerns that you all have already expressed that are a concern not only to us but to the public and the first is, that this really is a world class beautiful highway. This book, "Maui Revealed" one of the books that people read before coming to Maui actually has a beautiful picture of the shoreline drive and they advise you when coming here from Honolulu even if coming to West Maui not to fly into Kapalua Airport but rather Kahului and don't miss this drive and if I may quote, "because during your drive along the coastline to the West Maui you realize that this island more than any other Hawaiian island has an extremely intimate relationship with the water. No other Hawaiian island has highways that embrace the ocean so much." That is our concern.

The movement right now you can drive along, people of Maui that have high cost of living and don't have a lot else have the ocean. They can get out. They can beach, surf, fish, take pictures, paint, they're intimate to the ocean. But these alignments, this realignment which I think is misleading is really moving it. DOT has told me the old highway will not be there. The task force is bringing down ...(inaudible)... roads perpendicularly from the proposed new realigned or moved highway to the existing parks and so people can't stop and get out where they want or carry a surfboard or beach chairs or kids. What amounts to one and a half to 10 or 15 football fields down to the ocean. And that's our concern.

We've been hearing about this wonderful parkway that will go all the way and frankly it seems a bit of a fairy tale and may be misleading. There is no money in the Parks Departments. It would take contributions from land owners and developers who are very interested in all this for an obviously good reason and tradeoff and we're concerned there would be development there rather large perhaps like from Lahaina to Kapalua with a few accesses for the public from what used to be beautiful ocean for visitors and for them.

The Long Range Planning Committee does have even more detailed maps than these which does

show both approved and proposed developments on the makai side of the proposed realignment almost the whole way. I agree with – we agree I would say with some of the comments too, and I have also gone to my car and checked it out and of the 8 to 10 miles there's only about 10% that's in real risk and could be fixed by elbowing it.

Mr. Starr: Please finish up, it's over three minutes.

Mr. Lavenson: All right you don't have to move the whole highway. And so we would – I just want to make sure I got my points. Really quickly I was on the Pacific Tsunami Committee, that's very rare every 60 years, this is protected here and so we would recommend reconsideration of this whole thing from the very beginning and no losing what is a – one of the world's greatest treasures. Well thank you for your attention. I'm sorry I went a little long.

Mr. Starr: Thank you. Any questions? Okay, thank you George. Next is Bill Johnston.

Mr. Bill Johnston: Thank you Chairman and fellow commissioners for allowing us to testify. My name is Bill Johnston. I'm a very nervous five-year resident of the town of Olowalu and I am also the elected treasurer of Olowalu Lanakila Hawaiian Church. I've submitted a letter to you and I think my letter says everything I want to say today in this testimony and I beg and pray that you'll read this letter.

But I'd like to start off, I came to Olowalu the first time in 1973. I stayed with my mother-in-law and father-in-law, Adeline and Vincent Rodrigues to ask for their daughter's hand in marriage and they consented thankfully and shortly thereafter I found that when you marry a local girl, you marry the family and most of our family is here today as well.

One of my fondest recollections of coming to Olowalu in '73 was that you could get up in the morning, put a bathing suit on literally almost crawl across that highway to go to the beach and you worry more about burning your hands and knees than you would about getting hit by a car. It was that quite in those days.

I can tell you that I'm personally and our church is also an advocate of realigning the highway but our conclusion here is that we ask this commission to reject this plan. I hope you can understand why we'd be a little hesitant to believe Kathleen's and the Planning Director Heads comments that this could be changed, that our property won't be bought while it is in black and white in this document that they plan to buy or condemn our facility and put us out of business as a church. That's a big concern to us. I beg you again, please consider rejecting this and asking the Planning Department come into our community, don't hold meetings in Wailuku where Wailuku residents dominate conversation and the Lahaina, where Lahaina residents dominant conversations. Come to Olowalu, talk to the people in Olowalu about what we want for our church and for our community. Thank you.

Mr. Starr: Go ahead Commissioner U'u.

Mr. U'u: Were you guys involved in any of this during the process?

Mr. Johnston: You know it's interesting if you go through this 500-page document you'll see that my mother-in-law and my brother-in-law, Hinano, were referenced many times in the appendix, yet there was never any discussion about the church. You know, they submitted documents related to the historical significance of this church. The church was founded as far back as the 1830's and nobody ever asked us about that. The fact is the only why I found out about this meeting today was from a friend of our church calling us and telling us hey, you've got a problem.

Mr. Starr: Can you speak in the mike please?

Mr. Johnston: Sorry. You have a problem. Your church is going to be put out of existence. Now I've heard the assurances that that's not true, but you know, I'm reminded of things that happened in Lahaina when the bypass came through. How many years ago was it about 10 where those people were eminent domained out of their homes, the government didn't step and we're what another 10 to 20 years away from that becoming a reality. So those people are out of their houses for 30 years before the actual event occurred. It's frustrating.

Mr. U'u: So the answer is no?

Mr. Johnston: I'm sorry, yes.

Mr. Starr: Okay, thank you very much.

Mr. Johnston: Sure, thank you.

Mr. Starr: Moving right along. Bill Frampton.

Mr. Johnston: This was attached the letter that I submitted and it is a 1996 article that mentions the existence of this –

Mr. Starr: Hold a second. George Johnston come on up. Commissioner Mardfin.

Mr. Mardfin: Are there any possible assurances that the Planning Department could give you that they were not going to condemn your church, that you'd find creditable?

Mr. Johnston: I'm a citizen. What I see in writing scares the, you now, it just scares us to death. You know, the people sitting here today won't be in this room five years from now when this comes to reality. I hate to say it, no. Again, a long answer that say no.

Mr. Mardfin: Would you be satisfied if your particular piece of property were deleted from the plan?

Mr. Johnston: Well, I mentioned in my conclusion of this article, if this huge mistake about our church as occurred what else has occurred in this community?

Mr. Mardfin: That's not my question to you. My question to you was, if your piece of property were deleted, would that satisfy your concerns?

Mr. Johnston: It would be more satisfactory to us. But would there be preventions on, you know, we're small church, a very poor church. We've raised a half a million dollars over the past 14 years to build a church. Would we be prevented from building? I mean, would we have to exist in the facilities we're in? It's hard to answer that question. I would say we would be more satisfied if that was a fact.

Mr. Mardfin: Thank you.

Mr. Starr: Commissioner U'u.

Mr. U'u: Yeah, just a comment. You know, how we respect Hana Advisory Committee at times we take into consideration what they have to say and at times it's not even taking place in that area yet we fail to meet with the residents of Olowalu here and I, too, have some concerns about what might be happening in their own backyard and I can see the concern on you and it would concern me too if it was happening in my place. If they moved the road, you know Hana Highway behind me, I would have a lot of concerns. So I understand where you're coming from.

Mr. Johnston: Thank you.

Mr. Starr: Thank you. Mr. Frampton. Please try to be brief and state your name and who you're representing.

Mr. Bill Frampton: Thank you very much. Aloha Chair and Members of the Planning Commission. I'm handing out a letter today. My name is Bill Frampton. I'm here on behalf of Olowalu Town and Olowalu Ekolu.

I want to preface my statements again as I did previously before that I don't think any one of us here in this room today thinks that these ideas, this value is the spirit of what we're trying to do isn't something wonderful and special. But nine years ago I was with Steve Goodfellow when we were in Mayor Apana's office and we came up with this idea and proposed this idea. It was a unique opportunity. There was essentially two land owners that owned the large three chunks of land, Olowalu, Ukumehame and Launiupoko. So we've always thought that this was wonderful. Since then the former Planning Director, and existing Planning Director has sort of taken the process, concept from there and moved forward.

I have a lot to say, you know, and It's said in our letter but there's several things that just keep coming to mind based on statements made earlier. There's a reason why a lot of us are confused today. It's because this environmental assessment document is flawed in many ways. I believe there's specific rules and regulations in the Hawaii laws that govern environmental assessments.

One of the primary rules is piecemealing, segmentation. This project has been admitted today numerous times and in the document that they're piecemealing this approach. They say we're only going to talk about the land use designations. We're not going to talk about anything else. But from its inception, this plan has always considered the relocation of the highway as in integral part and then what happens between the highway and the land like everyone's brought up today. Those are very valid points. They should be discussed. Not every one of them has to be the preferred

discussion but they need to be included so that decision makers can an informed decision. It's the purpose of the rules of the EIS and rules.

That was very much recently told to us by the Supreme Court if we recall the Superferry. They tried to piecemeal and do segmentation, that didn't fly with the Supreme Court. It shouldn't fly in this case. We cannot piecemeal this project. We should assess everything from the location of bathrooms, wastewater, you know, the highway itself, resource management plans. Again, we think this is an incredible opportunity but it needs to be done right. That's just far as the consistency goes.

Secondly, is the alternative section. I do like, what to say from the beginning I heard comments that they said they have talked to developers and land owners. We have tried and tried for the past three years to get across to the department and at these types of meetings and in letters that we've submitted similar to today that we want to share some alternative ideas. The Planning Department doesn't have to necessarily agree with our ideas but we think it's extremely fair and reasonable to ask that our alternatives be put in this document so that people can at least assess them. Have something to compare to in terms of a fair evaluation.

Olowalu Town for example –

Ms. Takayama-Corden: Three minutes.

Mr. B. Frampton: Has not been put in here.

Mr. Starr: Please finish up.

Mr. B. Frampton: And I will conclude by saying we have made a substantial formal submittal in the form of written documents, exhibits and the EA says that we haven't done so, I do take exception to that and so again, I do think it would be very premature for this body to accept a final environmental assessment as it is today that says there are no significant impacts.

Mr. Starr: Okay, thank you.

Mr. B. Frampton: Thank you very much.

Mr. Starr: Commissioner Guard.

Mr. Guard: I guess for your group as maybe even the prior land owners around Olowalu Mr. Johnston, are there any mechanisms to alleviate the concern without rejecting the document? I feel that there's other people that came in here that by rejecting the document setting it back two years they're nervous that people will just go ahead with ag subdivisions and all of a sudden private property owners will be right up against the existing highway. Is that a concern?

Mr. B. Frampton: Thank you Commissioner Guard. Absolutely and I think again it's why it is integral that we look at our alternatives. We presented an alternative in Olowalu for example, two. One for Olowalu Town it shows a master plan with close to 300 acres of parks and open space along the

shoreline. This document asked for about 30 acres that needed to purchase, we're talking 300 acres. We know and absolutely acknowledge that it does include – a proposed community would come along with that. But it should be at least acknowledged and discussed. So are there assurances? My assurance would be, I'm sad to say but a final EA and Corp. Counsel may answer this for you, but a final EA is a final EA. It can't say we accept the final EA but we're going to do some changes especially if they're substantial and the kind of changes we're talking about the church for example, a detailed map, a colored map that was done through looks like CAD system lines were drawn around the church, around the historical burials and I'm on the Burial Commission and I'm very concerned that it shows the highway alignment going through the burials. A map was deliberately made, decisions were made to put it on the map and then secondly on top of the table. Table 6, I believe, that shows the breakdown of what lands will be involved.

Again, I really hope that it's not coming across that Olowalu Town is against parks or we're against the Pali to Puamana. Again, I was there when we pitched the first idea because I believe in it. I want to see this happen for my kids, but what is integral Mr. Guard is that proper alternatives be discussed in this document. The rules require it, HRS 343, the Department of Health rules require it, you need to do an alternative analysis so that you folks can make a decision. In there you may we see Olowalu Town, for whatever reasons we don't like it, but at least you're able to tell the public you made a well-informed decision. I hope I answered your question.

Mr. Starr: Okay, Commissioner Hedani.

Mr. Hedani: Where's the 300 acres that you're talking about in parks and open in the Olowalu area?

Mr. B. Frampton: That acreage is identified in all of the submittals we gave to the department especially as part of the update of the General Plan of Maui. That, it's not included in that document. That document is for Olowalu Ekolu. I could try to show you but Commissioner Hedani, this is exactly what I'm talking about. We've provided very detailed submittals of wonderful, we think clear exhibits that show where this park system is and it's substantially along the coastline and it's along the culture reserve. There's a wonderful cultural reserve that exists today along the Olowalu Stream, it's not talked about in this project. It's a beautiful reserve that is there for perpetuity that should be at least mentioned as something that's there for you guys to consider about how much more parks should we or shouldn't we have. But to answer that question Mr. Hedani, we would hope that that alternative the examples of our detailed plans could at least have made it into there so that you folks could look at it and say hey, wow that's an interesting idea, work together with the land owners to try to accomplish this or you know what, those guys are too greedy and they don't care about the island, lets go condemn it.

Mr. Starr: Commissioner Pawsat.

Ms. Pawsat: When you talk about the segmentation or piecemeal approach not permitted, you group actions proposed by an agency shall be treated as a single action when the ...(inaudible)... actions or phases or increments of a larger total undertaking – actually this seems to be the description of what you guys are actually doing in Makena actually with – well around Makena Landing. So it's funny how you kind of flip it and then use it the other way now. But that's just a comment.

Mr. B. Frampton: I actually would hope you could expand on that because that's pretty far from the reality. Our environmental assessment assessed back in Makena which is really irrelevant here but it did cover every proposed possible action and mitigation measure. What we're saying is if you read the Superferry ruling there's really no comparison to our project in Makena. It clearly states in the laws, Corp. Counsel could be allowed to expand on it if he likes, you cannot piecemeal and segment out projects. This action, what you're being asked to look at today is the redesignation of lands. But while you're redesignate it, you're asking all the appropriate questions, I'm saying I would really –

Ms. Pawsat: Well, as an example of the piecemeal development is Makena Landing when that was approved for your development, part of it was the catchment basement which was going to be utilized later by Makena Landing right next door and I think that's clearly piecemeal.

Mr. B. Frampton: Actually it was to be utilized by our project.

Ms. Pawsat: Right, but you built it over capacity which I assumed is going to be used by Makena Resort.

Mr. B. Frampton: It was. And you know what, that was fully disclosed.

Ms. Pawsat: Well, I'm just saying the logic. I just want to make that comment.

Mr. B. Frampton: I'm just saying, it needs to be fully disclosed. You guys do not have a document in front of you that fully discloses all of the possible options and alternatives. And if you were to try to make a decision upon that a number was thrown out earlier about \$60 million, my partner will be up here later to tell you that's greatly below, well below the fair market value of the land. That's our concern. That's just Olowalu and we don't want to see it go that way. We want to see a win-win situation for Maui for my boy's sake, for all of our future generations sake. I think it warrants a proper fully assessed document.

Ms. Pawsat: Point of order. Point of order. I mean, he was asked a question and he's kind of waxing and waning and I don't even know what about.

Mr. Starr: Okay, why don't we call it that.

Mr. Mardfin: I have a question.

Mr. Starr: Commissioner Mardfin go ahead.

Mr. Mardfin: In this document, this final environmental assessment there's an Appendix C, Comments and Letter Received on the Draft EA. Had you submitted materials to them?

Mr. B. Frampton: Yes we have. Substantial.

Mr. Mardfin: Is it addressed in that Appendix?

Mr. B. Frampton: No, our letter is not included. The most recent letter was submitted on July 13th and I'll give you a small background there, at the last April 24th meeting that you held here Commissioner Iaconetti instructed the department to meet with us. Specifically said, will you meet with the Frampton brothers addressed to the director. The director said yes, he would. We did meet on May 9th. On May 9th in that meeting the Planning Department requested that we provide an economic feasibility analysis to share our alternatives. July 13th we did so. We submitted it. It's included as part of the submittal I just gave you as an Appendix. Out of just fundamentally we would have hoped that letter would have at least been put in there for you folks to read. When we got the document about a week and a half ago, we were stunned and surprised that it was not included and that's some basic requirements that OEQC requires. So my answer is, some of our –we've got maybe two letters in there. There's a very important letter that was more recently based upon a meeting with the department that was not included.

Mr. Mardfin: Okay, thank you.

Mr. Starr: Okay, thank you. Rory Frampton.

Mr. B. Frampton: Thank you.

Mr. Starr: Please try to be brief and tell us who you're representing and your name.

Mr. Rory Frampton: Good afternoon Commissioners. I'm Rory Frampton. I represent Makila Land Company and I just want to go to the map to show you where Makila is. Bill Frampton was here talking about Olowalu. Olowalu is a little bit more complex. There's homes and residences in the area. Makila goes from the Olowalu Landfill all the way to Puamana. It's about two and a half miles and the difference here is that all of the land that abuts the highway, everything behind it is vacant. There are no existing residences and the highway along this entire stretch is really close to the ocean. In other places it goes a little bit far back.

I have submitted a letter. I do want to – there's a couple exhibits that I want to go over. It's the letterhead Makila Land Company, but first I just want to comment on some things that were made earlier. I think we need to be really careful about this broad brush statements that people have made throughout this meeting. For instance, that the highway is in danger for the entire stretch of the shoreline. That's not necessarily true. That the Planning Department wants to have nothing but open space beneath this realigned road, that's not necessarily true because you got Olowalu. So we just need to be careful about that. There's a lot of details. This is a very complicated project. I've been working the section on Makila for two, two and a half years now and let me tell you there's a lot of moving pieces and it is fairly complex. But the one thing that is constant that we feel, we support and I think everybody around here supports is that there should be a continuous coastal preservation corridor along this section of shoreline. What you do within that coastal preservation corridor, how you do access, whether you do parks or leave it in an open space that has to be figured out. But the number one goal of having the coastline to be available to be used by the people I think is number one and we all agree to that.

Let me just show you real quickly some of the figures that I have in the attachment. Figure 2 is the original Pali to Puamana Plan and it's what's up on the board there. Kathleen showed it and really

in our area, in our two and a half miles, the main proposal was a mauka expansion of Launiupoko Beach Park. If you – when I came on board this board was adopted – well, not adopted was presented to Council. We tried to look for ways that we could not only meet that but exceed it and one of the things that we did if you turn the next page over was to try to figure out a way where we could designate a corridor along the entire frontage of our property. Again, to be used as some sort of coastal preservation. Some of it might be active beach parks, a lot of it might be just open space preservation. Anyways, that shows a rough concept. If you look at the next map, this was included in the draft EA and it basically is consistent with our revised plans, the plans that we submitted in '06. So we're fairly close to the Planning Department's concept. There are some details that I think need to be worked out. There might be some pushing and pulling of those lines but –

Mr. Starr: Can you please wrap up?

Mr. R. Frampton: But we are fairly close. I do have – I did want to make some comments about the coastal road and regional transportation if I may?

Mr. Starr: Can you wrap up please?

Mr. R. Frampton: Okay, just wrapping up, one of the core concepts that needs to be understood is the difference between coastal access and regional transportation and I think a lot of the things that people are talking about here, right now I'd like to see that that coastal road or something close to that coastal road be freed from its responsibility to provide regional transportation. So the idea of a regional transportation corridor inland and a coastal access along the shoreline I think makes a lot of sense and that's kind of what that middle figure shows there is that there would be a coastal road that would –

Mr. Starr: Okay, your time is up. Thank you.

Mr. R. Frampton: Yeah.

Mr. Starr: Commissioner Guard.

Mr. Guard: I think that was an important point so I'd actually like to follow up on that because you can go to other beach communities on the ocean beach in San Francisco, you can imagine if Highway 1 was along that beach, it would be a pretty slow moving area. So with these General Plan concepts of West Maui we might want to start looking at this. And if you want to go to the beach, you're saying you can get down there, drive the coast and take a look at the surf. But if you got to go to work, you can get to work one way and maybe on the way back and you have time, take the cruise. So you guys are talking about that in your potential concepts?

Mr. R. Frampton: Yes, that's the concept that we're kind of espousing and it's really trying – again, it's that main concept of you got – right now you've got one road with two functions. There's a function as a coastal access. You got surfers pulling off to the side of the road trying to unload their coolers, you also got guys trying to go to work and going to Costco and going to the airport, like 30,000 cars a day. So maybe you should pull those 30,000 cars and get them on an inland highway but still have either portions of the existing road or a new inland built coastal road run

parallel to the coast the whole way with nothing beneath it.

Mr. Starr: Commissioner Hedani.

Mr. Hedani: Rory, how many acres do you represent in Makila?

Mr. R. Frampton: The total acreage because Makila's land holdings once represented about close to 5,000 acres. So it goes mauka in the mountains then it comes all the way down along the coastline. And it – it basically surrounds the existing Launiupoko community. Along the coastline I think it's a 215-acre parcel and a 165-acre parcel. So just those two parcels on either side of Kaheleku are close to 400 acres.

Mr. Hedani: So roughly 5,000 altogether though?

Mr. R. Frampton: That's what it once was. Some of that's been sold off. So I think we're down to somewhere around 3,000 acres. Much of it in the conservation district.

Mr. Hedani: So the short answer would be 3,000 then, roughly?

Mr. R. Frampton: Roughly.

Mr. Hedani: Okay, I respect your, you know, ability as someone that's been involved in planning from the standpoint of representing a major land owner I think it's important that we hear, you know, what you have to say because what the commission wants, what the public wants may happen. What you want may happen. But what we both want can happen or will happen you know, in the future and I think that that's the thing that we're looking for down the line. I'm happy that you're saying things like, you know, preservation of open space continuously from the Pali all the way to Puamana in some form and I think we're kind of like on the same page from that perspective. At the same time, I'm concerned when I see things like the development that's going on on the ridges above Makila as part of the Launiupoko Subdivision that to me really takes away from what can be the preferred future for the island and it really saddens me to see stuff like that happen. And I wanted your comment, I don't know if you're responsible for that development or if you controlled that particular development that occurred but some of the desecration that I see of scenic assets it really breaks my heart. You have a comment on that?

Mr. R. Frampton: Yeah, I have two comments. First, we are – yeah, I've been on board now I left Chris Hart and Partners to be an independent consultant but with my prior, my major commitment to be working with Makila and that was about two years ago. There were a lot of things that were kind of already set in motion. It's hard to go back and be an armchair quarterback. There were a lot of decisions that were made along the way sort of incrementally. I think the approach now is to look at the entire – to step back, look at the big picture, look at the areas that should be set aside kept in like watershed protection, look at the coastline, set aside the areas that should be as a coastal preservation area.

The project that you're referring to was a difficult one. That one house site I think no one anticipated the owner doing the extensive amount of site work that he actually did, but that's part of a larger

250 acre subdivision where we entered into a third party agreement with Dale Bonar and Maui Coastal Land Trust and we identified certain sensitive habitat areas on top of the pu'us, both of the pu'us in that area and along a lot of the ridges and coming down from the conservation area basically we recognize that there's agricultural lands that are near the conservation district that actually have conservation value. So we put a conservation easement on, I want to say, if it was 250 acres we have a 220 or 200-acre conservation easement. We did leave open certain building pads to be sold as part of a large lots. That one particular parcel that you mentioned, it was about a – I want to say a 40-acre parcel with a three to four acre building envelope. Like I said, there were some design controls, however, the person who came in and purchased the property really did a significant amount of grading that was far – we never envisioned that something like that, that extreme would happen once that lot got sold. But there are, there is in place a larger conservation easement around all that surrounding acres that pretty much will keep the remaining area on that side of the stream in tact.

So like Dale mentioned earlier, there's trade offs and I've been facing that every day I've been working for this company. It's like how do we do things that are mindful, responsible development, but how do we also do it in a way that's economically feasible and then where we can look for benefits that are long term benefits, when we look at the shoreline area, I think that swath of green that map I show right there, in order to actually achieve some of those – in order to actually achieve implementation of some of those parks, you know right now under an ag subdivision – well, lets just say if we did nothing and the County came in and condemned it, it would cost the county tens of millions of dollars. That's option number one. Option number two –

Mr. Starr: Could you stick to the question you were asked?

Mr. R. Frampton: It's to do, it's part of the whole – the idea is – the response is –

Mr. Starr: Okay, thank you Mr. Frampton.

Mr. R. Frampton: Is how do you balance –

Mr. Starr: Commissioner Guard.

Mr. Guard: That was a good question on those properties. I think that takes away from the overall project for you guys. If we reject the EA because of whether the broad brush and whatnot, there's really no assurances that your company and other companies and we saw in this one, I'm seeing I didn't realize there was a building permit or something for ocean front homes on those sections. So I don't know if there's any assurances that this 400-foot setback of park, like if we take away the road, we're actually looking to see if we want to make this 400 strip eligible for a park and if by rejecting the EA are there assurances that your company or other companies aren't going to try to build right up to the highway like they have the right to do right now. Because other companies are saying oh, no it's too sloppy we need to master plan the entire park. But by saying to do that in this document, we send it back for two years and would be frightened of the fact of you sell it to a land owner and you had no idea that he was going to put in the house right on the street.

Mr. Frampton: Yeah, well we've been working with the Planning Department. We have plans in the

county right now that sets aside a 70-acre or two parcels that total about 70 acres roughly following that green map on this thing. It more closely follows the shaded green area on that middle figure that I gave you on in my handout, but what's currently been submitted, formally submitted to the county, it's received preliminary subdivision approval has two lots as unbuildable or nondevelopable lots as a set aside. So that's what we've put in writing. That's what we've submitted before this draft EA even came out. It was based on a number of meetings with previous Director Foley and Kathleen Aoki. The previous subdivision plans had been rejected. We came in, we sat down, we worked with them, we came up with this alternative and that's what's been submitted. It's been in the County now for a year and a half. So that's what I can say for right now. We've shown a substantial commitment to proceeding in this direction.

Mr. Starr: Okay, thank you Rory. Oh wait a second.

Mr. Mardfin: I'm sorry, you said there are two lots you're going to say are unbuildable. That sort of implies that there's one or more lots that are going to be buildable?

Mr. Frampton: Correct.

Mr. Mardfin: Right on the ocean?

Mr. Frampton: No. setback behind those nondevelopable lots. So there would be two –

Mr. Mardfin: How far from the ocean?

Mr. Frampton: From the ocean, an average of 400 feet. That's where the 400 foot number came in. When we were meeting with Kathleen, we said basically our strip is about 400 feet deep from the shoreline. When Kathleen asked Chester to go ahead and map that, she said make an open space strip 400 feet from the highway. I think she thought that she was doing something that did our plan. So the difference is about the width of they highway. And in our subdivision plans like Kathleen said, there's portions of some of our parcels that would become within her open space area, we could do some pushing and pulling but it's awfully close to –

Mr. Mardfin: But these – assuming DOT goes ahead with their alignment the way they were talking it would be – these would be makai of the highway, of a real ...(inaudible)... highway.

Mr. Frampton: There's something important that came up a little earlier it was a little cause for confusion. The Lahaina bypass comes in right now, it's an approved alignment, accepted final EIS, accepted record of decision for the bypass to come in and to terminate or to connect to the existing coastal highway just past Kaheleku. So from here to here, it's a bypass and the existing highway remains under their plans. If you want to do anything – what we've done is we set land aside behind that highway if they ever want to meander that, do the elbows that were talked about previously, or if they want to eliminate it altogether we've actually proposed building a coastal road just back of that coastal reserve lot and that would be continuous access along that entire stretch of shoreline with nothing beneath it.

From here on out is where you have the actual highway relocation. And this part, from here all the

way down to where the bypass is what DOT is considering. So on our land it's a little confusing, you have an approved alignment and then you pick up the realignment of the coastal highway or they call it Honoapiilani Highway realignment/widening. They don't know what it's going to be yet. They don't know if they're going to realign it inland or if they're going to widen it to four lanes and even six lanes right on the coastline.

Mr. Mardfin: But the realignment on the far left side of the diagram, your properties would be makai of that realignment?

Mr. Frampton: This is not the realignment. This is the Lahaina bypass. This is the bypass that goes all the way to Honokowai.

Mr. Mardfin: So that you'd be makai of that bypass is that –

Mr. Frampton: Makai of that bypass there's the existing coastal highway and between that land along the coastal highway we've set aside land abutting the highway for this coastal reserve to do whatever – to move the highway, to do a park.

Mr. Mardfin: Thank you.

Mr. Starr: Okay, thank you Mr. Frampton. Next testifier, Helen Nielsen. Yeah, go ahead Kent.

Mr. Hiranaga: Are you for the final EA or against it?

Mr. R. Frampton: Obviously we're for the concept. I think the EA, you know, I noted in my letter some inaccuracies and especially I'd almost call it sloppiness with regards to the natural hazards and how they describe the tsunami inundation zone and they confuse the civil defense map with what the tsunami inundation coastal flooding area would be and they use this as a basis to say that the highway has to be relocated 400 feet inland or more. Well, it just simply not true and so to the extent that there are facts and information in this EA that are false and inaccurate it could lead to junker decisions down the road. So I have a problem with, it's more of a technical nature. I want to see what's in this EA be accurate. I've outlined some of the – and there's no discussion of roadways and the circulation plan. So the thing on natural hazards, a little bit more description on the roadway network, the project segmentation and there's some inaccurate statements about our land owner plans. I mean, not all of our plans involve requesting an increase in what's allowed by current zoning. Our plans we've looked at what's allowed by current zoning. We've also looked at some additional like the Cadillac version where we'd get a lot more homes but we'd build a lot more parks. So you know, there's that version, there's the scaled down version and then there's the county version where the county pays for everything. So there's kind of a spectrum of opportunities and getting back to your question on the EA, sorry, Chairman, this is a – it's a complex project and I've been working on it a lot and there's a lot of issues. But getting back to the EA –

Mr. Starr: Okay, please wrap up.

Mr. R. Frampton: Getting back to the EA, I think it needs some work. Some of it could be done

probably with some amendments but there are some other things that I think maybe you should hear from all the speakers before you weigh in on that. My personal feeling is it's close but not quite there.

Mr. Starr: Okay, Commissioner Hedani.

Mr. Hedani: I have one more question that I have to ask you Rory. The subdivision at Launiupoko that was a Makila Land project?

Mr. R. Frampton: No.

Mr. Hedani: Who did that?

Mr. R. Frampton: It was a company that has – there's some of the same principles involved but the original purchase at Launiupoko was about 400 some odd acres that where you see most of the homes right now. The Makila purchase – the Makila lands actually surround a lot of that and the Makila – some of the Makila parcels have been subdivided, but the majority of the density in Launiupoko right now is from a previous, a different partnership, Mahanaluani was the name of the partnership.

Mr. Hedani: Okay.

Mr. Starr: You have another one?

Mr. Hedani: Yeah, my point was that in the Launiupoko subdivision it's basically taking advantage of an agricultural subdivision and I don't see agriculture happening there. I don't know if it's poor land quality but the farmers are doing really well because they're driving Escalades and there's no agricultural activity really taking place there.

Mr. R. Frampton: I think that's characteristic of many areas on Maui and the issue of, basically I would call that rural development with a small r, I mean, it's rural is homes and farms because there are some farms up there. What you're talking about it's something that if you've ever driven through Haiku or Kula or Makawao or anyplace on the Big Island or Kauai. It's something that really needs attention I think statewide and this saying that you're going to put half of the land in the State of Hawaii into the ag district and force everybody who lives there to farm in order to do a dwelling I think is just a whole – there's a big problem with that.

Mr. Hedani: From my perspective I think what should have happened in that case is they should have come in for a rezoning of the property for residential use if the residential use is what they were pursuing.

Mr. R. Frampton: And that's easier said than done.

Mr. Starr: Okay, thank you. Doc, did you have one? Go ahead.

Mr. Iaconetti: The final environmental assessment that we're being asked to vote on today is simply

to change – well, this is confusing to me. Are we talking about the change of where the road goes? Or are we talking about changing the zoning?

Mr. Starr: Director.

Mr. Hunt: The environmental assessment is purely for change in land entitlements, the community plan designations and the zoning designations. If the highway were ever to be constructed, it would require its own separate environmental impact statement.

Mr. Iaconetti: Well then why is it that we're spending all of our time talking about the highway location?

Mr. Hunt: The Planning Department isn't talking about that. There's a lot of people who are either confused or purposely trying to confuse us, but –

Mr. Iaconetti: Well, I'm among the people that are purposely confused because I can see the point of changing if what you're telling me is true, I can see the point of changing it from ag to park, that's fine.

Mr. Hunt: That's what the EA is about is to change the land designations for these properties to try and preserve them for a future use by the citizens and to lock them up so they're not developed. That's in a nutshell. It is a complex situation. It doesn't apply across the whole eight-mile section. There's already some development. But again, this isn't about the highway. The highway is involved and so it's understandable how some people might start asking questions about that but you need to focus on what this document is about and it's just land entitlement from agricultural to park or open space.

Mr. Iaconetti: The highway is involved because by moving it mauka it creates a bigger area that can become park. Is that true?

Mr. Hunt: The final location of the highway has yet to be determined. That's a whole separate issue, except for the one section through the Makila Subdivision. That has a final determination on the EIS. Did I answer your question?

Mr. Iaconetti: So when we approve the final EA here we are only approving that portion of the highway.

Mr. Hunt: We're not talking about the highway.

Mr. Iaconetti: Not talking about it at all.

Mr. Hunt: The highway will be a separate process. It will come before this board for comments and then there's all sorts of scenarios that are being discussed by that task force that is involved with that and you know, one of them is to relocate it, how far, how far inland. Would we relocate it and build two lanes, relocate it and build four lanes, relocate it and build two lanes and then keep the coastal lanes. And so there's lots of different possibilities but that's not before you today. All the

Planning Department is trying to do is to designate park land along the coast so it will be preserved for future generations. We're not talking about the highway.

Mr. Starr: Lets finish public testimony.

Ms. Pawsat: I just want to really – I think the confusion was he was thinking like what determines the boundary. Does the road determine the boundary of the land use change?

Mr. Hunt: In some sections the plan is going off the approved alignments. That alignment may be changed in other areas. The proposed strip of park land or open space doesn't go along the entire highway as has been noted. There's a gap between the proposed alignment near Puamana and the coast so there would just be a strip there and in between strip of the open space there's developable land. So the highway could influence the park land but it's not the deciding factor. We're trying to get a strip of land along the coast.

Mr. Starr: Okay, thank you and thank you Rory. Next testifier, Helen Nielsen.

Ms. Helen Nielsen: Good afternoon Chair and Commissioners my name is Helen Nielsen and I'm here to testify on own behalf as a citizen of Maui County even though I am married to the Chair and I am a founding member and current board member of the Maui Coastal Land Trust. I'm not in any way influenced by those outside forces. But I'm speaking on behalf of going ahead and approving this plan, this EA.

I must disagree with some of the previous testifiers. I don't see this as a piecemeal approach planning. I see this as a very forward thinking positive way to go into the future and I feel like a lot of our plans have been piecemeal in the past and we've had a lot of problems trying to fix things that we've done wrong in the past and I think this is, you know, something that its time has come.

When I did begin the Maui Coastal Land Trust we were researching on how we could best work in a positive manner with landowners and the public. I specifically had pictures of Honoapiilani Highway when I was trying to get...(inaudible - changing of tape)... but, I was really eight years ago, I was really trying hard to see how we could get funding to move that highway up.

I think a lot of the problems that were addressed today will be addressed with the EA that comes with the realignment of the highway. Say for the group that wants to keep the highway where it is which I outright don't agree with, but I really hope you'll consider the bigger picture. I think a lot of the specific problems will be addressed in the future, but I think you have to really be visionaries. I think that's what everyone is looking forward to this commission for. So I'm speaking on behalf of it and thanks.

Mr. Starr: Any questions? Okay, thank you. We're going to take a recess, but just before then is there other public testimony if so raise some hands. Okay, we're going to take a 10-minute recess. We'll be back in 10 minutes exactly.

A recess was called at 2:30 p.m., and the meeting was reconvened at 2:40 p.m.

Mr. Hinano Rodrigues: ...(inaudible)... and not as an employee of the State. I am from Olowalu and Ukumehame. I do have taro patches in Ukumehame and I live part-time with my parents in Olowalu therefore I consider myself to be a stakeholder. Thank you for the opportunity to comment on the determination above. At this point, I have serious concerns regarding the thoroughness of this EA in the following areas:

3.3 Water Resources, Streams. In light of the fact that there is no county water sources in either Ukumehame or Olowalu water will have to be provided by the private water services in that area. How will the additional need for water affect the stream flow thus affecting its ecology. Water service same as above.

Sewer system. Since there will be a need for additional rest area facilities what kind of system will be provided and what will be its effect upon the environment that is to say the wetlands, the ocean and ground water.

Solid waste. With the increase of the use of the area how will this be handled? Currently there is a major problem with just the weekend use.

Flooding. Under the existing roads are culverts that help prevent flooding. In Rodrigues v. State the court ruled that the maintenance of those culverts were mandatory not discretionary. Who will assume the responsibility for those culverts.

Biological and Natural Resources. What of the wetlands environment? With road construction and eventual increase in usage what are the effects. Your report only addresses the nene, aren't there other birds there? What of the Auku'u? What of the Kolea?

Noise Impacts. You stated no impact, but if the road is moved mauka would not the wind carry the noise makai to those using the parks, beaches and how about the residents?

Air quality. With the winds blowing mauka to makai would not the car emissions affect air quality and the environment.

Cultural Historical, 3.13. What of access rights? Will the new ownership or stewardship affect our access to the ocean and mountain.

So in conclusion while I support the concept of a Pali to Puamana parkway, I don't find your EA sufficient such that it would warrant an EIS unnecessary. And finally, if the rest of the stakeholders on Maui are pending their plans so as to wait to the General Plan outcome, should not the County of Maui do so as well?

Mr. Starr: Okay, thank you. Questions? Commissioner Pawsat.

Ms. Pawsat: I guess this is for the Planning Department and for you. I feel like what he's talking about all the EIS that will be addressed when the road comes through. I mean, about the EIS with the actual road as opposed to an EIS of just changing that it becomes park. Because it seems like by changing the park it makes it easier because all these development like land use about

detriment to the land, it lessens the effect and were it to remain in its current zoning. Actually if it's in its current zoning it would be worse as far as development.

Mr. Rodrigues: Actually I see it quite the opposite.

Ms. Pawsat: Well, that's why I'm confused because that's how I'm seeing it. So I'm kind of, so I don't get it. If you know, if you're seeing it the opposite.

Mr. Rodrigues: It's easier to – and I work for the government yeah, it's easier to work with a private land owner, lets say with respect to the treatment of the wetlands, etc., etc, than it is to work with government agencies. And so when you create more open space, people have the idea in their mind that, oh now it's open space. The government said it's open space now I can go. So where you might have had 15 people going to an area on the weekend, you'll another 300 every day. It's, I know because I'm a little bit weird because I see things the way people don't see it but it's really the opposite. When something belongs to the government it becomes more detrimental.

Mr. Starr: Okay, Commissioner Guard.

Mr. Guard: We're not taking over the property. I mean, I'd say we as a taxpayer, etc. It stay under the current ownership correct in the EA or is this EA saying we're condemning it right now. It's just saying we're not allowing development there.

Mr. Rodrigues: With respect to your park lands you are because I understand there is discussion as to the valuation of the park lands that you are going to acquire. With respect to the open space you are in the sense that, you are accepting lets say stewardship by changing the use of that area.

Mr. Starr: Commissioner Pawsat.

Ms. Pawsat: Well, I think at this point though I think I disagree with like who's hands is it. I don't think it's safe in either of those two hands. I mean, quite honestly. And so right now it just seems like this is like a small baby step into the community interest even though you know, but it's just like – but everyone still needs to make sure their fingers are on it before it goes anywhere or something. So that's what I you know –

Mr. Rodrigues: And I have to agree with you personally. But you know, I hear this argument. I heard this argument going on for the last hour and a half that, oh you know what, we need to save this area because we don't know what's going to happen in the future. When it's time to go in to save this area as open space it might not be available. But you got to keep in mind that that kuleana to make sure it's available rests on the county's shoulders so I can't agree that people can say well, you know, we might lose it because the county is the one who makes the final decision. So they're there. They have the power. They're empowered to say yes or no or to say if somebody came in, they can say, you know what, we're planning to have open space and park so no, I don't think you should develop here. In other words, I don't see the risk because the county is the one who makes the final decision as to whether or not there is development.

Ms. Pawsat: And wouldn't the idea of the land trust alleviate a lot of these suspicions?

Mr. Rodrigues: You know with my job at State Historic Preservation I really like what Dale Bonar them are doing with respect to the land trust but I don't know enough about land trusts and I'm not sure – you know, because I'm half native Hawaiian, I'm not too sure what my role is in the land trust scheme. And that's what I'm worried about because you can have land trust, you can have rules and then they can say, Hinano I'm sorry, this is a land trust you cannot go get a'ama tonight. You cannot go fishing, you know, and that's where I'm really, really unsure.

Ms. Pawsat: But that's something you could talk – I mean, you know sure about it but that could amicable to what you're talking about as well just as much as any developer, right?

Mr. Starr: Commissioner U'u.

Mr. U'u: I share some of the same concerns. I am not educated enough to foresee it helping or hindering the land trust. I know the – it sounds like a great idea, but would that hinder me from going to places where I want to go. I don't know, I don't know how does the Waihee Dairy work. Am I allowed access on the dairy? No. So that's a hindrance for me and I know this, the people who on the Coastal Land Trust they are able to go to the Waihee Dairy and I cannot. So who's it benefitting. Maybe not me directly or indirectly but I have concerns about you know, who's the benefit for and who is like Dale Bonar said, the greater good of the community? Am I part of that greater good or am I not? Or who decides who's on the greater good? I don't think I was involved in the discussion so I guess I'm out. That's some of my concerns.

Mr. Rodrigues: And I share the same concerns Commissioner U'u and I share those concerns as a native Hawaiian. Can I make a very, very short comment about Olowalu Church?

Mr. Starr: No.

Mr. Rodrigues: Okay.

Mr. Starr: Thank you very much. Yeah, Commissioner Hedani.

Mr. Hedani: Do you have a comment on Olowalu Church?

Mr. Starr: No, it's okay.

Mr. Rodrigues: Yes, I do. Thank you. The existing, and I talked this over with Kathleen assured me that I don't have that much to worry about, but you know, again, being trained in the law, I like see um in writing yeah. But with respect to Olowalu Church the original location of the church was actually two acres from the front of the church back. In the early 1900's because of the way the Big 5 controlled this at that time the territory they stole the back from us and they shoved us two acres forward. So what is in the back two acres are the burials of my ancestors. Okay. But in those days we couldn't do anything. So that's theft number one.

In number two, in 1931, Olowalu Sugar Company was burning the sugar cane and the cane fire hit the church roof and it burned to the ground and Olowalu Sugar Company said oh you know what Olowalu Church you guys buy the material, we provide the labor, we rebuild the roof for you. Six

months later Olowalu Sugar Company was bought out by Pioneer Mill. Pioneer Mill came in and said there's no written agreement. We will not rebuild your church for you. So that's theft number two.

Now we're facing a possible theft number three. We're not going to put up with it. You've heard of the Olowalu massacre, this going to be the second one.

Mr. Starr: Okay, thank you very much.

Mr. Rodrigues: Thank you.

Mr. Starr: Okay, I didn't see this before, Kenny Hulquist. Change your hat or turn it around backwards and go on up and testify Kenny. You got to wear a different hat, right?

Mr. Kenny Hulquist: Yeah, I haven't testified in front of the commission for quite a while. In fact like the Planning says and like the Coastal Land Trust said that this is really going to save the land, the coastal land for – at least certain portions of it and make it a complete beach all the way from the Pali to Puamana then that's really great. But then there were a lot of other people that got up there and I have to say that some of them were developers that have a vested interest and I've got to also add to that that scares me a little bit because obviously they wouldn't be taking the time to come here if they didn't have some sort of a financial stake in rehashing this or changing it. So I would, you know, having said that, I would be – if I was you guys I'd be leaning more towards, you know, trying to pass this but there are a heck of a lot of variables that I heard today that make it – I don't know if you guys are going to vote to pass this, defer it or deny it today, but I would like to see that land saved, the coastal land saved whatever way, shape or form that it happens, Coastal Land Trust, you guys taking it over or whatever, that would be one of the greatest things that would happen for the Pali to Puamana area. So thank you.

Mr. Starr: Questions? Bruce.

Mr. U'u: Eh Kenny, nice to see you testifying. So say we pass the EA, say we approve and pass the final EA, what do we do about the people in Olowalu, the residents there? We deal with it at a later time or we hash it out as we go or you know, at times when we have say, the developers in front of us and not the county that's putting out the EA, we've asked them thorough questions and we grill them to the bone and I feel when it's in a reverse when the pendulum is swing and it's on the county now we're assured that we have to wait. Perfect example, today was the A&B we asked for pictures, a visual, they came back, got us the visual, they got their approval today. So I don't know who we holding who hostage at times or who's going to be accountable for the people of Olowalu, the true residents. The pure people, the true people and I have a hard time swallowing that.

Mr. Hulquist: Those do seem like everyday normal hard working people and their concerns need to be addressed I concur with that, yes. Absolutely.

Mr. U'u: That's the problem I have a hard time swallowing right now.

Mr. Hulquist: And if passing this is going to affect them in an adverse way, I would say that you guys need more information before you can do anything. So I would just say, defer it. I know deferral you know, just puts more stuff on your agenda and believe me, I know how much stuff is on your agenda. I'm here all the meetings. I don't know how you're going to get through today's actually.

Mr. Starr: Go ahead.

Mr. U'u: I like the vision of the Planning Department, but the way about we going about it to attain to get the end vision is what I'm worried and that's part of the process. And so we're dealing with it a step at a time. But I like to see you up there Kenny. It's all good man.

Mr. Hulquist: I appreciate your appreciation. Thank you.

Mr. Starr: And thank you Kenny and thank you for the good work you do filming and the Ken Productions rocks.

Mr. Hulquist: It's my pleasure, thank you.

Mr. Starr: Okay, who's next. Come. Tell us who you are and if you represent a group and try to keep it for three minutes.

Ms. Adeline Kaahui Rodrigues: My name is Adeline Kaahui Rodrigues.

Mr. Starr: Use the mike. Bend it down.

Ms. Rodrigues: My name is Adeline Kaahui Rodrigues. I am the Moderator for Olowalu Lanakila Church. You heard everything about Olowalu Lanakila Church. And I just wanted to say this, I want the Planning Commission to tell the Planning Department to go back to board and do their homework.

Changing the church property to open space and buy the property it's not a significant impact? It is. How come nobody ever came to my house and knocked on the door. "Mrs. Rodrigues we'd like to talk to you about Olowalu." Nobody came. Somebody said today they talked to the Lahaina community. Lahaina is Lahaina. Olowalu is Olowalu. Come see us. So I think you folks should tell them to go back and come talk to us. I don't want that, "oh, we can move the Olowalu Church away from that green lines that they make on that map." No, I want to see it on paper. On paper.

We have been in Olowalu. I was born there. I have been a resident there for many years. Where, if they take the church away from us where are we going to hold our church services. Somebody didn't know we hold church services every Sunday. Somebody from the county told me that. It's right in here. My son talked about the burial and cemetery. What arrogance did the plantation have to take away our church, move it down and what, plant sugar cane on it.

My dad told me before he died, "Addie there are old burials in the old church property." And my dad also said the plantation relocated the church further down. However, they did not relocate the burial ground or cemetery but planted sugar cane on it which showed a great disrespect to my kupunas.

Again, what arrogance.

Olowalu Master Plan. What happened to the Olowalu Town Plan? What happened to the Olowalu Town Plan? I'm for the Olowalu Town Plan I tell you. We need something in Olowalu. We can't stay like that forever. There are many significant impacts surrounding the environment. Shoreline resources, overuse of parks and coastal land. I see it happen every day. I even smell that what do you – sunscreen. I can't even go down to the beach and bamboo any more. The fish is not there.

Mr. Starr: Can you please finish up?

Ms. Rodrigues: That's all I'm going to say. Thank you.

Mr. Starr: Okay, thank you Addie, any questions? Yeah, Commissioner Mardfin.

Mr. Mardfin: Mrs. Rodrigues, if the designation for the church and the burial area were removed from the plan would that satisfy your needs?

Ms. Rodrigues: Yes, but it has to be on paper.

Mr. Starr: Okay, thank you very much. Anyone else wishing to testify? No, you testified already. Oh, I'm sorry. Sorry about that.

Mr. Dave Ward: Thank you though for letting me testify. My name is Dave Ward not Frampton and I'm here to testify on behalf solely of Olowalu Ekolu LLC which are the owners of the 16-acre parcel on the makai side of the highway just on the Lahaina side of Olowalu Stream which is shown in green on that map there.

It's important to understand that this ownership group is a hui of owners. This is the only property that they own in the Olowalu area. Okay, so that's the perspective that we're looking at.

When I was here last time I stated that I felt the most important thing was to provide accurate information so the decision makers can make good decisions. I don't see that in this EA. And thus, I ask you to ask the Planning Department to get this right before you adopt it.

I only got three minutes. I'd like to focus on one thing. I'd like to focus on Table 6 which is in your EA. It is a list of the properties that the Planning Department proposes to purchase. In that table is where the church is labeled as being public – I'm sorry private land thus being purchased. In that Table, the Olowalu Ekolu property is mislabeled. It's labeled as state land. It's labeled that it's state land use is conservation. It's labeled that it's community plan is open space. These are inaccurate.

What that does is it greatly impacts the economic analysis. Because it's not in there as private land it's not analyzed as being purchased. The analysis shows 32 acres being purchased in Olowalu. In fact, the description of the land talks about this 16-acre lot being purchased. If the 16 lot were included it would be 48 acres. That's a big discrepancy. Not a small item.

Furthermore, the dollar amount per acre that is utilized in this is grossly inaccurate. There was a third-party independent appraisal that was done relatively recently for land in this area and while this purports \$300,000 to \$400,000 per acre, the third-party independent appraisal identified this land as being somewhere, a 25-acre parcel somewhere in the neighborhood of about \$800,000 per acre. A two-acre parcel somewhere in the neighborhood of almost \$2 million per acre. These are large orders of magnitude. It's the kind of stuff that people need to think about when they're making decisions.

I ask, I'm not going to go into a lot of other details, but I do ask that this report be cleaned up before it is adopted.

Mr. Starr: Okay, thank you. Commissioner Mardfin first.

Mr. Mardfin: Mr. Ward, is the parcel you're talking about tax map key 4-8-003:124?

Mr. Ward: That is correct.

Mr. Mardfin: Okay.

Mr. Starr: Commissioner Guard, I think you had your hand up.

Mr. Guard: Has your company identified this as future park or you guys want to go forward with this proposed development on the house and pool, cottage that was given to us.

Mr. Ward: Yes. I think that's a good question and I think that while my testimony was limited really to one example because I wanted to keep to three, I think that an alternative analysis is critical to this EA. I think that having the alternatives out there is a very important part so that people can actually look and make appropriate decisions. And the information that you're referring to Commissioner Guard is in the attachment that was provided by Bill Frampton earlier and in that analysis it shows various alternatives for this land. One being a single – I'm sorry, a residential farm dwelling for this lot.

Mr. Starr: Okay, thank you very much.

Mr. Guard: Sorry, one more question.

Mr. Starr: Oh, go ahead J.B.

Mr. Guard: And then in your GPAC proposed boundary that area seemed to be I guess cut up.

Mr. Ward: Combination, yeah, exactly. A combination and I don't want to take a lot of time but I think –

Mr. Guard: Well, this is important because I believe in the county this is a very prime park component of it.

Mr. Ward: For the existing highway location and the existing use this parcel is a piece that's the first piece sits on the makai side of the highway as you approach Olowalu. If the General Plan Advisory Committee determines that Olowalu is an appropriate place for growth for a small community and the highway is relocated, this parcel changed very much in its nature just in physical components. As you entered Olowalu and left Olowalu with a relocated highway there would be large parks, very large parks. Larger than the ones that are talked about in here. So I think it's hard to say one or the other it's good. That's why I think again, very important lets look at the alternatives. Lets get the information in this report so that people can make accurate decisions. Thank you.

Mr. Starr: Okay, thank you. Come on up Peter. Identify yourself and who you represent and try to keep it as brief as you can.

Mr. Peter Martin: Good afternoon, my name is Peter Martin. I am speaking both as a citizen and a land owner. Primarily land owner of Makila. I think first big picture we should just count our blessings. I don't think there's anybody that isn't ...(inaudible)... with the concept of the park. The problem is is when you get enough people how do we get there and I actually understand this first step. I think it's a mistake this first step but I just think we should count our blessings and really aim at trying to do everything we can to get a park for eight miles from Puamana to the Pali. It's just wonderful.

I do think that as land owners we do things that believe or not are actually good for the public. I thought about this when we sold the lot to Michael Moore. He's the luau fellow. We had a land commission award in Olowalu and we sold that piece and it's very frustrating to him that we put a 10-foot strip in front of his property for people to walk on and the county didn't make us do it. And we did it, and thought ahead and we planned for it. So the lateral access is intact all the way across much of it is government reserve, but much of it was thought through by us because there's – it's weird little jogs and every time we have the opportunity we make a strip. So that's one.

Second thing is how great it is that I – we didn't block all the choices where you can put this highway. We don't houses in Ikena Street. Does anybody notice if you look at Olowalu the houses are way mauka and way makai. So all these ranges for the highway have not been done and we've made an agreement with Dave Goode in things that we would wait a while and try to figure out where this highway to go and give broad lateral. We didn't build houses on the ocean, we could have a long time ago. So this area that you're talking about for the swap of the highway, we've purposely not done anything there for a long time. We are concerned that if you adopt this document it devalues our property and one of our strongest arguments is hey, if you really want to protect the property if you really care about it for this you don't need it, just go by it, but nobody has this money. So why are we even doing this – once you start on this, I think J. B. asked a very good question, he goes, "we're just designating it, it doesn't mean anything." or it doesn't mean much. But it does, it's starts down this slope. If you really want to protect the property buy it, but you don't have the money. So lets get together because we're willing to basically work with the county and they'll end up donating the land, they won't spend \$60 or \$70 million, the park will be done and we'll work together to make the dream come true. That's about all I have.

Mr. Starr: Okay, thank you. Commissioner Mardfin go ahead.

Mr. Mardfin: Excuse me sir, would you be willing to engage in discussions with the people from the Maui Coastal Land Trust about ways you could recover some of your investment by engaging in some sort of conservation easements?

Mr. Martin: Yeah, we'd rather broaden it to showing some many alternative ideas which I don't – I mean, Rory would work with them on it. So, the answer I think is broader than that. Again, I think the Maui Coastal Land Trust should – they only have so much money, why be buying any land that might be given to him. I think the plans we have – there is trade offs but I think if people – the minute they hear the word development, the answer's no. I think if they actually saw the master plan and really could feel it, it's a wonderful thing.

Mr. Mardfin: Thank you.

Mr. Starr: Thank you. Any other testifiers? Come on up

Ms. Patricia Nishiyama: Aloha, my name is Patty Nishiyama. I'm with Na Kupuna O Maui as you see and we are here to support the Kupuna of Olowalu and the families who live and born there. So this is our manao and we are here to support that project with them. Thank you. Mahalo.

Mr. Starr: Yeah, thank you Aunty. Any questions? Ward.

Mr. Mardfin: You're presenting the plan as presented by the –

Ms. Nishiyama: We're supporting whatever the kupuna of that area and the families of Olowalu because we have sat with them and we have looked into this plan and we feel that these are the people of Olowalu, the kupuna who born and raised there is the one that wants what they want for their pua'a. So we're here to support the kupuna and the families of Olowalu.

Mr. Mardfin: So I asked earlier testifiers from some members at least of that community who were involved in the church if they would be – if it would satisfy them if the church lands and cemetery were taken out of this designation. That would be something that you would be supportive of.

Ms. Nishiyama: What aunty has decided this is what we have, we are for, for her decision only. Because like we said, we honor and respect the kupuna of that area and the family who born and raised there.

Mr. Mardfin: Mahalo nui loa.

Ms. Nishiyama: Thank you.

Mr. Starr: Okay, mahalo aunty. Anyone else? Seeing no – yeah, you didn't come up before, okay come up. I'm sorry, I've been looking at you all day.

Ms. Thelma Kaahui: I'm scared.

Mr. Starr: No, no, it's like family, it's okay.

Ms. Thelma Kaahui: My name is Thelma Kaahui and I reside in Olowalu. I'm a resident there, also a member of the Olowalu Lanakila Hawaiian Church. Earlier you mentioned it's a dream, your plan is a dream. Yeah, who's dream is that? It's not mine. And then I hear a lot about Mike Foley. Who's Mike Foley? Where is he to answer the questions she cannot answer and I'm against that because to me they're stealing my church. On the mainland they burn church, over here they want to steal my church and I'm against that.

Nobody even asked me anything. Nobody knocked on my door and nobody said anything. Next thing you know there's a plan just like it's ready to go, it's finished, but I am against stealing my church. That's all I have to say. Thank you.

Mr. Starr: Okay, go ahead, Commissioner Mardfin.

Mr. Mardfin: Mrs. Kaahui if the church lands and cemetery were deleted from this plan and not changed in any way would that satisfy you?

Ms. Kaahui: Yes, like my sister said it has to be on paper, black and white.

Mr. Mardfin: Thank you very much.

Ms. Kaahui: You're welcome.

Mr. Starr: Okay, thank you aunty, and you know, I think I speak for a lot of the commission members I don't think anyone in this room who would stand by and watch the church get taken away. I think we would all fight it as strong as you would and I don't think that that's part of this plan. Any one else please? Okay, thank you. Seeing any other testifiers the public hearing is now closed. And, like to see members what's your pleasure.

Ms. Pawsat: I make a motion to approve.

Mr. Starr: Okay, we have a second?

Mr. Mardfin: I'll second it.

Mr. Starr: Okay, motion to approve the acceptance of the EA by Commissioner Pawsat and seconded by Commissioner Mardfin. Any – Commissioner Mardfin.

Mr. Mardfin: Were we premature in making that motion? Should we have heard from the department first?

Mr. Starr: No, I think that that's a, you know, a fine motion. If anyone wants to make amendment to change anything that's in order.

Mr. Mardfin: Could I ask the department to comment on the things that have been brought up during public testimony and in particular about the church.

Ms. Aoki: Sure. First of all, I'd just like to say that today's decision is not a land use entitlement

decision. So whatever decision you make today is not going to effectively change the properties to open space or park. It's a change in zoning and a change in community plan amendment that has to come back to you and it has to be approved by you and it has to be approved by Council. It is not the Planning Department that is the authoritative body to make that decision. It is you and it is the Council.

My assurance to the people of Olowalu and the church is my sincere apology that this mistake was made and that when we come back to you with the actual change in zoning and community plan amendment that their parcel will not be on that recommendation. It will not be on that application. Again, that is something that still has to be approved by you, but it being on the map here today doesn't mean that that's going to happen.

It is not a decision as Dr. Iaconetti is confused about, it's not a decision about moving the road or where it will go. It is a decision to see if there are significant environmental impacts on preserving designated parcels and to open space and park.

So the idea is we could remove the parcel that's being – the contentious parcel that's going on right now. That's your purview. My only offer to you would be that again, it would have to come back to you in the community plan amendment and change in zoning and it would not be on there. What we would do is that we would essentially work with them and find out you know, where the parcel is, who owns it, who owns what. I mean, I can't make a blanket statement here today to say because I don't know. I don't know what it is that they want, but when we do the community plan application and change in zoning that's all going to be reflected in that application.

Mr. Starr: I have a question for the director which is it's a process question. I think that there is a very real concern regarding the church property, the cemetery site and the location where the church will be reborn and is there a way that if there was a desire by commission members to approve this today that as part of that, we could approve it with like a condition that would remove those lots from it and also correct an error which we've been made aware of in that table?

Mr. Hunt: In the past the commission has accepted documents and technically that's the term is you accept it with changes to that final document. So the way the process works is if you accept the document then we have to post it with OEQC and we would post a corrected final environmental assessment. So you have the ability to affect the document and amend it.

Another option would be to defer and have us come back with the document.

Mr. Starr: Commissioner Guard.

Mr. Guard: That's why I was wondering about that amendment. Some of these are fairly significant so I don't know if all of – I didn't write down all the items. I wrote down some of my key ones. So I don't know if we have a pretty detailed list of items that need to be changed. I mean, I feel the assessed value question that came up is a big one for the county to review. I think ag land in Haiku is assessed around that price not necessarily ocean front land. That 16-acre parcel is – that significantly changes that if that wasn't part of the package. We have this fairly detailed map of Olowalu. I would actually like to know where the church is in question. I don't know if Mr.

Rodrigues could come back and show us. On Figure 4, it looks like we have a pretty good is it a GIS map is that the correct term? It's not the TMK map. And I don't know if we have that on the screen or not.

Mr. Hinano: Rodrigues: That would be –

Mr. Starr: Speak in front of the mike and identify yourself.

Mr. Hinano Rodrigues: That would parcel 18 in the TMK for 4-8-003:018 would be the parcel.

Mr. Starr: And identify yourself for the record.

Mr. Rodrigues: I'm sorry. Hinano Rodrigues.

Ms. Aoki: Do you guys see it?

Mr. Guard: Yes. And so you've noticed that, obviously take out whether this moves forward or not, okay? And then the archaeological site next to it also part of that?

Ms. Aoki: I believe it's all on the same parcel? No?

Mr. Rodrigues: No.

Mr. Guard: 18c that says, it looks like it says archaeological site.

Mr. Rodrigues: Hinano Rodrigues again. I'm sorry. I gave you guys half an errored statement. See remember I told you the story about where the church property there's a question as to what the true church property is. So the church property that is on paper is 4-8-3:18, however, under the good grace of the land owners, they've offered, I don't know whether it's an easement or an outright grant to the portion that was taken away from us a hundred years ago. So my understanding is that that portion that was taken away from us has a separate TMK.

Mr. Mardfin: Which is what?

Mr. Rodrigues: Yes, you know, I think Mr. – I think Bill Frampton might be a better person to answer that question.

Mr. Starr: Just identify yourself.

Mr. Bill Frampton: Hi, thank you. Hinano is correct. The parcel 4-8-03:18, that's the two-acre parcel where the church physically sits today, that's two acres. However, the burials when you look at the Figure 4, the important part to call is that highway line it goes through that burial area, that's actually encroaching upon one, two, two separate other TMKs that are owned by –

Mr. Starr: Identify yourself.

Mr. Frampton: I'm sorry, my name is Bill Frampton.

Mr. Mardfin: Which are those TMKs?

Mr. Frampton: The TMKs identified as lot 18c, which is to the – if you're looking at Figure 4 to the left, 4-8-03: parcel 101 and then the second TMK isn't identified on this map, 4-8-03 looks like parcel 102, I would like to confirm that. Anyways, it does affect several TMKs. I hope that helps.

Mr. Guard: Okay, I have a question then. So I guess it obviously doesn't have anything that resembles your previous map that you gave us in this Olowalu Ekolu, right? And then the green triangle on the fringe is that part of that 16-acre lot.

Mr. Frampton: I'm sorry Mr. Guard, I don't understand.

Mr. Guard: This is your GPAC presentation that you gave us September 20, 2007.

Mr. Frampton: Yeah, that was a submittal we gave to the GPAC for the – are you asking the acreage there?

Mr. Guard: I'm just wondering – I assuming like in this scenario the county in the EA scenario they actually have to buy all this land versus this was a more a dedicated thing on your presentation.

Mr. Frampton: Correct under that option that is correct Mr. Guard. I hope that helps.

Mr. Starr: Okay, go ahead.

Mr. Mardfin: I'd like to ask your planner, earlier we heard public testimony that were a number of concerns that were expressed. Were they submitted during the comment period?

Ms. Aoki: The comments that were submitted during the comment period which was up until March 8, 2007, are all in the EA. So anything that was submitted after that was not included in the EA.

Mr. Mardfin: Thank you.

Ms. Aoki: And just for the record, the EA comment period was extended by an additional 90 days.

Mr. Mardfin: Thank you.

Ms. Aoki: You're welcome.

Mr. Mardfin: Could I ask the director something? I think it's probably the director or maybe you. If – you outlined a couple of things we could do. One would be to make an amendment to this with regard to the church that be deleted in a corrected copy. The second possibility was that we defer action today. If we deferred action at what – what would be earliest that it could come back to us for full acceptance as a FONSI?

Mr. Hunt: If you defer it we would ask that you tell us specifically what kind of information you want added. Again, this is an informational document. If there's more information that board wants let us know what that is and then our response time is dependent upon the amount information you want.

Mr. Mardfin: But if it's not more information we want, it just that we want the church deleted then that wouldn't – we could do that – it would be better to do that with an amendment?

Mr. Hunt: I think that if the information that you desire is simple and easily accomplished then we can do that with revising the document and sending a revised document the OEQC. If there's other information you want, there's been a lot of talk, a lot of testimony – if your information list gets longer and longer then at some point you need to say, well I think we need to review the document one more time. I don't know where the comfort level is on this board. Where do you draw that line, that's up to you folks.

Mr. Starr: Go ahead Commissioner Hiranaga.

Mr. Hiranaga: This is going back a little bit, but how is the upper mauka boundary of the lands to be redesignated determined?

Ms. Aoki: I'm sorry, I don't understand your question. It was based on the proposed alignment that we came up with.

Mr. Hiranaga: The proposed alignment ..(inaudible)...

Ms. Aoki: Of realigning the highway.

Mr. Hiranaga: Okay, so you used that as a guide. The potential future state highway realignment.

Ms. Aoki: Correct.

Mr. Hiranaga: Now in Figures 3, 4 and 5, certain parcels are I guess there's hashing on it or – those are the ones that are going to be redesignated?

Ms. Aoki: Those are the ones that – right, that were initially studied as far as the impacts were concerned, the environmental impacts if land use designations were made.

Mr. Hiranaga: And so when looking at Olowalu, Figure 4, we see a lot of parcels that have TMK numbers in green. What does that signify?

Ms. Aoki: They're just private parcels.

Mr. Hiranaga: So they're not going to be part of the redesignation?

Ms. Aoki: No.

Mr. Hiranaga: So there's no significance that you colored them green, the TMK numbers?

Ms. Aoki: Just to indicate – why we identified those particular parcels?

Mr. Hiranaga: Well, you said they're privately owned. So they're not going to be redesignated?

Ms. Aoki: No. Only the one with the hash marks, the striped figures will be.

Mr. Starr: I have a question which is why is, what is the necessity for having a dollar valuation in this document? It would seem that that is something that would better be left to, you know, market, or you know the will of the parties involved?

Ms. Aoki: Well, one of the comments that we got was that the developers, land owners felt that the EA was inadequate that it did not have a financial element to it, the social impact. In other words, how much is it going to cost to do this. So that was one of the things that changed from the draft EA to the final EA. So we went in. We had our consultant look at assessed values because the market is very variable. You can't make an – the best guess is to look at the assessed values. So that's why that was added in.

Mr. Starr: So that number is based on assessed value.

Ms. Aoki: Correct.

Mr. Starr: And I think everyone knows that assessed value is not directly related to market value in many cases.

Ms. Aoki: It's not. And the other consideration is that it's based on ag use. So if one were to go in and change the zoning to open space or park. That would probably in all likelihood decrease the value of that property because it is no longer developable.

Mr. Starr: Okay, members we have a motion on the floor before us and you know, it would be the preference of the chair if we could dispose of this item one way or another. You know, if we can deal with the issues as part of amendments to the motion then it would save us going through and spending many hours another time and it would allow the item to be posted. Now, you know, we have to do keep in mind that this document will not in itself do anything, all it does is open a door of possibilities and allows the department staff to move onto other things and at some point maybe some additional process in this area. Commissioner Mardfin.

Mr. Mardfin: I would like to amend the motion to have the environmental assessment delete the church properties and the burial site, the cemetery from the areas to be acquired and/or have zoning changes on. And with that amendment, that's my amendment.

Mr. Starr: Before looking for a second. I just want a clarification. Does that include the additional parcel that the land owner was willing to return?

Mr. Mardfin: It would be – I would expect that the planner would meet the people from the church

and determine the precise metes and bounds or that's too precise, identify the lot areas which should not be included in this proposal.

Mr. Starr: Okay, so that would be the existing church site plus the grave yard plus the area that is added to it.

Mr. Mardfin: Yes.

Mr. Starr: Is there a second for this motion, this amendment?

Ms. Pawsat: Second.

Mr. Starr: Okay we have a motion, an amendment that's been seconded that would delete from EA any prospect of change in entitlements for the church, existing church property, the grave yard and the property that is intended to be returned to use for the church. Commissioner Guard.

Mr. Guard: In the beginning of your presentation it sounded like we're asking for the 400 feet because we can't go for more than that. We can always go for – like it may not all become park. I believe that's kind of – like we're asking for the 400 feet because we can't go outside of that and say, oh now it's 500 feet.

Ms. Aoki: Yeah, I mean, once we move forward with the change in zoning and the community plan amendment, yeah, you cannot extend what's been identified in the EA.

Mr. Guard: Okay so in this EA similar to the church or maybe next week find out some neighbor is on the mainland right now and didn't know that her property is here too and is all of a sudden park, right we could subsequently remove those properties the next step is a community plan amendment if this goes through.

Ms. Aoki: Right.

Mr. Guard: Okay I guess, to me Figure 3 seems a little easier to digest. There's no houses there. It's not a community. Figure 4, just seems to have quite a few hairs on it that might need to be addressed before we really move forward whether it be the parks, the addition of – I mean, some of the pricing – I guess I'm nervous to move forward if the owners of the property aren't real happy with it and all of sudden we're in a room trying to negotiate with two people that aren't happy working together. Right is that – that sum it up at all?

Ms. Aoki: Well, I guess I'm unclear which, you know, what you're referring to, what needs to be cleaned up.

Mr. Guard: Well, on some of these, these proposed other areas with the larger parks, maybe a smaller one out right on the coast.

Ms. Aoki: Are you talking about just the assessed value?

Mr. Guard: Well, the valuation of it. How the county is going to purchase this for \$70 maybe up to a \$100 million I don't know. And that's for scrub land. We ran into that up at Ukumehame that we have kind of nomads land is county park right now versus I believe I've heard talk oh, let us do this and we'll outfit the park with the campground. And I don't know if that's -- I would I guess -- it sounded like everyone wants to see the park or some form of it be preserved, but I would rather see a park that usable versus what I'm seeing at Ukumehame right now. And I don't know if that needs to be addressed in this and if we could do that as a today or to defer it. I don't know.

Mr. Hunt: You're suggesting you'd be more comfortable with an improved park as opposed to just open space or unimproved land?

Mr. Guard: Well, currently right now do we own that Ukumehame Park?

Mr. Hunt: The one that we purchased for \$4 million?

Mr. Guard: Yeah.

Mr. Hunt: Yes.

Mr. Guard: Is anyone using it as a park?

Ms. Aoki: Some people are. I mean, that's sort of again --

Mr. Guard: Do kids go to play, like would I -- is it a destination park right now?

Ms. Aoki: The plans, that all ties in with this whole conceptual plan. You need to acquire the land or work with the developers. And so with Ukumehame that was the first step. Okay, lets buy this land. It's preserved in perpetuity for us, the county. The Parks Department then comes in and they have to make a master plan for that area. They haven't done that yet. It's not a priority for them. We just got it. One day the idea is if and when the road moves more mauka then you have that land that's now makai that can become a park. So as director, previous Director Foley mentioned this plan does not go in and identify okay, this area is going to be a parking lot, this area is going to be this. That's another, again, another step after you do the change in zoning and community plan amendment. So one day, yes hopefully there will be an expanded park there for Papalaua. That was the point of buying that land.

Mr. Starr: Okay, Commissioner U'u.

Mr. U'u: Just a comment. I'm all for a change in zoning when you go from ag to open space as long as it's not my property.

Mr. Starr: Okay, Commissioner Hiranaga.

Mr. Hiranaga: Just to clarify. So if this EA is adopted, what's the next step? It gets -- what's the next step if this is approved?

Mr. Hunt: I think the technical term is you would accept the document, issue a FONSI, a Finding of No Significant Impact and the Planning staff would start working on community plan amendments and change in zonings to reflect this plan.

Mr. Hiranaga: Which would entail public hearings.

Mr. Hunt: To reflect this environmental assessment.

Mr Hiranaga: Which would entail public hearings?

Mr. Hunt: Definitely.

Ms. Aoki: That's another thing I'd just like to mention is that when you do the community plan amendment and change in zoning, any parcel and I believe Corp. Counsel can correct me if I'm wrong, but you need to notify everyone within 500 – you need to notify people because it's a public hearing.

Mr. James Giroux: I believe the change in zoning definitely has a, I believe it's a 500 foot radius. But the community plan amendment I'm not sure if – I'd have to check your guys process, but it's going to be on an agenda that comes here and that's going to be a notice. But I'm not sure if – you're talking personal notice to the surrounding area.

Ms. Aoki: I know for change in zoning you have to notify the property owner in 500, so you know, somebody that lives in the mainland if we mistakenly identify their property they're going to be notified.

Mr. Starr: Okay, members, we have a – okay before we vote on the amendment, Commissioner Hiranaga.

Mr. Hiranaga: Is there opportunity for a private individual to challenge the acceptance of this EA which would then delay the process further?

Mr. Hunt: Yes, there's that opportunity. They can appeal I believe the completeness of it.

Mr. Hiranaga: Has that happened very often?

Mr. Hunt: Not that I'm aware of.

Mr. Starr: Okay, Commissioner Guard.

Mr. Guard: Last question. So what items do we have written down that would be part of this amendment that if it went that direction for OEQC?

Ms. Aoki: The only amendment I have actually written down is the one provided regarding deleting the church property, the cemetery and what I've written down is the stolen land which is what I will confer with them because it might be that part of the TMK that Bill Frampton identified is not even

part of this. It's in the white section so it's not something we're trying to change anyway. I mean, with yours I just wrote the assessed values and how to purchase and the various alternatives.

Mr. Guard: But was the discussion of making sure all the parcels were actually identified and it the County thought they already owned it versus it was still in private ownership that would be significant difference if it went that route?

Ms. Aoki: Identify the county owned properties? I'm sorry, private –

Mr. Guard: I thought that one thing that was identified. Accuracy of who owns the property and if it's part of this potential acquisition I guess.

Ms. Aoki: Okay.

Mr. Starr: Yeah, Commissioner Guard I don't think that was part of the amendment as stated, but the Chair would welcome a further amendment after we dealt with the first one.

Ms. Aoki: So I have three.

Mr. Starr: So okay, lets deal with the first amendment and then we can deal with any other issues if that's acceptable. So voting on the amendment which is to exclude the church and related parcels. All in favor in that amendment only please raise your hand? Those opposed.

It was moved by Mr. Mardfin, seconded by Ms. Pawsat, then

**VOTED: To Approve the Amendment to Exclude the Church Property, the Cemetery and Related Parcels, as Discussed.
(Assenting - W. Mardfin, J. Pawsat, K. Hiranaga, J. Guard, B. U'u,
D. Domingo, W. Iaconetti, W. Hedani, J. Starr)**

Mr. Starr: Okay, the motion passes looks like unanimously. So the amendment has passed and now we're back to the main motion as amended and we can either comment or add any additional amendment that's so desired. Commissioner Hiranaga.

Mr. Hiranaga: Yeah, I'd like to comment, I guess for the overall purpose, intent of this project I agree with it. I think if a private entity was submitted this to us it probably would not get my okay on it. But since the county is trying their best to accomplish this, I'll probably be voting for it. But I think a much better job could have been done. But I think we have more opportunity to fine tune this before it becomes law. So I'll probably be voting for it.

Mr. Starr: I know Chair would welcome an amendment that would – before posting that the county would ascertain that all of the TMKs listed in the various charts and various locations be truthed out and that it be published with the correct data. Commissioner Hedani.

Mr. Hedani: So move.

Mr. Mardfin: Second.

Mr. Starr: Okay, Commissioner Guard.

Mr. Guard: I really only went with the first amendment just to protect the church in case the EA did go through. I feel like there quite a few hairs on the EA that maybe addressed with whether it be two weeks, one month versus trying to get it through today. And I have concerns about how we're acquiring the property. It sounded like everyone wants the parks public and private side. That's not the issue, it's just how we move forward and once I heard people saying that hey we're willing to offer this completed product especially in Figure 3, that spot from Puamana on down is a excellent example of either creating a nice bikeway one day, pedestrian corridor and I just don't want to lose those opportunities by trying to force this through.

Mr. Starr: Commissioner Hedani.

Mr. Hedani: I think that what we heard today in the testimony included questions of fact and that bothers me. I think what we need to do is go through the minutes of today's meeting, try to pick out those items from the testimony that we heard where there were errors that need to be corrected and to have those errors addressed somehow in the document before it goes forward.

Mr. Starr: I think that that was the intent of the motion you made.

Mr. Hedani: Right.

Mr. Starr: Was that, you know, any knowledge up to the minute that we've received, that the department receives will be included in the document.

Mr. Hedani: Right.

Mr. Starr: Commissioner Iaconetti.

Mr. Iaconetti: I feel very uncomfortable in approving this. There are too many dangling items that have been brought up today that we can't possibly get amended today or expect to get amended. I just can't see how we can possibly do that with their improving their document. I intend to vote against it.

Mr. Starr: Yeah, that would be the proper course and then to vote to defer. But Commissioner Mardfin.

Mr. Mardfin: Just in connection – talking about the amendment at this point. The Olowalu Ekolu property that was TMK 4-8-03:124 was labeled S in the table but I notice on map 4 it's labeled green which was private property. So it was right on the map, and just wrong on the table. And so, if you find little or small factual things they ought to be corrected in a revised, not revised by the one that would go to the OECQ.

Mr. Starr: And that would be included in the amendment on the floor.

Mr. Mardfin: Yes, I believe so. The other thing I wanted to mention is that I listened carefully to

what Mr. William Frampton said and I noticed his letter where he was of December 28, 2006, and he raised a lot of I think some legitimate concerns but they seem to have been dealt with at least to my satisfaction in the response by the Planning Director on April 19th, and some of the things he raised today had missed the comment period. So I feel comfortable in supporting the acceptance of a FONSI at this stage.

Mr. Starr: Okay, can we move forward with the amendment? Commissioner Hiranaga.

Mr. Hiranaga: Earlier in the day you mentioned that if this is accepted the boundaries cannot be moved further mauka? Is that correct?

Ms. Aoki: We can't make the boundaries larger than what they've been identified in this document.

Mr. Hiranaga: Further mauka or –

Ms. Aoki: Makai, whichever way it goes. Left, right, north, south, east, west.

Mr. Hiranaga: This is it?

Ms. Aoki: Yes.

Mr. Hiranaga: So we can't redesignate other properties?

Ms. Aoki: No. If we wanted to do that, we would have to go and either do a supplemental EA or do whole other EA.

Mr. Hiranaga: That kind of raises a question as to the importance of the accuracy of the parcels being designated or identified for redesignation. That kind of raises a big concern for me.

Mr. Starr: Commissioner Hedani.

Mr. Hedani: Yeah, it's one of those things where everybody is in favor of it until you get down to the details and then nobody can agree at that point, right? I have a couple of questions actually. When we designate open space, can you develop in open space?

Ms. Aoki: There are –

Mr. Hedani: Because I've heard of projects coming forward for a development in open space.

Ms. Aoki: I don't have the code in front of me but there's two different, there's OS, open space 1 and open space – open space and open space 1 or open space 1, open space 2, anyway, OS1 and OS2, and they each have their parameters on what you're allowed to do. We chose to do the more conservative open space which would essentially allow us to do a restroom but it wouldn't let you go in and build a full fledged, you know, municipal park or anything like that. I don't know if Jeff has the ordinance there for open space.

Mr. Hunt: There's two types of open space. The open space 1 is passive, and then the open space 2 is active and as the terms convey the first one's more preservation and the second one's more recreational. The second one would allow parks, the first one –

Ms. Aoki: I think you're allowed to do it with a special use. There's exemptions.

Mr. Hunt: Yes. Yeah, it would be a special use.

Ms. Aoki: Right. So that was our intent was to try to make it passive and keep it as is as much as we could.

Mr. Hedani: The second question was, from my perspective where you have land developers that are talking about donating land, large acreages of land, 300 acres versus 30 acres, it doesn't make sense to me to try to buy it at \$800,000 or \$300,000 per acre when they're willing to give it to you for free.

Ms. Aoki: I agree. I would just like to point out to the commission that we, as been explained we've met with Makila Land and they have identified these two parcels. In every meeting I've had with them, I have never heard them say that they would donate that land to us. Yes, they've talked about separating it out which is to be commended because that wasn't the first original plan, but the terms that have been used is the county can buy it from us. That's the first point I'd like to make.

Secondly, with Olowalu and Associates, again, they have a great plan that has a lot of park acreages, it becomes a community value on whether or not we are willing to increase density in order to get that land. So I'm not here to make that decision. It's a community's decision on whether or not you – it's a trade, it's you know –

Mr. Hedani: Well, that relates to Kent's question on, you know, are we just spinning wheels at this point if we cannot expand the area from 30 to 300, if there comes down the line a proposal to donate 300 acres of land for park purposes or whatever.

Ms. Aoki: If that was your question about expanding it, if they came in with a proposal to do Olowalu Town then that would be comprehensive on their part. That doesn't mean that they can't add on more park space. They would be completely free to do that.

Mr. Hedani: So it doesn't close that option is what you're saying?

Ms. Aoki: Not at all. Not at all. You could end up with more.

Mr. Starr: Members can we dispose of the amendment with a vote? Is that acceptable? Looking so, okay we have an amendment on the floor which is that the charts and tables and TMKs be truth for accuracy and any information that's been received including today's testimony be utilized in that. All in favor of that amendment and that amendment only, please raise your hand. Raise your hand a little higher just so I can see. One, two, three –

Mr. U'u: Amendment is to what, say?

Mr. Starr: Just to check and truth out all the TMKs.

It was moved by Mr. Hedani, seconded by Mr. Mardfin, then

**VOTED: That All Tax Map Keys, Charts and Tables be Checked for Accuracy and All Information Received Including Testimony Received be Utilized.
(Assenting - W. Hedani, W. Mardfin, K. Hiranaga, B. U'u,
D. Domingo, J. Pawsat, J. Starr)
(Dissenting - J. Guard, W. Iaconetti)**

Mr. Starr: So the amendment passes. Now we're on to the main motion which is to accept the Finding of No Significant Impact of the EA document as prepared by the County with the two amendments that have been passed. That's open for discussion or possible further amendments. Dr. Iaconetti.

Mr. Iaconetti: Point of order. You didn't ask for the negative votes and if you don't, those that you didn't count are going to be considered positive. There are some of us that don't agree with that and I would rather even though we have lost I would like at least to show there were some negative votes.

Mr. Starr: That's correct action. So those voting against please raise your hand. One, two again. Okay, so let the record show there was seven votes for, two votes against and I apologize for lack of proper access on that. Okay, Commissioner Hiranaga.

Mr. Hiranaga: I keep having to ask this question but so if a parcel is not designated, is not identified for redesignation, it's not considered part of this action.

Ms. Aoki: Correct.

Mr. Hiranaga: So it would have to be a separate plan amendment, community plan amendment.

Ms. Aoki: Correct.

Mr. Hiranaga: And I guess the question is are you satisfied that you're – you've designated all the properties that you should be designating?

Ms. Aoki: Yes, I am.

Mr. Starr: Okay, members are we ready for a vote on the main – Commissioner Hedani.

Mr. Hedani: I have a question for staff. Kathleen on Figure 2, there's an area that's kind of like rectangular, square, a large yellow area called Awalu View area.

Ms. Aoki: Right.

Mr. Hedani: Is that the old dump site, it's talking about?

Ms. Aoki: Yes it is.

Mr. Hedani: And the pu'u that's around it?

Ms. Aoki: Right.

Mr. Hedani: How come it's only restricted to that? Is that only land that county owns?

Ms. Aoki: Correct. It's a state parcel. So it's government parcel so that's why it's identified.

Mr. Hedani: What about the property around it?

Ms. Aoki: It's all private.

Mr. Hedani: And you didn't –

Ms. Aoki: If you go up that line on the left-hand side of that, everything to the left is Makila, well, West Maui Land Makila, on I think one of them and to the right of it, is actually – is that state or it's state. I'm sorry. It's state, but that parcel was identified because in the Pali to Puamana Master Plan, the original master plan the idea was to maybe be able to make that a lookout site for people to watch whales or make something up there. Essentially to preserve that pu'u into open space so that it doesn't get touched. That was the idea behind it. A lot of the land more mauka of that is already in state conservation.

Mr. Starr: Okay, we're ready for the vote on the main motion unless anyone has any further comment. Seeing none, the main motion which is once again to acceptance with a FONSI with the two amendments by this body. All in favor please raise your hand. Six. All opposed, please raise your hand.

It was moved by Ms. Pawsat, seconded by Mr. Mardfin, then

**VOTED: Acceptance of a Findings of No Significant Impact (FONSI) with the
Two Amendments.
(Assenting - J. Pawsat, W. Mardfin, K. Hiranaga, D. Domingo,
 W. Hedani, J. Starr)
(Dissenting - J. Guard, B. U'u, W. Iaconetti)**

Mr. Starr: So let the record show six in favor, three opposed. And thank everyone for their patience, for the good questions and staff for the hard work on this. Want to take a short recess not intermission. It's the Chair's heartfelt desire to adjourn sharp at 5:00 p.m. Lets recess for a short as possible, hopefully less than 10. As soon as most of us are back, we'll start again.

A recess was called at 4:00 p.m., and the meeting was reconvened at 4:05 p.m.

Ms. Pawsat excused herself at 4:00 p.m.

Mr. Starr: The next is Nona Lani LLC and I had had a request, a special request from a member of the public to testify before running to another meeting that's Rory Frampton. Unless anyone objects, I would allow him to do that. Director.

Mr. Hunt: Normally we read the agenda item into the record just so everything's very clear.

Mr. Starr: I'm sorry, please do that.

Mr. Hunt: Your next agenda item involves Nona Lani LLC requesting comments on the Draft Environmental Assessment prepared in support of the community plan amendment application for multi-family to hotel for the existing Nona Lani Cottages located at 455 South Kihei Road, TMK 3-9-041: lot 1 in Kihei. The file numbers are EA 200/0002, CPA 2006/0001, CIZ 2006/0001 and Jeffrey Dack is the planner assigned to this.

- 2. NONA LANI, LLC requesting comments on the Draft Environmental Assessment prepared in support of the Community Plan Amendment application from Multi-family to Hotel for the existing Nona Lani Cottages located at 455 South Kihei Road, TMK: 3-9-041: 001, Kihei, Island of Maui. (EA 2006/0002) (CPA 2006/0001) (CIZ 2006/0001) (J. Dack) (Draft EAs circulated at the April 8, 2008 meeting.)**

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

The Planning Commission is being asked to:

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

The public hearing on the Community Plan Amendment and Change in Zoning will be scheduled for a future date after the Chapter 343 process has been completed.

Mr. Starr: Okay, we're going to allow Rory Frampton to testify very briefly so he can run to another meeting.

Mr. Rory Frampton: Thank you very much. Rory Frampton testifying as an individual. I've known the Kongs since I met their youngest son Ransom at first as a rival playing popwarner football then later became one of my best friends at St. Anthony High School.

Their property in Kihei if you've driven by it you'll remember it as Nona Lani Cottages. It's a wonderful quaint little place. It's been there I don't know 30 or 40 years. The Kong Family is a

wonderful family. They could fill up this room. They have – Ransom was the youngest of seven kids. There's two boys and five girls and Mr. and Mrs. Kong are here and they'll I'm sure Chris Hart will go over the property's history. But I'd just like to speak strongly in support of these land use changes which would basically recognize the use that's been there since the I believe the early '70's. And again, it's a wonderfully quaint property that I think adds character to the Kihei area and I'd hope that you'd give them favorable consideration. Thank you.

Mr. Starr: Okay, any questions? Thank you Rory. And now for the, looks like Jeffrey Dack is up at the plate.

Mr. Jeffrey Dack presented the Maui Planning Department's Report.

Mr. Chris Hart: Thank you Mr. Chair. Thank you Jeffrey. I just have a couple of comments that I would like to make. Raymond Cabebe of our office is the planner who has actually been responsible for preparing the EA and the applications for community plan amendment and change in zoning.

Actually the issue came up, we had been friends with the Kong Family as Rory has for many years. In the context of all of the concerns for transient vacation rentals that have occurred in the county. Now this project was initiated in 1973 and '74 consistent with the R-3 Residential District zoning. Basically in the context of constructing these cottages which basically have kitchens and at that time in the county zoning there was no concern about whether a cottage was rented as long term or for short term. And so consequently up until 1981, when the comprehensive zoning ordinance was amended that to basically establish what is short term and what is long term, this project was existing and non conforming.

But as the Kong Family has grown and David and Nona are getting older there is a desire to pass on this property and this transient vacation rental operation to the family and in the context of doing that because of the concern for the transient vacation rental issue in the county it was felt that it was appropriate for them to go through a process that would allow them to be consistent with county zoning and that would require a community plan amendment from multi-family to hotel and a change in zoning from R-3 to H-1 Hotel.

You're going to see that it is basically not a spot zoning. It is actually just an infill on related two properties that actually exist right adjacent to this parcel to the south on the Wailea side that are H-1 Hotel. And when it was identified as multi-family MF in the community plan at that time in the apartment district, motel was an allowable use but that change was made in 1989 that deleted that use from the apartment district. So in the context of that little brief explanation I'd just like to introduce David Kong to you and Nona Kong and Cherlyn Kong that will be here to actually testify on their own behalf and to Raymond Cabebe of our office who's going to present the power point. Thank you.

Mr. Raymond Cabebe: Good afternoon Commissioners. My name is Raymond Cabebe and as Chris pointed out we are representing the Kongs in this project for Nona Lani Cottages in Kihei. They're asking for your review of the draft environmental assessment in connection with this – with their applications for a community plan amendment from multi-family to hotel and also a change in

zoning from R-2 to H-1 Hotel.

As I just stated they're asking for a community plan amendment and change in zoning. The community plan amendment is a trigger for Chapter 343 environmental assessment. And the purpose of their application is to establish consistency between the County's community plan, the county zoning, making it consistent with the current use which is the transient vacation rental use.

This is just to show you a location map if you're not familiar with the property. This is North Kihei. South Kihei Road is right there. Piilani Highway up here. Kenolio Road, Ohukai. It's between Ohukai Road and Kaonoulu Road down here to the South.

This is the tax map key, 3-9-041: parcel 1. Consists of 2.27 acres and the existing land use has been residential since 1952. This was actually – the Kongs acquired it according to tax records in 1944, but Nona corrected me in the hall out there and she said they found papers that they had acquired it actually in 1938. The transient vacation use – it's been used for transient vacation rental since 1972 and the first cottages were constructed.

This is a community plan map. The property's right here. It's currently community planned for multi-family. To the north is multi-family and to the east is single family and multi-family and to the south is hotel.

This is the zoning map. It's R-2 Residential. You see it's sandwiched between A-1 zoning and also H-1 Hotel and HM Hotel and I believe it's R-2 to the east.

And just to summarize state land use classification is urban, community plan multi-family, R-2 Residential zoning. It's in the A4 flood zone and it's also in the SMA. And their request is for community plan designation of hotel and county zoning of H-1 Hotel which is the lowest density hotel zoning. It's a two-story. It's limited to two stories, lot coverage of 25%. A floor area ratio of 50%.

Just little bit of background. The first cottages were built in 1972. Four were built in 1973. R-2 zoning allows one unit per 7,500 square feet and that's how they came up with the eight cottages on the property. In 1971 permit ordinances of the County of Maui had no definitions of TVRs and no restrictions on the length of rentals at the time.

Just to put in the historical perspective, this is a 1975 aerial. To the south here you can see Maui Lu. This is Wailana Place here. This is the future Isana, the future Kihei Holiday and here's the Nona Lani Cottages. To the north is Kai Makani and along Ohukai Road here you see Dr. Wither's house down here, Tokunaga family over here. This is Kenolio Road. I believe this is the Kalanikau family owned property up here. I think some of them still live there.

This is last year 2007 aerial showing it fully developed. South Pointe up here. Almost forgot to identify that area. And this is Kai Makani area.

This is the site plan. A surveyor actually didn't survey all the trees in here. There's a whole bunch of vegetation in here. It's like a little garden area for them. There's cottages one, two, three, four,

five, six, seven, eight. This is laundry room here. The main house over here. This is South Kihei Road on the bottom here.

This is some photos of the area. As you approach on South Kihei Road Nona Lani is right there on your left. The sign and the entrance. The main entrance into the property is right there.

When you turn into the driveway it takes you down to the main house at the end down there. There's about 14 spaces I believe in this area. This is looking back towards the ocean towards South Kihei Road. And this is the entrance to the main house. This is actually – when you check in you actually go into their house. You go into their home. David and Nona welcome you personally when you enter. This is the front of the main house and that garden area I talked about to the right here. There's a little gazebo in there also.

As you're looking from the road looking to the left is cottage number four on the left, cottage number three here. If you look closely in the back you'll see the dust screen that was used when Kai Makani was being constructed. Looking to your right from across South Kihei Road. That's cottage number two to the left, cottage number one here, Kihei Holiday in the background here. And back in the property you'll see this is cottage five, six, seven and number eight in the back here. On the north side of the property there's a little, like a secondary driveway and entrance to the property. This is cottage number four and then cottage number five in the back there. And this looking back the other way towards the ocean.

These following photos are historical photos that the Kong family provided. This was taken by a guest in 1980. You can see how the vegetation is much smaller in the front. Back in the '80's used to host a Sunday dinner for the guests. They don't do it as much any more. I believe they just do it for their regular guests that come every year.

This is end of a croquet tournament with David and Nona here and this couple here, Jim and Renee Beckerton were the first guests in 1972. I believe this photo was taken in late '70's, I'm judging by the age of the kids here.

David and Nona presenting leis of aloha to departing guests from Germany. This is taken in 1990.

This is just to give you kind of a sense of what kind of – what a unique property the Nona Lani Cottages is. Just give you a sense of the type development this is.

This is the Nona Lani Cottages it was a site of a celebration the 58th anniversary of Nona's parents back in 1987. And this is the Kong family taken when David turned 70 about seven years ago. There's seven children in here. They're all in this photo along with their 20 grandchildren, 10 great grandchildren, but not all of them are in this photo.

And just to summarize, this entitlement action is for a community plan from multi-family to hotel, change in zoning from R-2 to H-1. There's no additional development planned at this time and the existing transient vacation rental use of the cottages is legal nonconforming.

The analysis that's in your material it includes analysis of impacts of the legal baseline which long term residential and also a full build out scenario which is the I think we did a scenario where there

were 80 hotel units. And the proposed action in the context of both the legal baseline and full build out scenario is not anticipated to result in any substantial adverse environmental ecological effects.

And in conclusion, the purpose of the proposed action just to repeat this again is to bring the existing transient vacation rental project into compliance with the Kihei-Makena Community Plan and the county zoning. And the proposed action would not result in any significant impacts.

Mr. Starr: Okay, thank you. Members what's before us is a environmental assessment and request for a FONSI on it to create concurrence. Any questions for the applicant? In that case –

Mr. Mardfin: Yes, I do.

Mr. Starr: Go ahead.

Mr. Mardfin: You said there were no further development planned at this time and that last phrase, clause concerns me. What do they plan for the future?

Mr. Hart: Well, obviously in the context of the operation as a family business they've been satisfied with the number of units that they have on site. However, you know, in the context of the future as the family – as basically the property is passed onto the children there could be a request in the future to add units to the property. And we don't have any plans but I'm just saying that in the future there could be in the context of the zoning. Even though H-1 Hotel is the lowest density hotel district zoning that we have and it would be consistent with the residential character of the properties to the north and to the south.

Also in the context of that, because the property is located in the special management area any proposals for any additions would have to come before this body in the future. So what we're asking for at this time our entitlement, is an entitlement action that would allow consistency with existing community plan and zoning.

Mr. Mardfin: And my understanding is that that would allow them to develop 80 hotel rooms is that correct?

Mr. Hart: It could be possible in the future.

Mr. Mardfin: And if they had – can I continue?

Mr. Starr: Yeah, let me just ask a question because I'm little bit confused about something you just said. As I understand it what's before us is an EA not an entitlement.

Mr. Hart: That's correct. It is an EA. But in order to ask for a community plan amendment you have to go through the environmental assessment process.

Mr. Starr: But that community plan amendment is not before us here today.

Mr. Hart: That's correct.

Mr. Starr: Okay, I'm sorry, go ahead Commissioner Mardfin. I just wanted to be clear on that.

Mr. Mardfin: And yet while they could – the argument that was given in the last people were speaking to talked about separating out issues and do it sort – oh, piecemeal was the term that was being used.

Mr. Starr: Segmentation.

Mr. Mardfin: Piecemeal segmentation and I'm just wondering whether this is a piecemeal segmentation occurring here. It seems like and correct me if I'm wrong that you're taking one step to get this zoned hotel. The next step would be to come in with future plans, the next step would be to come in with the next thing or another.

Mr. Hart: What's wrong with that?

Mr. Mardfin: Then I think the environmental assessment is incomplete because it doesn't deal with what the impact will be with a full build out.

Mr. Hart: It does.

Mr. Mardfin: Much of the environmental assessment referred to impacts because they're going to continue with the 12 transient vacation rentals.

Mr. Hart: But we did include, I mean, as professional consultants, we included alternatives and one of the alternatives would be the full build out scenario. I mean, in terms of our firm we have to look at it in the context of the possibilities. I mean, there could be nothing on the site, but there is something on the site today. There's also units built on the site and there could be some time in the future a build out according to the zoning. But that's the normal process that we would have to go through.

Mr. Starr: Are you done Ward?

Mr. Mardfin: Yes.

Mr. Starr: Commissioner Guard.

Mr. Guard: This is just the draft and you're just looking for comments anyway. So if that's a concern that you want to see more on that, we can keep moving forward.

Mr. Hart: That's true. Exactly yes.

Mr. Starr: I forget when I examined the document, did you include like a traffic analysis on the alternative of full build out.

Mr. Hart: No, we did not.

Mr. Starr: Okay.

Mr. Mardfin: Nor sewage or water.

Mr. Starr: Commissioner Guard.

Mr. Guard: Maybe this is for the director. If they decided in the future to tear that down and rebuild then someone's going to have to do that as part of an SMA as well.

Mr. Hart: Yes.

Mr. Guard: Because we just reviewed that with the Maui Lu just a few doors up and they had to – that wasn't a change in zoning. That was just a SMA. So if that's a concern I believe that is covered and someone can correct me if I'm wrong, but I believe we'd have all the – the whole show here for that traffic, engineering, whatnot when they're ready to make a change to the property.

Mr. Hart: If they are.

Mr. Guard: If and when.

Mr. Hart: You're assuming that they are.

Mr. Guard: Well, whether it be this year, 10 years, 20 years, 50 years is what you're saying. You're just proposing the change in zoning right now with the EA.

Mr. Hart: Exactly.

Mr. Guard: Is that correct?

Mr. Hunt: I agree with that. It would be an SMA and you could ask for all the information that you're interested in, traffic analysis, etc.

Mr. Starr: So my understanding is though they would not necessarily have to do another EA even at that point, only if we request it. Although very often it is done for an SMA, it's not required.

Mr. Hunt: The law gets a little murky when it comes to okay, they did an EA and then the proposal comes in later for something that wasn't completely in the EA. There has to be a little flexibility even in an application that comes in very soon after an EA comes in. They don't always – the EAs don't always cover every single aspect of a proposal. It gets down to the call of the accepting authority whether you want a supplemental EA at that point.

Mr. Hart: Could I just comment? In the context of the SMA permit there could be a trigger like doing work, you know, as far as the Maui Lu was concerned it was doing work in the shoreline area. There could be a trigger and then we would have to do another EA as part of an application for an SMA permit.

Mr. Starr: Commissioner Guard.

Mr. Guard: I'm fine.

Mr. Starr: Okay, lets go ahead –

Mr. Mardfin: I have a question but it's for the director. What – everything – the purpose of this was to have them be consistent with – to have their 12 transient rental units be consistent with zoning and the community plan. There was a great deal of to do in there about whether this was a nonconforming – a legal nonconforming use. My understanding of your final letter was that eight of the cottages were legal nonconforming, four of the units in the large house was not and they'd have to cease using it for transient vacation rental. Is that correct so far?

Mr. Dack: That's correct.

Mr. Mardfin: And what would be the minimum zoning change that would have to be done to allow them to continue to exist as they are, with either eight legal or with 12 legal to continue as transient vacation.

Mr. Dack: I believe that is what they actually have applied for, the hotel zoning. The lowest level of hotel zoning is what they would need to have a legal use and take off the nonconforming tag line to it.

Mr. Mardfin: Thank you.

Mr. Starr: I have a question which is if the legislation that had been before us regarding transient vacation rental in a – like a business country town were approved then I assume that at that – then they wouldn't have a need to go to hotel. I know that's kind of a what if, but – I believe that allowed up to, what, 22 rooms?

Mr. Hunt: The legislation, the draft legislation you're referring to would have allowed a 20-room country inn in business districts, but this isn't a business district.

Mr. Starr: Oh okay, I'm sorry. Go ahead Commissioner Guard.

Mr. Guard: Thank you. Just from the photos and going through this history of it, it seems like if they had needed a change in zoning 30 years ago, they probably would have gotten it, but they've been compliant the entire time up until this point that they're having to make a change. I've said this before for other people, that sometimes we're here to assist people that have been lifelong residents here. If there's comments we want to do for the EA I think we should – they can take those back. They're coming back with the final EA, then we're going to provide our comments when we either recommend the change in zoning or not and that goes to Council, correct?

Mr. Hunt: That's correct.

Mr. Guard: So if people want to say, hey I don't want 80 hotel rooms here or whatnot there's other

opportunities but we could say whatever we want to do right now. I, for one, feel that they would have been able to do this as a slam dunk 30 years ago if they needed to and at that point they didn't need to. And if it's going to allow them to keep up the property I'm happy to try to help it along.

Mr. Mardfin: Do I misunderstand?

Mr. Guard: Draft EA.

Mr. Mardfin: If we grant this, we could later put conditions on it that they – on the number of units they could have it were legally zoned so that they could put 80 units on it?

Mr. Hunt: Your review of this is a draft environmental assessment. So this is an informational document. If there's additional information that you want, you should make that clear now and the consultant will include that in the final, bring the final back and then you would go through the same exercise that you just did on the Pali to Puamana to determine whether that document is complete or not. Then there will be an application for change in zoning and a community plan amendment and the actual application will be held before a public hearing and you can recommend conditions on the zoning, conditional zoning to the Council and then Council would consider those conditions, but that's down the road.

Mr. Starr: It's finally sunk into my brain that we're not actually approving anything, being asked to approve anything today. We're just soliciting comments that would be added into the document when it comes before us again. I was a little confused before. Commissioner Guard.

Mr. Guard: Yes. Since it is a concern that may be something that we should just address in the final EA as how many units people think are proper for this property at build out. I don't know what the – so to maybe look at Isana right next door and those ones that are actually hotel zoned fit in with the surrounding neighborhood even though these guys seemed to have been there much earlier. But yeah, if we look at number two, there's nothing about approving, we're just providing what we want to see in the final doc.

Mr. Starr: Although I don't believe we're mandated to do so, I will open the floor if there are any members of the public that want to give any comments. They'll be welcome to do so. And please just state your name and try to keep it short.

Ms. Cherlyn Jean Kong: Aloha, my name is Cherlyn Jean Kong and I am testifying on behalf of Nona Lani LLC. I have been the sacred privilege of representing many of my relatives as designated manager of Nona Lani LLC particularly my six siblings including my two brothers, David Kong, Jr., of Waihee, Ransom Kong who's the only sibling living in the mainland, Colleen Church of Hana, Valerie Kong of Lahaina, Mona Cockett of Kihei and Elena Jones of Haiku. I mention this because all of them including all of our children and grandchildren would have been here today and inundated you and we decided that prudence was much better, to hold that maybe for another day. So I ask that as you listen to my voice make no mistake 42 people are speaking today.

We are the Kong family, good, bad and different we have learned to work and play together,

celebrate and disagree together and always, always pray for discernment as a family. It's because of my parents David Kong, Sr., and Winona Kia Kong that we're glued together. Last year my parents had the foresight to gather the seven of us with their attorney to discuss the plans for the future of Nona Lani LLC, its operations, the aina and their personal thoughts. This was not a meeting any of us wanted to attend. We were basically looking into our parents eyes and seeing that what they wished for after their demise. We had to face the inevitable as children all face losing their parents that they love and respect. But oh, what a gift that was for us because now we know with clarity that what our parents wish for us to do and how they expect us to conduct ourselves.

I'm going to shoot from the hip from right now. To sum that up the one word is charity that we love one and other and that we operate understanding that the golden rule is really important, do unto others as you would have them do unto to you and to love your neighbor as yourself.

And to answer some quick questions, at this writing we have no plans secret or otherwise to prepare for a major hotel operation. Let me repeat, we have no thoughts or plans of changing Nona Lani from the way it is today. What the future hold is unclear. It's whenever the future dictates that we have to change, for financial reasons or whatever. But our main intention is to hold onto it as a family. One thing that is missing from so many of our communities today.

We look to people like the Takamiyas of Happy Valley. They remain because they have a common dream, a goal that was set long ago by their parents teaching that in this life there's nothing better than family. Work, play together, play and pray together. Good, bad and different but always together as ohana. Some –

Mr. Starr: Please wrap up.

Ms. Kong: I'm asking you to consider this when you make your comments. I thank you.

Mr. Starr: Okay, any other members of the public?

Mr. Mardfin: May I ask her a question?

Mr. Starr: Yeah, go ahead. Please come back up.

Mr. Mardfin: One quick question and one quick comment. I know your sister Colleen quite well, she's a wonderful person.

Ms. Kong: Thank you.

Mr. Mardfin: Do you have any plans to sell it in the future?

Ms. Kong: We have no plans. We want to hold onto it as a family and that's why my parents had us meet with the attorney so that we knew what we wanted to do as a family.

Mr. Mardfin: I went through that about 10 years ago with my parents and it's a good thing to do.

Ms. Kong: Yes, it was.

Mr. Starr: Commissioner U'u.

Mr. U'u: Well then I'd like to thank your Mom and Dad for doing an awesome job.

Ms. Kong: Thanks, they have done an awesome job.

Mr. Starr: Thank you. Very good testimony. Okay, seeing no more testimony. Any other comments from the – I'm sorry. Please and please help us try to keep it short. We are really short of time.

Ms. Winona Kong: Okay, I know. Aloha Mr. Chairman and other Members of the Planning Commission, my name is Winona Kong. I am the Nona mentioned in the entity Nona Lani LLC. What is in the handouts that you have information about Nona Lani Cottages is having conducted vacation rentals for 36 years. What is missing from those facts and figures is the heart of who Nona Lani LLC is. And we are a family that we have served the public well and have welcomed many visitors to our vacation rentals.

In short I would like to say that today as our family has grown into 20 grandchildren and 10 great grandchildren, four of our seven children are actively involved in the daily operations of Nona Lani and I still consider myself a work at home mom, but overseeing little tasks while David, my husband is retired from the day to day office work, but still very much the patriarch.

Today we come before you asking you to consider not the paperwork before you but more importantly the lives of affected and the heart behind your reading material. Your actions will affect not just a single family but a generation of people who are and wish to continue to be a part of the fabric of this island. To that end, we want to insure that Nona Lani can sustain itself providing not just an income for our children or theirs as Maui becomes more difficult to afford. But most importantly a safe haven and literally a teaching ground for our future generations to come.

If granted what is needed we will be one step closer to leading a piece of paradise from them to enjoy but also leave a business that will help foster future generations of good individuals, caring parents and involved citizens. We consider the later the greatest legacy to leave to our beloved island and precious gift called Maui. We pray you will see what we see as well. Mahalo.

Mr. Starr: Okay, thank you. Any questions? Seeing none –

Mr. Mardfin: I'd just like to make a real quick comment. I think you two should be congratulated on being early entrepreneurs in this area.

Mr. Starr: Thank you. Any comments to be included in the EA? Commissioner Hiranaga.

Mr. Hiranaga: Figure 7, the county zoning map, HM, is that hotel/motel? What does that stand for?

Mr. Hart: Hotel medium density. H-1 is two stories. HM is Hotel Medium which is six stories and

H-2 is Hotel 12 stories.

Mr. Hiranaga: So I'm confused. Which parcel is South Pointe? The one directly behind the Kong's property or the one to the – behind Kihei Holiday?

Mr. Hart: It's the one actually behind Kihei Holidays and it's right on the south – I'm sorry, north side of Maui Lu.

Mr. Hiranaga: Right.

Mr. Hart: This would be South Pointe property. This is Maui Lu. This is Ka Ono Ulu.

Mr. Starr: Okay, any other comments questions? Yes, sir.

Mr. Hunt: Just briefly, I just wanted to applaud the Kongs for taking the effort to go through this process to make your vacation rentals a legitimate process and compliant with our laws. There's been a lot of acrimony in our community regarding vacation rentals and again, thank you for going through the process.

Mr. Hart: Thank you.

Mr. Starr: Okay, so I guess the matter is done?

Mr. Dack: So at this point I just wanted to confirm. I've heard one comment request that we put in a letter basically that suggesting that the final environmental assessment address what would be appropriate number of future units for the site. You also had discussion, I don't want to see any further traffic analysis. There was discussion of traffic in the EA. As it is right now if though there wasn't a full traffic impact assessment report done, but the thinking that that would be more appropriate to be done at some future time. But again, at this moment just the future number, appropriate number, again, this is all I've heard to put in a letter to the applicant and OEQC.

Mr. Starr: I know for me if there were an increase in the use I'd want to see that, but not – since we're just looking at a continuation of use. Members?

Mr. U'u: I agree.

Mr. Mardfin: I would agree with that. If it were an increase I would want to see it. If they're going to – as long as they keep it this level there's no problem.

Mr. Dack: Thank you. That's the only comment I'll pass on then on your behalf. Thank you.

Mr. Starr: Thank you to the applicant for coming before us with aloha. Did you have something Commissioner U'u.

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

Mr. Starr: No, we can't. All we're doing is commenting.

Mr. Guard: They're going to come back with the final.

Mr. Starr: Okay yeah Commissioner Hedani. I just wanted to add a comment that in the three years that I've served on the commission the testimony that we heard today was probably the most eloquent that I've heard to date and that from the perspective of people that have been engaged in hospitality and expressing aloha to our visitors since 1972, I think the Kongs represent the best that aloha represents and I appreciate their coming forward.

Mr. Starr: Very well said.

Mr. U'u: I agree.

Mr. Starr: Thank you. Okay, Director.

Mr. Hunt: Your next item involves J. Robert Brewer requesting comments on the draft environmental assessment prepared in support of the proposed demolition of a one-story family residential structure constructed in 1951 and its replacement with a two-story residence located in the National Historic Landmark District at 459 Front Street, TMK 4-6-02:lot 17 in Lahaina. The numbers are EA 2007/0010 and SMX 2007/0306. The planner assigned to this Joe Prutch.

Mr. Starr: Okay, before we proceed, I'd like to ask how long the presentation is?

Mr. Prutch: Short on my part.

Mr. Starr: And I'd like to ask the members. It's the intention of the Chair to finish off at 5:00 p.m., and if we can't finish it by then, you know, I'd like to be prepared to defer it at that point.

Mr. Guard: See what they can do.

Mr. Prutch: I'm going to be very brief and the applicant will be here just answer.

Mr. Starr: Hold on one second. Commissioner U'u.

Mr. U'u: This is just a comment. I must leave at 5:00 p.m.

Mr. Starr: Yeah, I think we've got to close up at 5:00 p.m. so lets chance um and go for it.

- 3. J. ROBERT BREWER requesting comments on the Draft Environmental Assessment prepared in support of the proposed demolition of a one-story single family residential structure constructed in 1951 and its replacement with a two-story residence located in the National Historic Landmark District at 459 Front Street, TMK: 4-6-002: 017, Lahaina, Island of Maui. (EA 2007/0010) (SMX 2007/0306)(J. Prutch)**

The EA trigger is the location of the property within the Lahaina National Historic Landmark District. The Maui Planning Commission is the accepting authority for the EA.

The Planning Commission is being asked to:

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

The review of the Special Management Area Assessment will be conducted at a future date after the Chapter 343 process has been completed.

Mr. Prutch presented the Memorandum of the Department.

Mr. Starr: Members, questions on this? I know I had one which I didn't understand the setback, what the setback requirements are and how this proposed new house relates to what the setbacks are.

Mr. Anthony Riecke-Gonzales: The shoreline setback was proposed to the Planning Department at quarter of the lot depth and I believe they did accept that. Yes. The Planning Department recently wrote us a letter accepting that. Oh, by the way, I'm Anthony Riecke-Gonzales the architect on the project. And the side yard setbacks are six feet for one-story, 10 feet for two-story. We're proposing one story on one side. Actually the building is a wedding cake on one side with a one-story portion and that is set at six feet. And the other side is set about 14 to 20 feet it's a tapered setback. And then the front yard is 15 feet.

Mr. Starr: Can we get concurrence from the department that this is not encroaching on the setback area?

Mr. Prutch: Yes, there is a shoreline setback determination that was approved March 18th, allowing for the 51-foot setback from the shoreline. So that is accurate and that lasts for a year.

Mr. Starr: I have another question which is that there's a delta increase in runoff from the post development. I know that that is something that's not permitted. I want to know how that's going to be dealt with.

Mr. Riecke-Gonzales: We had Stacy Otomo do an analysis of that and it will be kept on site in retention areas. The grassed lawn on the shoreline side and underneath the paved area on the front side of the building.

Mr. Starr: I want to see the analysis and the counts on the retention to make sure and if you're doing that it would be a good thing to increase the retention to further reduce the runoff which is becoming accepted practice.

Mr. Riecke-Gonzales: Okay, we can look into that on the final.

Mr. Starr: Members any other comments? Anyone out in the –

Mr. Mardfin: Does view plane issues come into effect?

Mr. Starr: Ask the question?

Mr. Mardfin: Do view plane issues come into effect here? It's going to be roughly twice the height.

Mr. Riecke-Gonzales: We're actually increasing the amount of view from Front Street. Currently the house that we're proposing to demolish goes to the six-foot setback on both property lines. So we'll be pulling back about 10 more feet from that. So right now you have a total of 12 feet.

Mr. Mardfin: Are talking width or depth?

Mr. Riecke-Gonzales: We're talking about width.

Mr. Mardfin: Width, okay.

Mr. Starr: So lets see a view plane analysis in the update.

Mr. Riecke-Gonzales: All right, we can do that.

Mr. Starr: Anything else? Commissioner Hedani.

Mr. Hedani: Where's the closest beach access to this house?

Mr. Riecke-Gonzales: You know, I think there's a beach access at the hotel. This is one lot down from the Lahaina Shores. So I believe there's public access through the Lahaina Shores property.

Mr. Starr: Okay, members any other comment? Is there anyone out in the public that would like to testify? I guess not. Anyone else from the – any other members with anything? Okay, same deal as last time.

Mr. Prutch: Okay, let me just summarize real quick just to make sure I've got – sounds like I have two comments to send on to the applicant to respond to. One of them is you want to see an analysis and counts on the retention. And you'd like to see maybe an increase above and beyond what is required. And also you wanted to see the view planes and kind of an analysis of what was and what will be.

Mr. Starr: And actually I would like to see the setback, a drawing with showing the setbacks.

Mr. Mardfin: And on the view plane if you can also get from the ocean side up mauka, looking mauka as well as from the from looking makai.

Mr. Starr: Okay, anything else. Okay, be there or be square.

Mr. Riecke-Gonzales: Okay. Thank you.

Mr. Hiranaga: Question.

Mr. Starr: Oh sorry, hold on.

Mr. Hiranaga: You know, I don't want to overburden the applicant, I'm just kind of wondering about that request for views makai to mauka of the property. Basically you're asking them to get a boat and go on the ocean and take a picture.

Mr. Mardfin: I don't know what's in front of there. Is there a beach?

Mr. Riecke-Gonzales: Yeah, there's kind of a dirty sand beach but you can't see much because the beach is lower. There's like a little berm but we can take some photos.

Mr. Hiranaga: From the water line.

Mr. Mardfin: Yeah.

Mr. Hiranaga: Okay, I didn't want them to have to go and rent a boat.

Mr. Starr: Okay, thanks.

Mr. Riecke-Gonzales: All right, thank you Commissioners.

Mr. Starr: Okay, moving right along. We've got the Director's Report and for that we have our director.

F. DIRECTOR'S REPORT

- 1. Planning Department's Follow-Up Report on Matters raised by the Maui Planning Commission at the April 8 meeting.**
- 2. Planning Commission Projects/Issues**
- 3. 2008 Hawaii Congress of Planning Officials (HCPO) Conference - September 10-12, 2008, Grand Wailea Hotel, Wailea, Island of Maui.**

It may I'm going to skip to Item 3 because I believe it's the most important. Just wanted to let you folks know that this year the annual planning conference what they call the Hawaii Congress of Planning Officials is on Maui and so please mark your calendars on September 10 - 12. It's at the Grand Wailea. You should have gotten something in the mail. If you didn't let me know and we'll get you a –

Mr. Mardfin: It was handed out last meeting.

Mr. Starr: On that, since we are the host agency I know you'll be having panels and stuff, maybe some of the members whose expertise, like Commissioner Hedani has, you know, hospitality industry, doc in medical maybe some of the others if there's spots on panels you might invite them if you wish.

Mr. Hunt: Yeah we certainly open to any panelists. There is a committee. You should talk to Ann Cua in the Current Planning Division about any kind of interest in getting on the committee or attending or anything like that.

- 4. EA/EIS Report**
- 5. SMA Minor Permit Report**
- 6. SMA Exemptions Report**

Mr. Starr: Okay, on the reports, the EA, Minor, all that, anyone got anything on this? I have a question about something that's on here which is the rock fall mitigation in Kaupo. I know that the mitigation itself is under a what you call an exclusion, but they're building a little village on the grounds of Kaupo Ranch makai of the highway which is definitely in the SMA and the conservation zone. While, you know, it is, some of it is temporary in nature. They are building a pretty major I guess it's a place where they'll eat their meals and hang out and stuff. And I was just surprised that there wasn't either a minor or an exclusion notice on this kind of village they're building on the ranch property.

Mr. Hunt: We could schedule that under the next director's report to give you a report on that situation. As I understand it it was issued under an emergency permit.

Mr. Starr: That's the mitigation but now, you know, they're building the village. I don't want to slow down or stop the project not for an instant. I just, you know, they should have either gone through a minor or an exclusion.

Mr. Hunt: And I don't mean to be evasive I'm just not prepared to answer your question so I don't want to shoot from the hip.

Mr. Starr: That's fine. Anything else.

Mr. Mardfin: Yeah, I'd like to say, congratulations we finished the agenda.

Mr. Guard: Almost, almost.

Mr. Starr: No, I think we got it. Anything else members? Commissioner Hedani.

Mr. Hedani: I just wanted to say congratulations and excellent meeting.

Mr. Starr: Well, thank you. I think I've learned a few things from you in the time you done it and I really ask members to help me learn how to do it better and how we can refine our process so we can be more effective and efficient and I really think we can make a good team and do some great things. Thank you. Commissioner Guard.

Mr. Guard: I guess this would fall under Item 2. I know I've said it over and over. I don't know what the protocol would be to try to implement story poles on a few of these items that are coming up over the next few years. Either story boards or the white boards like they use on the Big Island to notify the general public about projects.

Mr. Starr: Vice Chair Guard that brings up something I was going to save to the next meeting but I was going to enlist you as Vice Chair in helping, in creating a list of those items that we've discussed and we've thought about that we want to get done. So lets do it.

Mr. Guard: We're on the same page.

Mr. Starr: Start making notes. With that in mind, it's 5:00 p.m.

G. NEXT REGULAR MEETING DATE: May 13, 2008

H. ADJOURNMENT

The meeting was adjourned at 5:00 p.m.

Submitted by,

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

RECORD OF ATTENDANCE

Present

Wayne Hedani, Vice Chairperson

Kent Hiranaga

John Guard IV

Bruce U'u

Ward Mardfin (in attendance @ 8:35 a.m.)

William Iaconetti

Joan Pawsat (in attendance @ 8:38 a.m. & excused @ 4:00 p.m.)

Jonathan Starr

Others

Jeff Hunt, Planning Department

James Giroux, Department of the Corporation Counsel

Mike Miyamoto, Department of Public Works