

1 assessment. And with projects of this type where you have a
2 long-term use on-site where it's not, say, undevelopment
3 with a very minimal impact, it's not uncommon to have a
4 cultural impact assessment essentially consisting of
5 interviews of people on-site.

6 Now, that's not to say that the comments made here
7 are not on. I just want to clarify that statement.

8 CHAIRPERSON STARR: Thank you. I'd like to read
9 from your draft environmental assessment. This is on page
10 13-3, under cultural resources. "As noted previously, no
11 formal archeological or cultural assessment has been
12 conducted on this site. However, a cultural assessment was
13 prepared by CKM, cultural resources for the Paia Post Office
14 project, located approximately .8 miles north of the
15 cultural site. That project site. An archeological
16 assessment was also prepared for the Paia mini bypass
17 project located next to Paia Pose Office site."

18 And then it goes on to quote from those documents
19 prepared for another project. So my comments and concerns
20 stand. Ms. Loudermilk.

21 MS. LOUDERMILK: No further comments from the draft
22 EA.

23 CHAIRPERSON STARR: Director.

24 THE PLANNING DIRECTOR: Robyn, is the property
25 zoned agricultural or interim? There seems to be some

1 confusion there. And is it because of the adoption of the
2 agriculture or was there an inconsistency?

3 MS. LOUDERMILK: There's a number of
4 inconsistencies. That's why it's interim at this time.

5 THE PLANNING DIRECTOR: Was it ever adopted -- was
6 it ever zoned agriculture?

7 MS. LOUDERMILK: Not that I'm aware. But I will
8 double-check. I will double-check on that. The area
9 specifically public/quasi-public would have remained interim
10 with the adoption of the ag zoning ordinance back in '99.
11 The remaining portion, I'll double-check to see what the
12 community plan was at that time. Well, I believe it was
13 single family. So that also did not fall into the rezoning
14 of the property to agriculture.

15 THE PLANNING DIRECTOR: Okay. And then just one
16 other question. Could the EA include information on whether
17 it's within the draft urban growth boundaries?

18 MS. LOUDERMILK: We'll do that.

19 CHAIRPERSON STARR: Okay, good. Those will be
20 included.

21 Yeah, Commissioner Mardfin.

22 COMMISSIONER MARDFIN: I'd like to ask how do the
23 students currently get to school?

24 CHAIRPERSON STARR: Please come up give us your
25 name. Because we record the meetings.

1 MS. TODD: I'm Mable Todd. Our students get to
2 school currently mostly by car pooling. Parents get
3 together and fill up cars. They come from as far as Kihei.
4 And then upcountry. And we just share -- I bring three from
5 Kihei myself every day. And that's how we manage. We have
6 one teacher who's in a wheelchair who comes by MEO bus,
7 which is very good.

8 COMMISSIONER MARDFIN: And you have 145 students?

9 MS. TODD: Yes.

10 COMMISSIONER MARDFIN: How many teachers do you
11 have?

12 MS. TODD: Our staff is about 23. Teachers would
13 be about 15.

14 COMMISSIONER MARDFIN: So it's about ten students
15 per teacher?

16 MS. TODD: Yes.

17 COMMISSIONER MARDFIN: Thank you.

18 CHAIRPERSON STARR: Members, any other comments?
19 If not, perhaps a motion to send these comments along.

20 Commissioner Guard.

21 COMMISSIONER GUARD: We're just providing the
22 comments? There's no real motion, right, on the draft EA?
23 I think it's just hopefully good luck at the beginning of
24 this long process.

25 CHAIRPERSON STARR: Chair would actually prefer to

1 put a motion that we pass along our comments if someone
2 wishes to make that.

3 COMMISSIONER GUARD: It's coming back to us as a
4 final EA prior to anything else. I don't think we've done
5 that yet before.

6 CHAIRPERSON STARR: Yeah, we do need to provide
7 some action of concurrence or lack thereof.

8 Go ahead.

9 MS. LOUDERMILK: I guess before any motion is made,
10 I'd like to read back the comments to ensure that this is
11 reflective of that.

12 First of all, the inclusion of the analysis of
13 public transportation, whether existing or not. Two, a
14 cultural impact assessment, the inclusion of a cultural
15 impact assessment. And thirdly, the relationship of the
16 project in relation to the proposed urban growth boundaries.

17 CHAIRPERSON STARR: Did we have another one,
18 Director?

19 THE PLANNING DIRECTOR: Not on those comments.

20 CHAIRPERSON STARR: You've got one regarding ag.

21 THE PLANNING DIRECTOR: I wanted to make sure that
22 it was indeed zoned interim and not defaulted to interim
23 based on some inconsistency like we found on other
24 properties.

25 MS. LOUDERMILK: Was that more of a clarification

1 for yourself?

2 CHAIRPERSON STARR: I think a statement should be
3 in there probably if it's not.

4 MS. LOUDERMILK: What would you like?

5 CHAIRPERSON STARR: Your pleasure.

6 THE PLANNING DIRECTOR: If you could -- if the EA
7 could clarify the zoning if it's indeed, was it indeed zoned
8 interim and not defaulted to interim like the Department has
9 done in the past due to inconsistencies.

10 MS. LOUDERMILK: Okay.

11 CHAIRPERSON STARR: So a suitable motion would be
12 we foresee concurrence for a potential finding of no
13 significant impact with the comments so received. And that
14 motion would be welcomed.

15 COMMISSIONER U'U: I'll make the motion.

16 CHAIRPERSON STARR: Okay. Is there a second?

17 COMMISSIONER MARDFIN: I'll second the motion.

18 CHAIRPERSON STARR: Okay. Moved by Commissioner
19 U'u, seconded by Commissioner Mardfin; foreseeing
20 concurrence of FONSI with the comments as received. Seeing
21 no discussion, all in favor, please raise your hand. All
22 opposed.

23 Okay. I just want to thank the applicant for the
24 good work, and keep doing them. Thank you coming before us.
25 And good presentation, Ms. Loudermilk.

1 MS. LOUDERMILK: Thank you.

2 CHAIRPERSON STARR: With that done, it is that time
3 of day when we shall recess for lunch. We'll be back here
4 at 1:00.

5 (At which time, a lunch recess was taken
6 from 12:00 p.m. to 1:00 p.m.)

7 CHAIRPERSON STARR: The Maui Planning Commission
8 June 24th meeting is back in session. I'm going to pass the
9 matters over Director Hunt to introduce the issue before we
10 have our presentation.

11 THE PLANNING DIRECTOR: Your next item involved
12 Ms. Dawn Lono, Chairperson of the Hana Advisory Committee,
13 transmitting recommendations of the Committee to the Maui
14 Planning Commission on the applications by Ms. Cheryl Okuma,
15 director, County Department of Environmental Management,
16 requesting a State Land Use Commission Special Use Permit,
17 County Special Use Permit, and Special Management Area Use
18 Permit for the County's Hana Landfill for land
19 consolidation, boundary realignment and grading activity on
20 approximately 74 acres at TMK 1-3-6, portion of Lot 12, and
21 TMK 1-3-6, portion of Lot 7, in Hana.

22 The applications are SUP1 2007/4, CUP 2007/1, and
23 SM1 2007/3. And the planner assigned to this is Paul Fasi.

24 CHAIRPERSON STARR: Before we get to the
25 presentation, I know we've received testimony today. We've

1 also received comment from the Hana Advisory to the Maui
2 Planning Commission. We have received other information.
3 What we haven't received is the environmental assessment.
4 And since this body is decision-making based on facts
5 included in this EA, and since that has been amply talked
6 about both in testimony and in the report from the Hana
7 advisory, it is probably unseemly for us to act without
8 having access to that environmental assessment. So we
9 should keep that in mind.

10 I would allow -- since there are members of the
11 public here who might want to give testimony, I want to
12 allow that. I also want to allow members to have some
13 knowledge of the project and to discuss it before any of us
14 goes to decision-making or comment. We haven't received a
15 decision from the EA. And also, the Hana Advisory
16 Committee, some of their comments related to the fact that
17 they didn't receive copies of it and they asked for it and
18 still were denied access to the document. So we do have
19 some concerns.

20 Although I haven't seen the EA, my understanding is
21 that this EA document was prepared by the County of Maui
22 Department of Environmental Protection. So they're the
23 applicant. They prepared the document. And they also
24 approved the document. And if that's true -- although, it
25 may fall into loophole in the county rules, it stinks to

1 high heaven to me.

2 But I want to ask Corp. Counsel whether this is
3 actually a permitted practice, and if there's anything we
4 can -- we should take into account?

5 CORPORATION COUNSEL: The only comment I can make
6 is that the environmental process is an informational
7 process, which basically under 343, there are certain
8 criteria of how this document is to be processed. Under --
9 I haven't specifically looked under this case, but I'm
10 assuming that the Department looked at the rules. And there
11 are procedures that allow the agency, when it's an agency
12 that is proposing a project, to also be the accepting
13 authority.

14 343 is cognizant that when an agency does ask
15 for -- well, does propose a project, that it may actually be
16 going through different processes with other State, Federal,
17 County agencies. And then that's where the confusion arises
18 on who then becomes the accepting authority.

19 The legislature in the last session did recently
20 pass some amendments to those sections which allow the OEQC
21 to actually be consulted prior to going forward with type of
22 agency-sponsored projects which will be reviewed and be
23 getting discretionary permits and final permits from other
24 agencies. So it is permissible. But there is the idea that
25 the document should be produced. And if other agencies are

1 going to be reviewing the project and giving it
2 discretionary reviews or discretionary permits, that that
3 document should be available to allow those decision-makers
4 to make a clear decision based on the information contained
5 in that document.

6 CHAIRPERSON STARR: Thank you.

7 Members, right now the question before us is do we
8 want to have the Power Point presentation to understand the
9 project and then public testimony? Or do we just want to
10 put it for another day? Okay, should we have the Power
11 Point presentation? Nod or not?

12 Commissioner Mardfin.

13 COMMISSIONER MARDFIN: I'd like to have the Power
14 Point presentation because it will save us time in the
15 future. But whether you have it before or after the public
16 testifies is an open question.

17 CHAIRPERSON STARR: Okay.

18 COMMISSIONER U'U: My only concern is we're missing
19 three commissioners, so we would probably have to repeat the
20 Power Point presentation. And that's my concern. We'll get
21 over this twice.

22 CHAIRPERSON STARR: Yeah, we probably will. How
23 about this, how about we ask for a really brief, really fast
24 forward on the Power Point, and then public testimony. And
25 then if we have questions, we can ask them. And then we'll

1 go from there.

2 Do I see Mr. Hirano, please identify yourself.

3 MR. HIRANO: Thank you. My name is Mich Hirano
4 with Munekiyo & Hiraga. Our team is assisting the
5 environmental management with the Hana Landfill project. I
6 do have a very brief Power Point that I could just go over.
7 Basically, I just wanted to give the Commission elements of
8 the project and what is involved the landfill is a facility
9 that's been in the region since 1969.

10 It's the single disposal facility for East Maui.
11 And it provides the essential waste disposal, recycling and
12 green waste composting in East Maui.

13 Permit requirements. Special Management Area
14 Permit. Originally, this was submitted as an SMA
15 assessment. But it was requested that it be a use permit.
16 State Land Use Special Use Permit because the land area is
17 greater than 15 acres. Land Use Commission said that any
18 expansion of a landfill boundary has to consider the
19 original landfill area, not just the expansion area. This
20 brought it to over 15 acres. And as well, then a County
21 Special Use Permit.

22 This is the regional -- the Hana landfill site in
23 East Maui. This is the original landfill area,
24 approximately 29 acres. And this is the expansion area,
25 which is approximately 41.5 acres.

1 This is the project site. This is original
2 landfill area that was transferred management control under
3 executive order from the State of Hawaii. Originally, it
4 was a right of entry for the County of Maui to use this area
5 for a landfill. Or at that time, it was called a dump site.

6 Over the period, '70s and '80s and '90s, there was
7 a 5.4 acre encroachment to the west of the landfill onto the
8 adjacent property boundary. And this area is zoned
9 agricultural. And that's why the request was made to expand
10 the boundaries of the landfill area. Further discussion
11 with the State, the County felt that a larger buffer area
12 would be appropriate and had requested then a 41-acre
13 expansion area.

14 As you can see, this is the original parcel that
15 was transferred to the State, transferred from the State to
16 the County. This is Parcel 12. And it excludes a 250 to
17 300 foot ban of land between the northeastern boundary of
18 the landfill and the water shoreline. And this was set
19 aside -- remained with the State as a conservation buffer.
20 This is the landfill site plan, if you will.

21 Currently, this is Waikoloa Road. It comes into
22 the landfill boundary off of Hana Highway. This is the
23 active municipal waste area. This is where the waste is
24 deposited on a daily basis or when it is delivered. And
25 this is the expansion area. There's also areas where the

1 landfill used to carry and receive scrap metal. They also
2 have a green waste area and a recycling area. And they
3 also, due to Environmental Protection Act and Clean Water
4 Act requirements, they are now doing environmental
5 monitoring of the landfill.

6 There are four methane gas probe sites on the
7 property in and around the landfill area. And there are
8 also three ground well monitoring wells, which are indicated
9 by these triangular symbols. And there are three of those
10 in the site.

11 The other action that's being developed with this
12 application is a 100 by 100 detention basin that's also
13 required under the Clean Water Act, to have an area of
14 run-off to contain groundwater run-off, storm water run-off
15 within the landfill boundaries. And therefore, a detention
16 basin is being proposed as part of the SMA action.

17 The landfill -- there's no real actual expansion of
18 the landfill operations. It's really to incorporate the
19 existing encroachment on the property that's on Parcel 7.
20 It's to incorporate the proposed drainage improvements that
21 are required under the Environmental Protection Act and the
22 Clean Water Act. It's to incorporate the existing
23 environmental monitoring stations that are in and around the
24 landfill area. And also, the additional acreage is to
25 provide a buffer zone for the landfill operations from

1 residences that are along Waikoloa Road.

2 Again, air quality is measured. There are four
3 methane gas monitoring probe sites, monitored by the
4 Department of Environmental Management. No presence of
5 methane gas has been detected in the monitoring of these gas
6 probes.

7 Groundwater monitoring. This is done semiannually.
8 There are three monitoring wells on-site. And all
9 monitoring wells are within the statistical limits of the
10 Department of Health, requiring ground water monitoring for
11 landfills.

12 This is just an example. The groundwater
13 monitoring is done by an independent firm. An environmental
14 firm that comes out twice a year to monitor and provides a
15 report to the Department of Environmental Management. The
16 Department then sends environmental monitoring report,
17 groundwater monitoring report to the Department of Health.

18 In terms of conformity of Government Land Use
19 policies, objectives and plans, I'd like to just go over
20 this with the Commission because it involves, you know,
21 quite a few entitlements for the property. This is the
22 Conservation District Subzone map. Part of the landfill on
23 this map, it's denoted that it's within some of the
24 conservation districts.

25 We reviewed this matter with the Office of Coastal

1 Lands, Conservation and Coastal Lands. And I think their
2 position was since the landfill was a longstanding
3 operation, that there was this mention of this 350 to 250
4 foot buffer zone that was in the conservation district, they
5 felt that the landfill operations were okay in the
6 conservation district. And the Conservation District Use
7 Permit was not required. So the expansion area was cut off
8 at this line of the conservation district boundary so that
9 it didn't involve any use of conservation district lands.
10 And then this is agricultural land, State agricultural land
11 to the west of the conservation district.

12 This is the Community Plan Land Use map. And as
13 you can see, the original landfill site is
14 public/quasi-public. And the Hana Community Plan designated
15 land use. It's interesting to note that they also did the
16 300 foot area as public/quasi-public. And this area to the
17 west is designated light industrial in the community plan.
18 And the other areas are designated agricultural.

19 In terms of the parcel zoning of the map. Again,
20 the main area, because of the different designations between
21 the community plan and the zoning and the State Agricultural
22 District, this is interim zoned. The original landfill
23 area, which was public/quasi-public, is interim zoned. The
24 light industrial area, again is interim zoned. And because
25 there's consistency between the Agricultural District and

1 the County Agricultural and the Community Plan Designation,
2 this has remained agricultural. So the expansion area will
3 remain agricultural..

4 Just some pictures of the landfill. This is
5 approaching from Waikoloa Road into the landfill site. The
6 landfill operations, active municipal waste daily activity
7 area is off to the right of the picture. This is the road
8 up into the landfill area. As you can see from there,
9 there's the bulldozer that puts the cover over the landfill
10 on a daily basis.

11 This is just some landscaping. The site is
12 actually quite attractive. You come into Hana. If you go
13 down Waikoloa Road, it's quite a nice little area. The
14 previous landfill operator took a lot of pride. And the
15 current operators take a lot of pride in the facility.
16 They've won awards for landscaping and site beautification
17 for the Hana Landfill. And this is just an example of it.
18 You don't see litter. You don't see wind-blown paper or
19 bags, plastic bags in and around the landfill. It's
20 well-maintained. When we were in the Hana community, people
21 actually said they've actually been married at the landfill
22 site. So it sort of just speaks to just the beautiful
23 surroundings of the area.

24 This is going up to the municipal active waste area
25 here. People drive up here or the trucks drive up here and

1 deposit their waste in that area. It receives approximately
2 4 tons of waste on average a day. And it's covered on a
3 daily basis.

4 This is now where the recycling program will be
5 relocated. The landfill will no longer be taking scrap
6 metal. But they do recycle oil. Or they collect oil, used
7 tires, batteries. And they also recycle glass and paper
8 products, I believe. So that is the current operations.

9 This isn't operational yet. The Department of
10 Environmental Management needs the permits in order to apply
11 to the Department of Health to get the appropriate health
12 permits for the landfill recycling program. This is the
13 diesel fuel dispensing area of the landfill. As you can
14 see, they've gone into a solar panel to for electrical
15 energy for the pumping operations.

16 That's just basically is an overall review of the
17 application before you. With respect to the environmental
18 assessment, the environmental assessment was done. The
19 final environmental assessment was given to the -- it was
20 deposited at the Hana Library. A copy and a CD was given
21 to every Hana Advisory member, Committee member. And
22 there was also a copy at the Hana Council Services Office.

23 Normally, under Chapter 343 for the environmental
24 assessments, the requirements are really the draft EA is
25 deposited at the local library for review. And the final is

1 published in the Office of Environmental Quality Control,
2 Environmental Notice. Those are the statutory requirements
3 for the distribution of the environmental assessment
4 document. And that's what we followed when we did the
5 environmental assessment.

6 CHAIRPERSON STARR: Excuse me. We have comment
7 from the Hana Advisory Committee that they requested copies
8 and did not receive them; that they did receive a CD or DVD,
9 but they requested copies, and the only copy went to the
10 library. And that was only after they asked.

11 MR. HIRANO: Our office sent a copy to the Chair.
12 We sent one hard copy to the Planning Committee. They
13 also -- and we asked at that time whether a CD was adequate.
14 And they said yes. We would have sent more copies if
15 everyone wanted a copy. But they -- at the meeting, it was
16 asked who needs a copy. And would a DVD or a CD of the
17 environmental assessment be adequate. And we understood
18 that was adequate, so that's what we did.

19 CHAIRPERSON STARR: How come they were not provided
20 to this body?

21 MR. HIRANO: We submitted the -- generally, we
22 don't provide environmental assessments to the Planning
23 Commission. We review and we send our documents to the
24 Planning Department. I think if they felt that the Planning
25 Commission needed the document, they would have informed us.

1 We would have done it. But under our normal circulation and
2 distribution of the environmental assessment, the Planning
3 Commission is not on as a body in receiving -- each
4 individual member receive a copy of a draft EA.

5 CHAIRPERSON STARR: Even when we're the
6 decision-making body? I mean --

7 MR. HIRANO: Well, again, Chair, sorry. I think
8 maybe we need to clarify that. Because we sent it to the
9 Hana Advisory Committee because that was the public hearing
10 body. And, you know, through our dialog and discussions
11 with the Department, that's where we sent the draft EA and
12 the documents.

13 CHAIRPERSON STARR: Okay. I believe members of
14 this body would like to receive copies. I certainly would.

15 MR. HIRANO: Well, that's all we need to know.
16 Thank you.

17 CHAIRPERSON STARR: Commissioner Guard.

18 COMMISSIONER GUARD: What's the process? Because I
19 thought this was a communication item.

20 CHAIRPERSON STARR: What is the --

21 COMMISSIONER GUARD: Actually, I was asking the
22 Director.

23 CHAIRPERSON STARR: Yeah, or Paul Fasi. What is
24 before us?

25 MR. FASI: That is correct. This is a

1 *communicationV item. The public hearing was in Hana. And
2 that was the public's opportunity to have public comment on
3 this matter.

4 THE PLANNING DIRECTOR: You have the authority to
5 approve these permits or recommendations, depending on the
6 aspect of the permits. They delegated the public hearing
7 portion of it to the Hana Advisory Committee. So they held
8 the public hearing. They make the recommendations to you.
9 Technically, you don't have to hold the public hearing
10 again. You just review their recommendations. That's why
11 there was that mix-up on the EA.

12 Certainly, if this body wants a copy of the EA,
13 we'll get you copies of the EA. There wasn't anything
14 malicious or anything. It was kind of a standard process we
15 follow if the past. You guys have the authority to ask for
16 any additional information you want. That's fine.

17 CHAIRPERSON STARR: I don't want to belabor the
18 point, but if we're the decision-making body, we certainly
19 should have the document on which this decision-making is
20 based.

21 Members. Yeah, Commissioner Hiranaga.

22 COMMISSIONER HIRANAGA: Is it a draft EA or final
23 EA?

24 MR. FASI: This is a final EA.

25 COMMISSIONER HIRANAGA: Did the State Land Use make

1 a determination?

2 MR. FASI: You are making a recommend to the State
3 Land Use Commission. So you are doing three things today.
4 You are making a decision on the SMA Permit. You're making
5 a decision on the County Special Use Permit. And then
6 you're making a recommendation on the State Land Use Permit.
7 So you have discretionary approval on two permits. You're
8 making a recommendation on the third one.

9 COMMISSIONER HIRANAGA: And the SMA Permit is for
10 the retention basin?

11 MR. FASI: Say that again.

12 COMMISSIONER HIRANAGA: The SMA Permit is for the
13 retention basin?

14 MR. FASI: It's for the entire matter since it is
15 in the SMA.

16 COMMISSIONER HIRANAGA: Thank you.

17 CHAIRPERSON STARR: Yes. And just to be clear.
18 The accepting agency for the EA was the same department of
19 the County that is the applicant and that wrote the
20 document. So we have one county agency that's the applicant
21 that wrote the document and approved it. Accepted it.

22 Should we move along and allow public testimony.
23 Do we have any members of the public who wish to testify
24 either who have not testified before or have new comments?

25 Mr. Blumer-Buell, thank you for coming in for this.

1 And try to keep it short. Three minutes.

2 MR. BLUMER-BUELL: Thank you, Chair Starr and
3 Commissioners.

4 CHAIRPERSON STARR: State your name.

5 MR. BLUMER-BUELL: John Blumer-Buell from Hana,
6 speaking on behalf. This is the final revised environmental
7 assessment. There was an earlier one produced in 2004.
8 I've read both of them. If you haven't read this, you've
9 missed half of the important comments that I've made.

10 Today I've given you a big map here. And where you
11 see the things that says 500 square feet, the one thing the
12 County has never looked at and has refused to look at and
13 now the Hana Advisory Committee has looked at, this mining
14 operation above the Hana Airport. They've extracted
15 hundreds of thousands of yards of materials. This is
16 integral part of the mining operation. There's absolutely
17 no question about that at this point. They've never done an
18 environmental assessment for this. They don't have any
19 permit for this. And it hasn't been included in the
20 environmental assessment.

21 And I've also included this picture of this
22 bulldozer, which gives some perspective on the height of the
23 mining operation. Now, I'll try to be very brief. But I
24 just want to say that I've -- I am a solution-oriented
25 person. And I'm going to hand out after this my April 17th

1 2008 letter to all of you. I don't know if you got it. It
2 identified from my perspective the problems, and I
3 identified the solutions.

4 So I'm here to try to work this out for the
5 community in the best way we can. Don't mistake my
6 intentions here. The letter that I've given you today, I've
7 submitted seven previous letters in this process. And if
8 you haven't read them all, I'm the one guy that has really
9 been a part of this. I've been using the Hana Landfill and
10 observing it for more than 30 years. I've been engaged as a
11 member of the Hana Community Association with Charlie Jenks
12 and other Public Works people with concerns with the
13 landfill over the years.

14 The record clearly proves the draft environmental
15 assessment failed to fully address the environmental impacts
16 of the proposed land acquisition. It is not a fair, honest
17 and objective assessment. Without question, there are
18 significant impacts that have not been fully discussed or
19 mitigated. The questionable finding of no significant
20 impact was made by the applicant, the County of Maui.

21 In my letter dated April 20th, 2004, that's more
22 than four years ago, I offered all the solutions for this
23 situation. I requested comprehensive information regarding
24 the County of Maui mining operation in Ke Alii Ku, page 2,
25 number 1, A through G. The response was inadequate and

1 simply dismissed my request as, quote, outside the scope of
2 the assessment, end quote. That's the response I got to it.

3 In big letters, it says now it has been proven
4 beyond any question, the mining operation is a directly
5 related and significantly environmental impact of the
6 proposal. In fact, applicant Ms. Cheryl Okuma stated the
7 County of Maui cannot operate the Hana Landfill without the
8 mind, materials in ke alii ku. We're talking about hundreds
9 of thousands of cubic yards at this point. Bigger than the
10 County Building several times over.

11 The County of Maui admitted no environmental
12 assessment has ever been completed for the mining --

13 CHAIRPERSON STARR: Try to wrap up, John.

14 MR. BLUMER-BUELL: Okay. According to the State
15 Office of Environmental Quality Control, Chapter 343 went
16 into effect on June 15th, 1974. That date the precedes of
17 1976 agreement with the State. The County has failed to
18 provide a certified copy of that agreement, which I
19 requested in 2008, and a number of other things.

20 The Hana Public Works Department clearly has not
21 even has a right-of-entry to this mining operation.
22 Therefore, I request Maui Planning Commission to require the
23 County of Maui to complete a supplemental environmental
24 impact statement or supplemental environmental assessment
25 immediately regarding the mining site and operation before

1 making any decision regarding the application.

2 And a number of the recommendations made by the
3 Hana Advisory Committee, do you folks trigger an
4 environmental assessment? And that will get us going into
5 the right direction. And if we changed --

6 CHAIRPERSON STARR: Okay. Wrap it up, John. Don't
7 go anywhere.

8 MR. BLUMER-BUELL: I would recommend changing four
9 or five of the conditions that the Planning Department has
10 made. That would get us going into the right direction. We
11 want to solve this problem. It's very important for the
12 community.

13 CHAIRPERSON STARR: Wait. Stay there.
14 Commissioner Guard.

15 COMMISSIONER GUARD: No.

16 CHAIRPERSON STARR: If no one else does, I have a
17 question.

18 During the preparation of the document and its
19 acceptance by the same agency that prepared it, did you make
20 comments?

21 MR. BLUMER-BUELL: The first comments I made
22 regarding this application --

23 CHAIRPERSON STARR: Not the application, the EA.
24 I'm just talking about the EA.

25 MR. BLUMER-BUELL: Yeah. The very first ones I

1 made were April 20th, 2004. So more than four years ago.
2 And they basically called my request for information on the
3 mining, quote, outside the scope of the application, which
4 it is clearly not.

5 CHAIRPERSON STARR: Were they commented on inside
6 the document?

7 MR. BLUMER-BUELL: Yes. And then they subsequently
8 decided that document was inadequate. This is the second
9 EA. I've read both of them. And I know these things very
10 well. I can comment on just about anything that interests
11 you.

12 CHAIRPERSON STARR: Members, any other questions
13 for the testifier?

14 Yes, Commissioner Mardfin.

15 COMMISSIONER MARDFIN: In the letter that is the
16 document before us, the Maui Planning Department's report,
17 there is an exhibit -- I think it's Exhibit 19, which was a
18 letter in response to you which raised a number of issues.
19 And you've talked about the coring and the cinder mining.

20 According to item 1F, it says, "The County of
21 Maui's arrangement for the removal of cinder and dirt
22 material for use in roadways and landfill purposes was
23 approved by the Board of Land and Natural Resources in 1976.
24 An environmental assessment was not carried out."

25 So they're saying they have not done an

1 environmental assessment of the coring operation?

2 MR. BLUMER-BUELL: Right. They represented James
3 Perry of the Public Works. We had a site visit up to the
4 mining operation, thanks to the Hana Advisory Committee.
5 They knew it was an issue. James Perry represented that the
6 County had some sort of an agreement in 1976, which expired.
7 And he said at this point, the County has no right-of-access
8 to it.

9 COMMISSIONER MARDFIN: Would you tell us who James
10 Perry is.

11 MR. BLUMER-BUELL: James is the head of our Public
12 Works Department in Hana.

13 COMMISSIONER MARDFIN: So it's the Public Works
14 Department that goes up and gets the cinder and brings it
15 down to the landfill?

16 MR. BLUMER-BUELL: Yes. And James -- we call him
17 Jimmy. He said they bring down about 10 truck loads, 15
18 yards per truck every day. I'm assuming that's 150 yards a
19 day for five days a week. So we're moving in a culturally
20 significant spot from olopawa mountain, which Lesley Bruce
21 commented on, and building a new mountain down by the ocean.

22 COMMISSIONER MARDFIN: Is there any estimate by
23 Mr. Perry of how long the cinder coring could last at this
24 rate of removal?

25 MR. BLUMER-BUELL: Jimmy did. He had just a

1 guesstimate. I think when we were up there, he said he
2 thought another five or six years. But that's the kind of
3 thing that would be explored in an environmental assessment
4 or supplemental environmental assessment.

5 COMMISSIONER MARDFIN: In response to the letter --
6 the October 17 response to you, there was an item 3A. "The
7 County of Maui is currently updating the integrated solid
8 waste management plan. A part of the scope will be to carry
9 out the feasibility of placing the Hana landfill on standby
10 with a permit and disposing only municipal solid waste at
11 the central Maui landfill in Kahului."

12 Do you have any idea what the status of that is?

13 MR. BLUMER-BUELL: We have -- Mr. Takamine is here,
14 I believe. They can discuss that that report is done in
15 draft form. It's online right now. There will be a public
16 hearing comment on that. And that's one of the things that
17 should be incorporated into the environmental assessment.
18 It's very positive that the County of Maui is considering
19 Hana as a satellite dump.

20 Just like in Lahaina. After recycling, they bring
21 what's left to Central Maui. They're considering that for
22 Hana. And an integrated solid waste management program is
23 an important part of that. So I'm very supportive of that
24 plan, but it's in draft form. It needs to be part of this.
25 It's really, the County needs to be given credit. They

1 have, at this point, stated that they're considering Hana as
2 a possible satellite dump. And it could cost the County
3 less money to recycle, takes what's left, and recycle the
4 green waste. Take what's left to Central Maui and not to
5 degrade the environment.

6 So there's a possible good solution on the horizon.
7 We all know that solid waste is an enormous problem on Maui.
8 They're barely keeping up with it at this point. And it's
9 an enormous problem worldwide.

10 Mahalo for the question.

11 COMMISSIONER MARDFIN: Before you go. There was
12 and Item 4C, on page 4 and 5 of this letter to you. And
13 they're talking about the detection/monitoring program of
14 the groundwater. And we earlier heard Mich say that this is
15 done, and it's within the parameters. And I forget -- I
16 don't remember whether it was your testimony or Lesley
17 Bruce's this morning -- but there was some concern that what
18 they were testing was not all that needed to be tested for.

19 Do you know anything about that?

20 MR. BLUMER-BUELL: I think Lesley has raised that
21 and I have, too. I went over the testing list, which are
22 quite detailed. And I talked with two biologist. One of
23 them is Anna Bernard, who people know from Maui. She
24 testified before the Hana Advisory Committee. The other
25 biologist is in the pacific northwest. And they both know

1 what they're talking about.

2 I went over the list of all of the things they're
3 testing for. They said they're not testing for the things
4 that have been put into the landfill. We need to develop a
5 relevant list of things to test for. Because over the
6 years, we've seen car oil, household cleaners, Agent Orange,
7 2,4-D, 2,4,5-T. You name it. It's gone in there.

8 So I've suggested -- I'll give you my April 17th,
9 letter -- solutions to that problem. The Hana Advisory
10 Committee recommended testing four times a year instead of
11 twice. That was a recommendation of Anna Bernard. I
12 suggesting setting up one additional well site. The geology
13 of the site, according to the report, the water comes
14 mauka/makai, and somehow makes a turns and goes back up the
15 mountain. Now, I've never heard of that.

16 I know there's such thing as diking in our geology,
17 meaning that you get lava flows going up, and you get
18 perched aquifers that are held by those. But I've never
19 heard of it in that situation. I believe we need to be
20 monitoring that situation. That includes baseline studies
21 of Hana Bay. The community is willing to help. Baseline
22 studies of all the fishponds around there. The community is
23 willing to help. And then an ongoing situation.

24 COMMISSIONER MARDFIN: Could you give me an
25 example, one or two things, that are not tested for and

1 should be tested for and can be tested for.

2 MR. BLUMER-BUELL: Well, certainly, Agent Orange,
3 which is 2,4,5-T. They have a lot of experience in testing
4 in Vietnam on that. That was found in shellfish 20 years
5 after the war ended over there.

6 COMMISSIONER MARDFIN: Thank you very much.

7 MR. BLUMER-BUELL: You're welcome.

8 CHAIRPERSON STARR: I want to thank you for the
9 work you've put into this and your photos and reports and
10 everything. It's good that you step forward and put forth
11 the energy. So thank you. And thank you coming before us.

12 MR. BLUMER-BUELL: Mahalo. And I just want to say
13 I'm here to help. And I think the planners, even though
14 we've had our disagreements, instead of a contested case
15 hearing, which I was eligible for at one point, I said can't
16 we just put the information out in the public. I don't like
17 contested case hearings.

18 So at this point, we're a lot closer to having the
19 information you deserve. And I think a supplemental
20 environmental assessment regarding the mining, the
21 integrated solid waste management plan, and a cultural
22 resources assessment, which was requested by Kauhi
23 Kanaka'ole, that is very important. You should pay
24 attention to what she has to say.

25 COMMISSIONER MARDFIN: I apologize. Hopefully,

1 you're not leaving right a way, just in case we have a
2 question.

3 MR. BLUMER-BUELL: I'm going to stay until you're
4 finished with this one.

5 CHAIRPERSON STARR: Do we have anyone from the
6 Department? Could you give us your name and --

7 MS. OKUMA: Cheryl Okuma, Director of Department of
8 Environmental Management.

9 CHAIRPERSON STARR: I know I have a couple of
10 questions, but if anyone wants to go first.

11 Yes, Commissioner Hiranaga.

12 I'm sorry. I'm making an error here. Before we
13 get to questioning the Department, are there any other
14 members of the public that wish to testify at this time?
15 Seeing none, public hearing is closed.

16 And now we can welcome Director Okuma. Is that
17 right?

18 MS. OKUMA: Yes.

19 CHAIRPERSON STARR: Commissioner Hiranaga.

20 COMMISSIONER HIRANAGA: This is a question for
21 anyone. There's a statement made that an EA is required for
22 that cinder mining operation. I just wanted to know if
23 that's true or not?

24 MS. OKUMA: Yes, I'm going to refer that to our
25 consultant.

1 MR. HIRANO: When we did the original environmental
2 assessment, there was an agreement with the County and
3 Department of Land and Natural Resources for the cinder
4 operations. So we felt that would be something on its own
5 in terms of the cinder operations. The cinder operations
6 are not only used by the landfill, but it's used for road
7 repair work at the County on all the roads in Hana. And
8 it's also available for the community members to use.

9 So it wasn't unique to the landfill. And there was
10 a -- it's under a previous license for the operations. We
11 felt that due to the concerns that the public had, we agreed
12 to do and the Department of Environmental Management agreed
13 to do cultural assessments in terms of its impact at the
14 cinder operations.

15 And as the previous testifier had mentioned. The
16 original license for the cinder operations between the
17 Department of Land and Natural Resources and the County of
18 Maui had expired. And they were renegotiating that. Any
19 use of that area then may require a new environmental
20 assessment for the use of state lands. But they were
21 operating under a current agreement, a license that had
22 expired, and then just an operating agreement.

23 CHAIRPERSON STARR: Director Okuma. First of all,
24 is the cinder mining, is that an integral part of the
25 landfill?

1 MS. OKUMA: Yes. It's a requirement. It's a
2 Department of Health requirement. That's the only material
3 that we have available to us to do the landfill cover, which
4 is basically for vector control. And it is a Department of
5 Health requirement.

6 CHAIRPERSON STARR: So it is a part of the project?

7 MS. OKUMA: Correct, it's a compliance requirement.

8 CHAIRPERSON STARR: Okay. Is this landfill a lined
9 landfill?

10 MS. OKUMA: I believe because of the size of the
11 landfill -- there are certain landfills of a certain size.
12 It's not as large as some of the other ones. There is no
13 requirement to do lining. So currently as it sits, that's
14 my understanding, it is not a lined landfill, right,
15 primarily because of the size of it. It's not considered a
16 large landfill.

17 CHAIRPERSON STARR: All right. I had actually
18 thought all landfills, all new landfill processes had to be
19 lined.

20 MS. OKUMA: No.

21 CHAIRPERSON STARR: So since it's not lined and
22 since the underlying surface is lava, which is by nature
23 porous, and since it is in the shoreline area, what happens
24 to the chemicals and stuff that gets dumped there?

25 MS. OKUMA: I can't speak to the specifics. But

1 that's one of the reasons we have the ground water
2 monitoring. And we know there was a recommendation to
3 increase that. We're taking a look at that recommendation.

4 But in any event, I can say it appears there's like
5 22 different parameters that we are required by DOH and EPA
6 to monitor for. And based on my understanding of those
7 results, we haven't seen anything in there that would tell
8 us there's any noncompliance or problems.

9 CHAIRPERSON STARR: Is it safe to assume that
10 whatever gets dumped in there will eventually find its way
11 into the ocean? I'm asking the Director.

12 MS. OKUMA: I'm going to defer that question to
13 Mich. Also here is Tracy Takamine, our solid waste division
14 chief.

15 MR. HIRANO: As I mentioned in my presentation, a
16 lot of the -- a part of the action that is before you and
17 what is proposed is a drainage improvement. And that's
18 going to help take the storm water run-off, contain it in
19 the landfill property.

20 This landfill was an operation that started in
21 1969. And therefore, it's being brought into compliance as
22 its required to do with these particular measures. That's
23 why they had the ground water monitoring wells installed,
24 the methane gas probes installed, and the detention basin.
25 And that's because of the new EPA requirements under the

1 Clean Water Act.

2 CHAIRPERSON STARR: Thank you. I know I have a lot
3 more questions, but I really don't feel that I should be
4 asking questions until I've seen the EA document, which
5 hopefully will clear a lot of them up. I don't know how
6 other members feel about this. But, you know, unless
7 there's more questions, you know, maybe we might want to
8 defer or whatever.

9 Commissioner Mardfin.

10 COMMISSIONER MARDFIN: I do have some questions.
11 Could you go to the -- I guess the site map that would have
12 both the well -- either one of those that's fine. Where is
13 true north, straight up? Is that what that little arrow on
14 the bottom corner means?

15 Can I approach the map?

16 CHAIRPERSON STARR: Sure. Take the hand mic.

17 COMMISSIONER MARDFIN: Okay. My understanding is
18 this asterisk, this asterisk and this asterisk are the three
19 water monitoring wells. And north is still up there. And
20 in the report from the Planning Department, the water is
21 going generally south; is that correct?

22 MR. HIRANO: Yes.

23 COMMISSIONER MARDFIN: So if the stuff is here,
24 that one won't catch anything?

25 MR. HIRANO: I think that one to the north is one

1 for the baseline. So they have one where they expect where
2 they're may be contaminants. They have a baseline. They
3 have one on the other side. So that's how those wells were
4 kind of located.

5 COMMISSIONER MARDFIN: And this and possibly that.
6 This one would be the one that would catch anything from
7 here. Where is one that would catch anything that came out
8 of here? Because this is where a lot dumping actually goes?
9 There's nowhere to test for there.

10 Can you go to the one that shows Hana Bay. So if I
11 get it right, the main dumping right now is there. And the
12 water is going straight toward Hana Bay. And in here are
13 where the fishponds are. These are culturally sensitive
14 areas that have been in operation for a long time. Not
15 directly open to the ocean, but as Lesley Bruce says, water
16 goes in and out and is fed by fresh water streams.

17 So if there is something coming out of here, we
18 have a monitor here. Don't have a monitor right below it.
19 And the water is coming down. We don't -- I don't know
20 where it hits here, but it's not going under the Hana
21 Cultural Center, which is here. It's somehow got to ease in
22 here. And I don't know whether it hits the fresh water
23 ponds or not. I just want to make sure I understand, is
24 what I said essentially accurate?

25 MR. HIRANO: We don't have the ground water

1 monitoring engineer here. But this is -- I think if you
2 look at the map here.

3 COMMISSIONER MARDFIN: You may want to go to the
4 other one.

5 MR. HIRANO: The water is going this way.

6 COMMISSIONER MARDFIN: So the water is coming like
7 this?

8 THE PLANNING DIRECTOR: We all need to speak into a
9 microphone everybody.

10 MR. HIRANO: It looks like the direction is kind of
11 on an angle. Not going straight down, but more on a angle
12 this way.

13 COMMISSIONER MARDFIN: So sort of to the southeast?

14 MR. HIRANO: Yeah.

15 COMMISSIONER MARDFIN: Which brings it directly to
16 the fishponds in Hana Bay.

17 Can you go back to the one that shows us where the
18 monitoring wells were. So if it's going to the southeast,
19 it's still likely to miss that one. Maybe it will catch it.
20 May it wouldn't. This one wouldn't catch it at all. This
21 one is meant as a baseline, which is a great idea. And the
22 only one that has the potential to catch stuff is this one.
23 And we don't have anything that would kind of spot on. I
24 just want to make sure I understand.

25 MR. HIRANO: As I understand, the location and

1 placement of the groundwater monitoring wells is that they
2 are placed to capture the flow of the ground water and also
3 in consideration of where the potential areas of
4 contamination might be, which would be the scrap metals,
5 recycling areas, as well as the active landfill waste.

6 COMMISSIONER MARDFIN: There were batteries stored
7 here and also scrap metal stored here.

8 MR. HIRANO: I also think it would be to the active
9 municipal waste area as well. I don't think they would
10 overlook that in terms of replacing the wells.

11 COMMISSIONER MARDFIN: I'm not sure I agree with
12 you, but I won't argue with you right now.

13 And you're putting the detention basin here. So it
14 will catch stuff before it goes into Hana Bay. That's where
15 the proposed detention basin is?

16 MR. HIRANO: That's where the proposed retention
17 basin is. It's taking the storm water run-off from the
18 active face of the municipal waste area. And that's on that
19 side.

20 COMMISSIONER MARDFIN: So it would get run-off.
21 But things that went down into the ground water would miss
22 that?

23 MR. HIRANO: Yes. But there will be berms and
24 channels to channel the run-off from the active area, and
25 then will be directing it into the detention basin. So

1 there's a series of berms and channels.

2 COMMISSIONER MARDFIN: That works for run-off
3 water, but not water that's seeped in and leaching into the
4 ground water?

5 MR. TAKAMINE: My name is Tracy Takamine, division
6 chief. Let me just clarify that a little bit. That
7 detention is to catch storm water run-off, not to catch
8 anything that's leached into the ground. So what we're
9 probably going to do is the majority of landfill is interim
10 closed, we call it. We're not using a majority of it.

11 So what we end up doing is putting a foot of
12 impermeable soil over the area that is not in use to prevent
13 any water from getting into the landfill that can leach into
14 the ground. And all that water that runs off is what we
15 catch in the detention basin. And seeing with the working
16 phase, we try to put a daily cover on it and slope it such
17 that the water runs off of the landfill. And we try to
18 prevent any water from getting into the landfill.

19 COMMISSIONER MARDFIN: This is the cinder that
20 we've talked about, the coring. You put the cinder on top,
21 and that keeps the water from going in?

22 MR. TAKAMINE: If we do an interim closure, we're
23 probably going to have to get soil from someplace, yes.
24 Because cinder will not be impermeable. And when we put it
25 on, it's got to be compacted to a certain density to prevent

1 water from getting in. So we probably won't use the cinder
2 because we can't get that impermeable surface from this.

3 COMMISSIONER MARDFIN: Do you have any idea where
4 you will get the soil from?

5 MR. TAKAMINE: If we need to get it, we're going to
6 have to bring it in from this side of the island probably.

7 COMMISSIONER MARDFIN: Thank you.

8 CHAIRPERSON STARR: Go ahead Commissioner.

9 COMMISSIONER MARDFIN: I don't need to go to the
10 map to say this.

11 There was also some comments in the report about
12 the -- I know people in Hana are concerned about the length
13 of growing in height. And I gather it's based on some
14 statements, it's risen eight feet in the past three or four
15 years; is that correct? On average, from eight feet to 16
16 feet above mean sea level?

17 MR. HIRANO: That's right.

18 COMMISSIONER MARDFIN: There was a comment that
19 you're going to expand outwards so it won't go upwards so
20 much. Is that also a correct understanding?

21 MR. TAKAMINE: The footprint we're in now is
22 basically the size of the landfill. We're not expanding any
23 further. We are trying to incorporate, as we mentioned, the
24 encroachment that occurred. But if you go in there now, the
25 current footprint is basically the landfill. We might go

1 higher. I think our design height, from looking at the
2 previous documents in the past, is 134 feet MSL. Based on
3 this footprint and the capacity and the daily use, the life
4 of that landfill is about 88 years, not expanding any more
5 than what we have now.

6 COMMISSIONER MARDFIN: And how much higher will it
7 go from where it currently is?

8 MR. TAKAMINE: We're going to be doing a more
9 detailed survey this year, but we estimate the roadway is
10 about 60 feet, and we're probably about 30 feet higher than
11 that. So we're probably at about 90 feet. I'm just giving
12 you a rough.

13 COMMISSIONER MARDFIN: 90 more than we currently
14 have?

15 MR. TAKAMINE: MSL, mean sea level.

16 COMMISSIONER MARDFIN: And what is MSL now?

17 MR. TAKAMINE: Mean sea level is zero.

18 COMMISSIONER MARDFIN: I'm sorry. I didn't know
19 that. What is the height of it currently?

20 MR. TAKAMINE: 90 feet.

21 COMMISSIONER MARDFIN: It's now 90 feet?

22 MR. TAKAMINE: We're estimating.

23 COMMISSIONER MARDFIN: But in 30 years, how high do
24 you expect it to be?

25 MR. TAKAMINE: The plan height -- and I'm looking

1 at past documents, and I need to revise it. But it's about
2 134 feet is the final design height.

3 COMMISSIONER MARDFIN: So you're talking about 44
4 feet higher, roughly?

5 MR. TAKAMINE: Yes.

6 COMMISSIONER MARDFIN: Thank you.

7 CHAIRPERSON STARR: Okay. I have one last
8 question. This is for the director.

9 Has the county hired an arm's length consultant on
10 this? I mean, you're dealing with a very sensitive
11 shoreline area. You're also in proximity to the one
12 drinking water well for all of Hana and East Maui. Have you
13 had any arm's length consultant look at this and decide if
14 this is really a wise way to go, to put this and keep this
15 in the shoreline area?

16 MS. OKUMA: If your question is do we have any
17 consultant hired to look specifically at ground water
18 monitoring, if that's the case, we don't have any -- well,
19 other than -- we're just doing sampling. But if your
20 question is are we looking any further in terms of detailed
21 study, in terms of that ground water monitoring, I'm not
22 sure we hired any other consultant.

23 But let me say that the County is currently
24 undergoing our draft Integrated Solid Waste Plan countywide.
25 And that includes Hana. And that draft plan currently is

1 going to public hearing. We have five community hearings
2 throughout the County, including Hana. It will also require
3 not only public hearing, public comment, but it will also
4 require Department of Health to undergo a review. And we
5 had been hoping that we would complete that process sometime
6 around the September/October time frame. It may be
7 prolonged depending on the comments that come out of public
8 hearing.

9 But if there are no comments, the best we're
10 looking at as far as timing is to get something out with the
11 DOH approval hopefully around September/October. But the
12 thing about it is what's coming out of that plan is what's
13 already been mentioned. There's been discussion about
14 putting Hana Landfill on standby with an operating permit.
15 In other words, it would go on standby for various emergency
16 purposes. But for the most part, the municipal solid waste
17 would be hauled down to Central Maui Landfill.

18 Now, what's important about that is we still need
19 the operating permit. And we are before this body today
20 because Department of Health will not process our solid
21 waste permit, which we need for the landfill, which we also
22 need for the recycling areas in order to push forward on our
23 recycling areas, which is also coming out of the draft solid
24 waste plan. We cannot even begin to move forward on any of
25 that until we get the approval of these permits, of which we

1 are before you today.

2 So we do appreciate the opportunity to come before
3 you. But also, it's important to realize that we can't even
4 move forward on some of our efforts, such as recycling,
5 which the community very much in favor of, until we get
6 these permits in place. Again, we are waiting to find out
7 when our final draft integrated plan is going to come out.
8 But I can tell you right now, yes, what's coming out of the
9 discussion is that Hana Landfill gets put on standby.

10 Again, we still need the operating permit for
11 emergencies just in case. And we can't even get the process
12 before Department of Health until we get these permits, of
13 which we are before you today.

14 CHAIRPERSON STARR: When will that hearing be held
15 in Hana?

16 MS. OKUMA: The public hearings are coming out -- I
17 believe it already has come out in the Maui News. I can't
18 remember exactly when Hana's is. But it's going to be the
19 week of July 21st. One of those days, I believe.

20 CHAIRPERSON STARR: Can you get us that date before
21 the end of the meeting here today?

22 MS. OKUMA: Yes, we can get you that date.

23 CHAIRPERSON STARR: Okay. I have not heard that
24 you are even planning to do full recycling in Hana. Now,
25 ten years ago, I was Chair of the Hana Advisory Committee.

1 I was also Vice-Chair of the Hana Advisory to the Maui
2 Planning Commission. And a hot topic before us was a
3 commitment by the predecessor of your department to do full
4 recycling in Hana. That included different kinds of paper.
5 That included cardboard and plastic and plastic sorting. It
6 included a place for batteries. It included all of that.
7 That was over ten years ago, there was a commitment. And
8 it's not there. We have less recycling today than ever.

9 Why is it that in all of those years, you have not
10 instituted recycling in Hana?

11 MS. OKUMA: Well, right now, what we do have in
12 terms of recycling in Hana, it covers glass, batteries
13 appliances, oil and tires. And we, as a department, are
14 very interested on expanding the recycling program.

15 In fact, this is one of the desires that came out
16 at the public hearing before the Hana Advisory Council. So
17 we're very interested in pursuing that. As a matter of
18 fact, coming out with the whole integrated solid waste plan,
19 there's a strong desire, as recommend by the Advisory
20 Council, to increase recycling levels. Right now, our
21 recycling levels are a little bit above the national
22 average. We're about 30 percent as far as recycling
23 efforts.

24 And there's a strong desire, and it's coming out of
25 the draft plan which, by the way, is on the website. All

1 the work of this Advisory Committee is on the website, as
2 well as a draft plan that's coming out. Strong desire to
3 even increase that.

4 So I can tell you that on the part of the
5 Department and solid waste, we are very interested in
6 expanding the recycling programs. But we do need to look at
7 feasibility. What kind of resources is needed with that.
8 Because all of that comes with some sort of price tag
9 attached to it. So while we have that desire, we've got to
10 look at what's the best way in order to push the recycling
11 program to include more items in the program.

12 CHAIRPERSON STARR: Okay. One last question. Do
13 you think it's a correct process that your department is the
14 applicant, your department wrote the EA, and your department
15 approved it with the finding of no significant impact?
16 Don't you find that is a very suspect process, that it best
17 creates the illusion that there is no desire to really
18 create an informative document?

19 MS. OKUMA: Let me just address that by saying it's
20 my understanding that we're going through the process. And
21 that's not an unusual process within the EA. So I've got no
22 other comment other than we believe we're following the
23 process.

24 CHAIRPERSON STARR: Thank you.

25 MS. OKUMA: Your question was when is the public

1 hearing in Hana. It's schedule for July 21st.

2 And actually, every public hearing is preceded by a
3 question-and-answer period. We will have our consultant
4 there to provide a short overview of the plan. And that Q
5 and A will start at 5 p.m., followed promptly by the opening
6 of the public hearing, which will start at 6:00 p.m. And
7 let me just make sure of the location.

8 Community cafeteria in Hana.

9 CHAIRPERSON STARR: That's at the old school?

10 MS. OKUMA: Yes, at the old school.

11 CHAIRPERSON STARR: Commissioner Mardfin.

12 COMMISSIONER MARDFIN: That may not be big enough
13 if it gets the audience. You might want to think about
14 Helene Hall. But that's your business.

15 I want to say that, ma'am director, Director Okuma,
16 thank you for your comments. And I know the Hana Advisory
17 Committee recommended approval with a lot of conditions.
18 They were cognizant of the need to get things done. And I
19 am, too. To me, it makes a difference whether to put Hana
20 on the landfill, and you move things out or that you leave
21 them in place. So it ties in with -- I know you need the
22 approvals, whichever way you go. But it makes a difference
23 in which way you plan to go as to how supportive I am of it.

24 But I do know that you have a difficult job. And I
25 know this is important to the Hana community. But we're

1 concerned about other things, too. We're concerned about
2 the coring. We're concerned about the ground water. We're
3 concerned about the quality of water in Hana Bay, the
4 fishponds. And I know you are also. You have to be
5 professionally. And I want to thank you for your hard work.

6 MS. OKUMA: Thank you.

7 CHAIRPERSON STARR: Yes, thank you for coming here.
8 And please do things right.

9 MS. OKUMA: Thank you.

10 CHAIRPERSON STARR: Okay. Members, what do we want
11 to do? Do we want to defer?

12 COMMISSIONER MARDFIN: I move to defer -- or am I
13 supposed to say until when?

14 CHAIRPERSON STARR: Well, pending --

15 COMMISSIONER MARDFIN: Pending getting the existing
16 final EA.

17 CHAIRPERSON STARR: Do we have a second?

18 COMMISSIONER MARDFIN: Whatever can be scheduled
19 appropriately for this meeting.

20 COMMISSIONER U'U: I'll second that.

21 CHAIRPERSON STARR: Okay. We have a motion by
22 Commissioner Mardfin, seconded by Commissioner U'u to defer
23 this item pending our ability to receive and digest the EA
24 document.

25 All in favor, please raise your hand. Any opposed.

1 Okay. By unanimous consent, we are deferring.

2 Mr. Fasi, please.

3 MR. FASI: The EA document could be made available
4 on a DVD disk, if you prefer, or a hard copy. Any
5 preference?

6 CHAIRPERSON STARR: I would like a hard copy.

7 COMMISSIONER MARDFIN: I'm kind of funny. I prefer
8 a hard copy and disk. And I can do searching on it.

9 MR. FASI: You can only have one or the other.

10 CHAIRPERSON STARR: Give us both.

11 COMMISSIONER MARDFIN: I'll take the hard copy.

12 CHAIRPERSON STARR: Okay. Thank you very much.

13 Moving right along. Oh, do we need a break? Yeah, we need
14 to take a break.

15 We'll be back at 20 minutes after 2:00.

16 (At which time, a recess was taken.)

17 CHAIRPERSON STARR: Okay. The Maui Planning
18 Commission will come back into session. We have our
19 Director here. Director Hunt will introduce our next item.

20 THE PLANNING DIRECTOR: The Commission's next item
21 involves Friedman Investment Group Mariner's, LLC requesting
22 off-site parking approval for 33 parking stalls, located at
23 175 Lahainaluna Road, TMK: 4-5-1, Lot 36, to satisfy the
24 required parking for the Mariner's Alley Building, located
25 at 844 Front Street, TMK: 4-5-1, Lot 16, Lahaina. The file

1 numbers are OSP 2007/4. Lavette Callentine is the planner
2 assigned to this project.

3 CHAIRPERSON STARR: Take it away.

4 MS. CALLENTINE: Good afternoon, Commissioners.
5 First of all, I'd like to pass out two letters of support
6 that were submitted to the Department. Secondly, then I'd
7 like to say that the applicant, applicant's consultant is
8 here today as Munekiyo & Hiraga. And Kyle Ginoza and Bill
9 Sakaguchi are on-hand at this time.

10 At this time, I'd like to turn the applicant to a
11 very brief slide presentation, which will give you a good
12 overview of the project.

13 MR. GINOZA: Thank you, Lavette.

14 Good afternoon, Chair Starr and Commissioners. My
15 name is Kyle Ginoza, and I'll giving the presentation of the
16 applicant for the off-site parking approval for Mariner's
17 alley in Lahaina. The applicant and owner is Friedman
18 Investment Group Mariner's. And Bill Sakaguchi, the owner's
19 representative, is in the audience. Myself and Mich Hirano
20 work for Munekiyo & Hiraga, and we're assisting the owners
21 and applicant.

22 Again, this project is at 844 Front Street, in
23 Lahaina. The applicant proposes to convert an existing
24 restaurant space located at Mariner's Alley into the
25 expansion of an art gallery space. An existing art gallery

1 will expand into the former restaurant space. This change
2 in use triggers current parking requirements and parking
3 analysis which the Planning Department determined was 62
4 off-street parking stalls and one loading space for
5 Mariner's Alley.

6 Currently, Mariner's Alley is able to provide 12
7 off-street parking spaces at that parcel on Front Street.
8 The parking requirements for the complex years ago were
9 satisfied through off-site parking approvals, which are no
10 longer valid. So what they are proposing today is to meet
11 the requirements through three methods.

12 One is the on-site parking, the 12 stalls; off-site
13 parking approval, which is why we are here in front of you
14 today; and a Chapter 19.36.010 variance. We and the
15 applicant went before the Board of Variances and Appeals on
16 August 23 of last year, to try to reduce the parking
17 requirement from 62 to 45 stalls. And that was approved on
18 August 23rd. I'll elaborate on that a little bit more later
19 in the presentation.

20 So this kind of gives you an overview of where the
21 parcel is located. South of Papalaua and north of
22 Lahainaluna Road on Front Street. The next slide shows a
23 little bit closer in.

24 So as you can see, here's Lahainaluna Road and
25 here's Front Street. Here's where Mariner's Alley is

1 located. This is where some of you may know Moose
2 McGillycuddy's or Lassen Gallery. This is all part of this
3 Mariner's Alley Complex. Further up Lahainaluna Road is
4 where the off-site parking parcel is located, on 175
5 Lahainaluna Road.

6 This is along Front Street. This is Waihie Lane.
7 And this complex in front of this is Mariner's Alley.
8 Here's Lassen Gallery, which occupies the first couple of
9 spaces of Mariner's Alley. And they want to expand back in
10 this orientation. This is looking kind of northwest of the
11 back parking lot of Mariner's Alley. This was the complex
12 that we saw in the previous picture. And this is where 12
13 off-street spaces will be accommodated.

14 This is the slide of the Lahaina Historic District.
15 The subject property, Mariner's Alley, is located in
16 Historic District 2. And the off-site parking parcel, which
17 is on 175 Lahainaluna Road, is in Historic District 1. So
18 both parcels are within the Lahaina Historic Landmark
19 District.

20 So as I mentioned, Lassen Gallery currently
21 occupies these spaces in Mariner's Alley. And what they
22 want to do is expand into the former restaurant space.
23 Years ago, it was Avalon Restaurant. It's been a number of
24 restaurants over the years. But Lassen Gallery wants to
25 expand in this space. So it goes from what was a

1 restaurant-use space to an art-gallery space. But just a
2 change in use triggered this parking requirement.

3 So based on the parking analysis that we did in
4 conjunction with the Department of Planning, they had noted
5 that we needed 62 stalls, which, as I mentioned, 12 would be
6 provided on-site, and then 33 via a parking lot that the
7 applicant owns.

8 So based on what we had available, we had a deficit
9 of 17 stalls, which is why we went to the BVA in August to
10 try to get a reduction in the required stalls from 62 to 45,
11 which they approved. So the new requirement is 45 total,
12 which would be provided on-site. And the balance, the 33
13 that we're asking from you today, is for the off-site
14 parking so that there would be no deficit.

15 So an application was filed last year with the
16 Planning Department for this off-site approval. And as I
17 mentioned, the off-site parking location is -- it's
18 approximately 350 feet away at the 175 Lahainaluna Road.
19 Both parcels are owned by the applicant. And that parcel
20 currently has 33 paved conforming parking stalls.

21 So this is the same slide as the last one. This
22 showing the proximity between the two is approximately 350
23 feet, which is under the 400-foot requirement to qualify for
24 off-site parking. And this is along the -- this is
25 Lahainaluna Road, looking into the parking lot. So these

1 are 33. There are actually 34 originally. But this one was
2 converted into an accessible stall, which ended up with the
3 van loading space. It turned two into one accessible stalls
4 with the loading zone.

5 So that's all I have for our presentation. And we
6 welcome any questions you may have.

7 CHAIRPERSON STARR: Okay. Members any questions?
8 Commissioner Mardfin.

9 COMMISSIONER MARDFIN: There used to be a
10 restaurant there where they're expanding to; right?

11 MR. GINOZA: Yes.

12 COMMISSIONER MARDFIN: That restaurant must have
13 had parking places. Weren't there parking stalls required
14 of that?

15 MR. GINOZA: Yes.

16 COMMISSIONER MARDFIN: Where were they?

17 MR. GINOZA: The current owners bought the
18 property, I think, a couple years ago, two years ago. And
19 they have since hired us to try to track down what their
20 off-site parking -- what off-site parking approvals were out
21 there, and so forth. But we were unable to find where their
22 existing parking requirements were being met. And so when
23 we met with the Planning Department, they said we had to
24 show compliance with change in use with the existing
25 requirements, which is the 62. And without having the

1 record of what was in the past part of this parking
2 approval -- and I searched Planning Department files for
3 this -- we kind of, in essence, had to start from scratch.

4 COMMISSIONER MARDFIN: The 175 area?

5 MR. GINOZA: Yes.

6 COMMISSIONER MARDFIN: Has the parking stalls --
7 they're already built. They're being rented out to
8 somebody?

9 MR. GINOZA: It's public parking that the applicant
10 leases to parking lot operators. But it's available to the
11 general public.

12 COMMISSIONER MARDFIN: So that's going to be
13 removed from there?

14 MR. GINOZA: They didn't want to remove the lot
15 from public parking. They wanted to kind of have the dual
16 use of allowing the public to still park there, but also to
17 have it for Mariner's Alley.

18 COMMISSIONER MARDFIN: So you're renting them out
19 and counting it as parking for the art gallery; is that
20 pretty much correct?

21 MR. GINOZA: Yeah. Otherwise, we would remove 33
22 stalls from the existing parking inventory of Lahaina town.

23 COMMISSIONER MARDFIN: I'm laughing because you're
24 saying you're going to increase the parking for the art
25 gallery by 33 spaces. But you're really not. You're just

1 saying oh, we're going to count that twice and pointing -- I
2 mean, am I missing something here?

3 MR. GINOZA: No.

4 CHAIRPERSON STARR: Commissioner Mardfin, what
5 would be the economics equivalent?

6 COMMISSIONER MARDFIN: Well, to be honest 62 --
7 well, no, it's not 62. You're down to --

8 MR. GINOZA: 45.

9 COMMISSIONER MARDFIN: 45 for an art gallery seems
10 awfully high. I mean, I don't know how much business you
11 get, but you'd probably need no more than 10.

12 MR. GINOZA: It's for the entire complex. It's not
13 just for the art gallery itself. The parking analysis
14 triggered a -- the change in use triggered a parking
15 analysis for the entire complex. So the entire parcel --

16 COMMISSIONER MARDFIN: What else is on there?

17 MR. GINOZA: There's Moose McGillycuddy's upstairs.
18 There's Higgins Harte International Gallery, more on the
19 northern portion of the first floor. So those are the
20 major --

21 COMMISSIONER MARDFIN: Can you show me where the
22 actual on-site parking is.

23 MR. GINOZA: Okay. This is Front Street. And this
24 is Waihie Lane that was shown in the photo. And they have
25 12 existing stalls in the complex. So this is where Lassen

1 currently is. And Higgins Harte, another art gallery. So
2 Lassen wants to expand into this last parking lot. And
3 Moose McGillycuddy's pretty much occupies the entire upper
4 floor. There's also offices.

5 CHAIRPERSON STARR: Okay. Commissioner Hiranaga.

6 COMMISSIONER HIRANAGA: Commissioner Mardfin, I too
7 have always struggled with this parking policy in Lahaina
8 town.

9 I have a question. I'd like to know why the
10 variance was granted in the reduction for the parking
11 requirement. Because Lahaina town historically has had a
12 shortage of parking, so there must have been a good reason.

13 First of all, I'd like to know if the Planning
14 Department recommend the variance, or did the BVA go about
15 opposing the recommendation of the Planning Department? How
16 did this variance occur?

17 MS. CALLENTINE: Commissioner Hiranaga, I have
18 today with us Trisha Kapua'ala. Trish is here. And she
19 serves as staff to the Board of Variances and Appeals. And
20 she's going to explain what took place at the hearing in
21 which the variance was granted and the circumstances of
22 that.

23 MS. KAPUA'ALA: Good afternoon, Commissioners. My
24 name is Trisha Kapua'ala. I work for the Zoning
25 Administration and Enforcement Division. I staff the BVA.

1 We typically recommend denial for all of these variances for
2 Lahaina, Paia, Makawao. Variances are land-based approvals,
3 where they have to show -- applicants need to show
4 uniqueness in the land in relation to the surrounding area.
5 And that uniqueness must warrant a variance. We analyze it
6 as a parcel unto itself, and the board typically overturns
7 our recommendation because they analyze the town as unique.

8 So because the town is unique, they deem that as
9 facts warranting a variance, and they approve it. They also
10 understand the parking situation in Lahaina. And it's --
11 they see no other way to circumvent the difficulty other
12 than granting the variance.

13 COMMISSIONER HIRANAGA: So the department
14 recommended denial of the variance, and the board voted to
15 approve the variance?

16 MS. KAPUA'ALA: Yes, sir.

17 COMMISSIONER HIRANAGA: Interesting.

18 CHAIRPERSON STARR: Commissioner Guard.

19 COMMISSIONER GUARD: I haven't really seen a lack
20 of parking in Lahaina. You might have to pay for it. But
21 there seems to be quite a bit of parking. The free parking
22 is limited or scarce. But I think all the land owners out
23 there that are having paid parking lots, there's quite a few
24 stalls all the time. So if we don't have any more
25 discussion, I think we can move forward.

1 CHAIRPERSON STARR: Trisha, thank you for coming
2 down. And Lavette, thanks for having the foresight to
3 realize how it was going to get.

4 Commissioner Hiranaga.

5 COMMISSIONER HIRANAGA: How are you going to
6 control the parking of the 12 on-site stalls? Are you going
7 to have a parking lot attendant so that it's not used by
8 employees? Are you going to have --

9 MR. GINOZA: They're not going to have an
10 attendant.

11 COMMISSIONER HIRANAGA: How are you going to
12 control who uses those 12 stalls?

13 MR. GINOZA: I believe it's first come, first
14 serve.

15 COMMISSIONER HIRANAGA: I find that inadequate
16 personally.

17 CHAIRPERSON STARR: Commissioner Guard.

18 COMMISSIONER GUARD: I would think that's up to the
19 tenants. If they're willing to pay rent, thinking they have
20 those stalls, they would want to police it for their own
21 parking, for the art gallery or for Moose's. That seems to
22 be who handles it in other buildings.

23 CHAIRPERSON STARR: Director.

24 THE PLANNING DIRECTOR: The whole parking situation
25 in Lahaina is less than ideal. And regulations to improve

1 it are less than ideal. So we're kind of struggling with an
2 existing situation. You have a historic district. We don't
3 want to encourage a lot of parking, but we want to provide
4 minimum amount of parking. So we've taken kind of a
5 philosophical approach that it doesn't make sense to
6 designate a specific parking spot for one just one use. In
7 reality, people will come and park and go to several places.
8 So how can you say that parking spot is just for one use.

9 Now, I recognize, on the other hand, that we're
10 counting parking spaces and are requiring parking spaces.
11 The law doesn't require that we actually designate it, it
12 just says that we show there's adequate parking.

13 I think the long-term approach is we need to do a
14 comprehensive parking analysis of our historic districts and
15 either come up with an in-lieu fee, where instead of doing
16 these phantom parking spaces, we get some money out of these
17 developers and put it into a fund. And then the County
18 develops parking facilities, or take another approach.

19 In San Francisco in their downtown core, they don't
20 require parking. They just say if you got a commercial
21 business, people will get there one way or another. And
22 perhaps it's through mass transit. And that's a better
23 approach. Today, we don't have the long-term solution. And
24 we just have to struggle with a difficult situation and a
25 less than ideal regulatory scheme to deal with a difficult

1 situation. And this is the best that we've come up with
2 that at this time.

3 CHAIRPERSON STARR: Commissioner Mardfin.

4 COMMISSIONER MARDFIN: I'd like to ask the Director
5 if some other property around here wanted to tag the same 33
6 stalls, that we triple count them?

7 THE PLANNING DIRECTOR: Conceivably. And the
8 theory would be perhaps somebody comes in and parks, and
9 they go to three or four different uses. So again, you
10 can't exclusively -- there's holes in this theory. I admit
11 it. We're struggling. But I hope you can see the
12 difficulty on the other side of the argument.

13 So what we would argue is philosophically, it's a
14 shared parking space.

15 CHAIRPERSON STARR: Commissioner Hiranaga and then
16 Commissioner Guard.

17 COMMISSIONER HIRANAGA: To encourage the customers
18 of Mariner's Alley to use the off-site parking stalls, would
19 the applicant be agreeable to allowing free validated
20 parking if someone came in -- because I know you charge for
21 those 33 stalls no matter where they go. So if they come to
22 Mariner's Alley, get a validation, then they would not be
23 charged for parking in this off-site parking stall? That
24 would encourage the use of the area by Mariner's Alley's
25 customers.

1 MR. GINOZA: The difficult with the validation with
2 this lot is it's not manned. It's one of those where you
3 put the money into the unmanned type of arrangement. Right
4 here. So that's where it's kind of maintained, or how they
5 kind of maintain that parking lot, the charging of the
6 parking lot.

7 COMMISSIONER HIRANAGA: My understanding of these
8 types of parking lots, doesn't someone periodically come by
9 to check if you did insert money?

10 MR. GINOZA: I'm not sure about that.

11 COMMISSIONER HIRANAGA: The land owner's here.
12 He's signed an operating agreement. So he doesn't know how
13 the lot is being operated?

14 MR. GINOZA: I'm sure the land owner knows. I just
15 don't know --

16 MR. SAKAGUCHI: I don't know the specifics --

17 CHAIRPERSON STARR: Please, if you're going to
18 speak, come and identify yourself. And welcome.

19 MR. SAKAGUCHI: Thank you. My name is Bill
20 Sakaguchi. I am a representative of Friedman Investment
21 Company. And I'm afraid I don't know the specifics of the
22 operating agreement. I'm sure that someone does come around
23 and inspects the facility from time-to-time. But I can't
24 tell you what the specific arrangements are.

25 CHAIRPERSON STARR: Okay. Commissioner Mardfin.

1 COMMISSIONER MARDFIN: Do you happen to know if any
2 other establishments are claiming their 33 lots as their
3 parking also?

4 MR. GINOZA: No.

5 COMMISSIONER MARDFIN: They're not. So it's just
6 Lassen's and the general public?

7 MR. GINOZA: It's Mariner's Alley.

8 COMMISSIONER MARDFIN: Mariner's Alley and the
9 general public, okay.

10 CHAIRPERSON STARR: Okay. Members. Commissioner
11 Guard.

12 COMMISSIONER GUARD: Move to approve.

13 COMMISSIONER U'U: Second.

14 CHAIRPERSON STARR: Okay. We have a motion by
15 Commissioner Guard, seconded by Commissioner U'u. And I'm
16 going to ask Lavette Callentine to read the proper format
17 for the motion and make sure we have -- oh, wait, wait.
18 We're getting ahead of ourselves.

19 I'm going to ask you take back the motion and the
20 second just so we can get public.

21 COMMISSIONER U'U: I'll withdraw my second.

22 COMMISSIONER GUARD: Withdraw my motion.

23 CHAIRPERSON STARR: Do we have any members of the
24 public who wish to testify on this item? Seeing none,
25 public testimony is closed. Thanks for keeping me honest,

1 James.

2 Commission.

3 COMMISSIONER GUARD: Move to approve.

4 COMMISSIONER U'U: Second.

5 CHAIRPERSON STARR: Moved by Commissioner Guard,
6 seconded by Commissioner U'u.

7 And Planning Callentine will give us the wording of
8 that motion.

9 MS. CALLENTINE: Okay. That the motion was moved
10 to approve, actually.

11 CHAIRPERSON STARR: Approve what?

12 MS. CALLENTINE: To approve the request for
13 off-site parking for 33 parking stalls, located at 175
14 Lahainaluna Road.

15 Now, usually, this whole long thing is not included
16 in the motion. Yeah? But to approve off-site parking for
17 33 parking stalls to be located at 175 Lahainaluna Road, in
18 order to meet the required parking for the Mariner's Alley
19 building located at 844 Front Street Lahaina, Maui, Hawaii.

20 CHAIRPERSON STARR: Okay. And are there any
21 conditions or anything else? We don't need to read them.
22 But I just wanted to be sure they are part of the motion.

23 MS. CALLENTINE: Yes. There are five standard
24 conditions that go along with any off-site parking approval
25 request.

1 CHAIRPERSON STARR: Okay.

2 CORPORATION COUNSEL: Let me just -- real fast. I
3 ran into this problem on another project, where we were
4 requiring them to file a unilateral on the parking. Did you
5 look into that to see if the owner of the property is okay
6 with that?

7 MS. CALLENTINE: Yes. In this case, it's the same
8 owner for both parcels. So they are willing to comply and
9 able to comply with this condition.

10 CORPORATION COUNSEL: Okay.

11 CHAIRPERSON STARR: So members, we have a motion
12 with the second to approve with the five conditions.
13 Commissioner Mardfin.

14 COMMISSIONER MARDFIN: I move to amend to add a
15 sixth condition that no other establishment be allowed to
16 count these 33 stalls toward their off-site requirement.

17 CHAIRPERSON STARR: Do we have a second to that?

18 COMMISSIONER HIRANAGA: Second.

19 CHAIRPERSON STARR: Commissioner Hiranaga. So we
20 have a motion by Commissioner Mardfin, seconded by
21 Commissioner Hiranaga. And Planning Callentine, could you
22 read back the amendment.

23 MS. CALLENTINE: Yes, just a minute. I'm writing
24 it down.

25 Let me clarify. Okay, that no other establishment

1 be allowed to -- I'm sorry?

2 COMMISSIONER MARDFIN: Also count the 33 as part of
3 their off-site parking requirement.

4 MS. CALLENTINE: I'm going to propose a little bit
5 of an amendment even to that. So tell me how this sounds to
6 you. That no other establishment be allowed to count the 33
7 parking stalls, located at 175 Lahainaluna Road, to satisfy
8 their off-site parking requirements.

9 CHAIRPERSON STARR: Okay. Members, let's vote
10 on -- oh, Commissioner Hiranaga, go ahead.

11 COMMISSIONER HIRANAGA: I will be voting against
12 the motion for three reasons. First, I'm opposed to the
13 granting of the variance which reduced the required parking
14 from 62 to 45. I think that was a manufactured number to
15 meet the numbers of 12 and 33 equals 45 for parking. Number
16 two, the applicant does not have any type of parking control
17 for his 12 parking stalls on-site. So it will probably turn
18 into an employee parking lot.

19 And number three, I'm opposed because the applicant
20 wasn't receptive to a validation program which would
21 encourage customers of Mariner's Alley from using the
22 off-site parking, which is probably 600 feet walking
23 distance along Lahainaluna Road. I don't know how they're
24 going to find that parking lot. But they if had proposed
25 the validation process, I suppose people would make an

1 effort to find the off-site parking. Because of those three
2 reasons, I will be voting against the motion.

3 CHAIRPERSON STARR: Director.

4 THE PLANNING DIRECTOR: I understand the intent of
5 the motion. And I'm going to respectfully recommend that
6 you deny it because it would be very difficult in our mind
7 to put such a strict adherence in the parking in Lahaina.

8 And again, what we believe in is when somebody
9 comes to Lahaina, they may park for one establishment. And
10 in all likelihood, they're going to go and visit many
11 establishments. They're going to walk into a T-shirt shop,
12 walk into a surf shop, go have a drink or whatever. And to
13 calculate it that explicitly, as if someone is going to come
14 in and just park and go to that one establishment and come
15 back to their car and leave, I don't think it's a good way
16 to do parking there.

17 I acknowledge the intent. And I hope we all
18 acknowledge that there's a difficult situation in Lahaina.

19 CHAIRPERSON STARR: I'm a little confused,
20 Director. Are you recommending that we shouldn't pass the
21 motion, that we shouldn't pass the amendment, or that you
22 don't agree with Commissioner Hiranaga's comments?

23 THE PLANNING DIRECTOR: I'm recommending that you
24 don't pass the amendment.

25 CHAIRPERSON STARR: Oh, okay. Got it.

1 COMMISSIONER MARDFIN: I should have done this
2 before. But could you go back to the diagram showing the
3 300 -- Exhibit 5. You showed the 350 feet as a straight
4 line how the crow flies. Can you tell show you how you
5 actually walk from the parking lot to the building.

6 MR. GINOZA: Down Lahainaluna Road?

7 COMMISSIONER MARDFIN: Whichever way you expect
8 people to walk.

9 MR. GINOZA: Right now, there's parking all over
10 here. So you could either walk down here. Or there's this
11 Waihie Lane that I guess you could kind of cut across.
12 Pretty much, people would walk down Lahainaluna Road.

13 COMMISSIONER MARDFIN: So that would be 800 or
14 1,000 feet?

15 MR. GINOZA: Probably, yeah, 800 feet. The
16 off-street -- or off-site parking requirement is just from
17 the nearest distance of one lot to the nearest distance of
18 another lot. It has to be within 400 feet.

19 CHAIRPERSON STARR: Commissioner Guard.

20 COMMISSIONER GUARD: That's if they went to that
21 lot. I believe there's other lots along the way on both
22 sides of the road or in other directions?

23 MR. GINOZA: Correct.

24 COMMISSIONER GUARD: I have one more thing.

25 CHAIRPERSON STARR: Go ahead.

1 COMMISSIONER GUARD: Just a comment for
2 Commissioner Hiranaga. Other places for validation in their
3 parking, they have like a \$20 to \$100 minimum set charge
4 before they will give you validation. So for two galleries
5 and a restaurant, you're going to be somewhat limited to get
6 validation for these 33 stalls. I believe in most places,
7 you put your credit card, your money in, you get a piece of
8 paper, and you go back and put it on your dashboard. And
9 that's really the last of it.

10 It's not a hotel or a lobby bar with valet parking
11 where you get validated, like in Waikiki or something.

12 CHAIRPERSON STARR: Okay. Members, we have an
13 amendment on the floor. Unless there's any other comments,
14 then votes on the amendment, the amendment which would make
15 the parking spaces not allowed to be used to validate
16 another project. We will vote on that amendment and that
17 amendment only.

18 Those in favor of the amendment, please raise your
19 hand. Those opposed, please raise your hand. So the
20 amendment fails three to three. Unless there's any other
21 amendments, Commissioner Mardfin.

22 COMMISSIONER MARDFIN: I should know this, but I'd
23 like to ask Corp. Counsel what an abstention counts as?

24 CORPORATION COUNSEL: An abstention without any
25 kind of recusal because of a conflict of interest or ethical

1 issue is counted as an affirmative.

2 COMMISSIONER MARDFIN: I'm going to vote to abstain
3 because I think this is bogus stuff. I understand the
4 Director's concerns. So I don't vote no, but I don't want
5 to vote yes either.

6 CHAIRPERSON STARR: Okay. The main motion, the
7 motion to approve with the five conditions. All those in
8 favor, please raise your hands. All those opposed, please
9 raise your hand. Okay, we have --

10 COMMISSIONER MARDFIN: Can we ask for abstention.

11 CHAIRPERSON STARR: Well, abstention is a lack of
12 either. But what we have is four votes in favor, one
13 abstention, which counts as an aye vote. So that passes a
14 motion with a five for and one against.

15 I'd like to make a comment before we move along. I
16 really feel this is smoke-and-mirrors and kind of an insane
17 process. And my preference would be for us not to be
18 dealing with those, but rather that this is something that
19 the Department, both our able planners and our director
20 could handle probably more rationally than we can. However,
21 there's no mechanism for that. And I would like to see if
22 this is one thing we can move off our plate in the future.

23 And I think the Director is in agreement with me on
24 that.

25 THE PLANNING DIRECTOR: Yeah. We'll explore what

1 it would take to delegate this down, perhaps similar to what
2 happened with the SMA time extension. Or we would bring it
3 to your attention that we granted these, and you can call
4 them up or just let it go.

5 CHAIRPERSON STARR: Okay, good. Let's finish up
6 here. Thank you very much for that.

7 MR. GINOZA: Thank you.

8 CHAIRPERSON STARR: We have minutes from March
9 25th. Do we have any comments or motion regarding those
10 minutes?

11 COMMISSIONER U'U: Move to accept.

12 COMMISSIONER DOMINGO: Second.

13 CHAIRPERSON STARR: We have a motion by
14 Commissioner U'u, seconded by Commissioner Domingo to accept
15 the action minutes of the meeting of March 25th.

16 Okay. Seeing no comments, all in favor, please
17 raise your hand. All opposed. We have unanimous consent to
18 approve those.

19 Director, director's report. Follow-up on matters
20 from the last meeting.

21 THE PLANNING DIRECTOR: I have nothing to report.
22 Is there anything that you want to bring to my attention?

23 CHAIRPERSON STARR: Seeing none.

24 THE PLANNING DIRECTOR: I guess I inadvertently
25 combined the second item, which is your request --

1 CHAIRPERSON STARR: Yeah, I have an item on Number
2 2, which is, you know, we finished -- we're finishing at
3 3:00 today, which is good. We finished at 2:00 last time.
4 We still have a huge backlog of stuff. It's -- you know,
5 I'm starting to hold agenda meetings with Clayton on
6 Thursday mornings after the meeting. If any one other
7 Commissioner wants to join me on this, they're certainly
8 would be welcomed to.

9 But in trying to look at agendas, I want to get a
10 sense of whether we want to add additional items that we may
11 or may not get to on them. So that when we finish early, we
12 can keep going. Or whether we should count ourselves lucky
13 when we finish early. I want to get a feeling from the
14 body.

15 Commissioner Hiranaga.

16 COMMISSIONER HIRANAGA: I prefer to have a full
17 agenda. And if we can't meet your estimated agenda, that's
18 fine. Just put the large items in the morning so we
19 complete them. But if you've got less controversial, less
20 in-depth applications, if we don't get to them, we can
21 reschedule. For me, I prefer having two more hours of work
22 today.

23 CHAIRPERSON STARR: That's my feeling. And to try
24 to get the major and controversial items so there's one at
25 8:30 and one at 1:00 p.m. And then have filler at the end

1 that if we don't get to it, it's okay.

2 Any other comment? Commissioner U'u.

3 COMMISSIONER U'U: I think more importantly, we
4 need a full commission to act on specific issues so we can
5 come up with definite yea or nay. And that's the problem I
6 foresee with having the bare minimum. We need everybody
7 showing up.

8 CHAIRPERSON STARR: Yeah. And I just want to thank
9 everyone who goes through whatever we go through to get
10 here. Because our attendance has been really good. And
11 it's appreciated. And I know Commissioner Ianconetti, Doc
12 has been away. I think he'll be back for the next meeting.
13 And I know Commissioner Hedani said he wasn't here. I'll
14 talk with Commissioner Pawsat and try to make sure she can
15 make it as well.

16 COMMISSIONER MARDFIN: You were asking how we felt
17 about things. Since I drive all the way over, I'd just as
18 soon that we get more stuff down in the two hours. I would
19 suggest that the stuff that looks like it might be done or
20 not done, preferably not bring in people who need to give
21 testimony.

22 CHAIRPERSON STARR: In other words, we're going to
23 try to put the testimony either at 8:30 or 1:00. And then
24 stuff that's more for deliberation after.

25 Okay. Members, thank you very much. Anything on

1 the EA/EIS report? I always feel like McDonald's farm with
2 that.

3 COMMISSIONER HIRANAGA: Chair.

4 CHAIRPERSON STARR: Yes, Commissioner Hiranaga.

5 COMMISSIONER HIRANAGA: On this proposed agenda, I
6 don't have the EAs for Numbers 1 and 2. I'm not sure if
7 that's coming the mail, or it's called something else.

8 CHAIRPERSON STARR: Okay. Hold on a second.

9 Director, the Maui Lu --

10 COMMISSIONER HIRANAGA: No. This is C1, C2.

11 CHAIRPERSON STARR: Oh, C1, C2. Yeah. Okay, I
12 don't have that either.

13 COMMISSIONER HIRANAGA: Just so we don't defer.

14 CHAIRPERSON STARR: That's exactly why we're -- you
15 know, this is something I'd ask for and the Director is
16 providing us exactly for this reason. So that if we have --
17 are lacking something, we can deal with it. Okay. So we'll
18 take that into account, and it will probably be amended
19 before it goes out.

20 COMMISSIONER HIRANAGA: They can mail it to us.

21 THE PLANNING DIRECTOR: We'll either get those to
22 you in time for you to review it, or we'll have to defer it
23 to a different meeting.

24 CHAIRPERSON STARR: Yes. Good catch, Commissioner
25 Hiranaga.

1 Okay. Next major meeting will be on July 8, 2008.

2 Be there or be square.

3 THE PLANNING DIRECTOR: Is anyone not going to be
4 here? Do you know if you're not going to be? We've got
5 one, at least.

6 CHAIRPERSON STARR: Commissioner U'u, let Director
7 know.

8 COMMISSIONER U'U: I'll find out.

9 CHAIRPERSON STARR: And I know Commissioner Domingo
10 can't.

11 MS. TAKAYAM-CORDEN: I called Paul regarding the
12 first EA. He said he circulated it to the Commission in
13 April.

14 COMMISSIONER HIRANAGA: What's the official date?

15 CHAIRPERSON STARR: Okay.

16 MS. TAKAYAM-CORDEN: So all of you did not receive
17 it?

18 COMMISSIONER HIRANAGA: I don't know what the
19 official name is.

20 COMMISSIONER GUARD: I have the cultural impact
21 assessment, calling it Ewa Ike, a proposed four-lot, rural
22 subdivision.

23 MS. TAKAYAM-CORDEN: That's the one from Joe?
24 That's the second one?

25 COMMISSIONER GUARD: This is just one piece that we

1 got last week or two weeks ago.

2 MS. TAKAYAM-CORDEN: That's a supplemental, right?

3 COMMISSIONER GUARD: Yes. That's the name of the
4 subdivision.

5 COMMISSIONER HIRANAGA: Maybe you can send us an
6 e-mail when you figure it out.

7 CHAIRPERSON STARR: Yeah. We'll figure it out and
8 let Commissioners know what's happening about that.

9 THE PLANNING DIRECTOR: It seems like we need to be
10 a little more careful when describing these, that they match
11 the name of the project.

12 CHAIRPERSON STARR: One thing I was going to be
13 discussing was to have a checklist before things go on the
14 agenda just to make sure nothing slips through like this.
15 But we're doing good. Progress is being made. And I want
16 to thank everyone for the hard work, and that we're getting
17 done early is a good sign.

18 Thank you all. We'll see you July 8th. The
19 meeting is over.

20 (Meeting concluded at 3:03 p.m.)

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County of Maui)
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State of Hawaii)

I, CAMMIE GILLETT, a Certified Shorthand Reporter
in and for the State of Hawaii, do hereby certify that the
foregoing pages comprise a full, true and correct transcript
of the proceedings had in connection with the above-entitled
matter.

Dated this 5 day of August 2008.


CAMMIE GILLETT, RPR, CSR No. 438