

1 wedding services that's presently at the Council Land Use  
2 Committee right now. Not that they're doing it, it's just  
3 the application is there.

4 COMMISSIONER MARDFIN: But they're still  
5 conducting weddings?

6 MR. HIRANO: As I mentioned earlier, they were  
7 conducting weddings under I guess consent by the inspection  
8 division of Planning, that they were allowed to not take new  
9 bookings but to carry out and finish and complete what they  
10 had.

11 COMMISSIONER MARDFIN: How far in the future do  
12 the existing bookings go?

13 MR. HIRANO: I think they were going, from the  
14 last time I heard, about six months out.

15 COMMISSIONER MARDFIN: Six months out. So in  
16 2009 there are no bookings?

17 MR. HIRANO: Yes, that's what I understand.

18 CHAIRMAN STARR: Okay, we have a motion on the  
19 floor. We have an amendment to that motion. It now --  
20 well, Commissioner Hedani, go ahead.

21 COMMISSIONER HEDANI: I think that this particular  
22 letter is exactly right, you know, that the effort is to run  
23 parallel tracks on this property for TVR's as a back door  
24 access to the wedding business, which is what he's  
25 advocating. For us to go along with it is difficult,

1 because there is opposition in the neighborhood. There are  
2 people that have filed complaints relative to the operation.

3 I've heard twice from the Director now that the  
4 language is clear, so it's just difficult for me to support  
5 something. And economically, you know, a one bedroom TVR  
6 with an on-site manager in this particular case, without the  
7 attachment of weddings doesn't seem to be something that  
8 would work.

9 COMMISSIONER IACONETTI: I move the question.

10 CHAIRMAN STARR: Okay, we're voting at this time  
11 on the amendment, Commissioner Hiranaga's amendment, which  
12 would prohibit weddings and associated activities. And this  
13 is an amendment to the main motion, which is to recommend  
14 approval of the Conditional Use Permit.

15 All in favor of the amendment, which would  
16 eliminate weddings, please raise your hand.

17 (Commissioners Mardfin, Guard and Hedani).

18 All those opposed please raise your hand.

19 (Commissioners Hiranaga, Iaconetti and Starr).

20 (Commissioner Pawsat recused).

21 (Commissioners U'u and Domingo excused)

22 COMMISSIONER IACONETTI: You're opposing your own  
23 motion?

24 COMMISSIONER HIRANAGA: Pose your question to the  
25 Chair.

1           CHAIRMAN STARR:     What I see is three for, three  
2 votes for and three votes against, and one recusal. In  
3 other words, the amendment fails. So now we can either have  
4 an additional amendment or we can vote on the main motion,  
5 which is to recommend approval of the Conditional Use  
6 Permit. Seeing no -- Director?

7           DIRECTOR HUNT: I appreciate the spirit of  
8 compromise in making this motion. I do have problems with  
9 the actual wording of the second dwelling. It would be  
10 "available" for a full-time caretaker. If the board wants  
11 to approve this under the thinking that well, it's similar  
12 to a B&B, and therefore through the Conditional Permit  
13 process we should do that.

14           I think your language should be stronger than  
15 "shall be made available," it should be an actual  
16 requirement that there be a full-time manager on site.

17           CHAIRMAN STARR: Okay. The floor is open to a  
18 possible amendment, if anyone wants to make one. It's  
19 rather unusual to amend your own motion, but you can.

20           COMMISSIONER GUARD: I didn't think I said  
21 available. I think that was given to me.

22           CHAIRMAN STARR: Go ahead and make an amendment.

23           COMMISSIONER GUARD: I guess one dwelling be --  
24 let's see how the Director wants to read it.

25           DIRECTOR HUNT: Required.

1 COMMISSIONER GUARD: Required. One dwelling  
2 would be required to be available for a caretaker. Required  
3 or occupied.

4 DIRECTOR HUNT: On a full-time basis.

5 COMMISSIONER GUARD: By a full-time caretaker.

6 CHAIRMAN STARR: Okay, is there a second to this?

7 COMMISSIONER MARDFIN: Second.

8 CHAIRMAN STARR: Okay, we have an amendment by  
9 Commissioner Guard, seconded by Commissioner Mardfin, and  
10 the amendment reads, Director.

11 DIRECTOR HUNT: The amendment would be to change  
12 the wording regarding the second dwelling, that the second  
13 dwelling would be required to be occupied by a caretaker on  
14 a full-time basis.

15 CHAIRMAN STARR: Okay, are we ready to vote on  
16 this amendment? All those in favor of the amendment please  
17 raise thy hand.

18 (Commissioners Guard and Mardfin)

19 All those opposed.

20 (Commissioners Hedani, Iaconetti, Hiranaga and  
21 Starr)

22 (Commissioner Pawsat recused).

23 (Commissioners U'u and Domingo excused)

24 Okay, we have four votes in favor, two opposed,  
25 the one recused. The amendment dies.

1           Now we're on to the main motion. We are going to  
2 vote on the main motion, which is to recommend approval of  
3 the Conditional Use Permit to the Council.

4           All those in favor of the main motion please raise  
5 your hand.

6           (Commissioner Guard).

7           All those opposed?

8           (Commissioners Hiranaga, Mardfin, Iaconetti,  
9 Hedani and Starr).

10          (Commissioner Pawsat recused).

11          (Commissioners U'u and Domingo excused)

12          Okay, we have five opposed, one in favor, so the  
13 motion dies. Now we're back to square zero. Commissioner  
14 Hiranaga.

15          COMMISSIONER HIRANAGA: I'd like to make a motion  
16 to approve the recommendation by the department.

17          COMMISSIONER IACONETTI: Second.

18          CHAIRMAN STARR: Okay. It's similar to a previous  
19 motion, but I will allow it. Commissioner Hiranaga.

20          COMMISSIONER HIRANAGA: Based on new information  
21 provided by the applicant, that they feel that the wedding  
22 activity is an integral part of the application, that's why  
23 I've decided to change my vote, because I am opposed to the  
24 wedding activity.

25          CHAIRMAN STARR: And the Chair will allow that

1 motion. So we have a motion on the floor by Commissioner  
2 Hiranaga, seconded by Commissioner Iaconetti, and that is to  
3 accept the recommendation of the department and transfer  
4 that to Council, transmit it to Council.

5 We're ready to vote on that. All in favor please  
6 raise your hand.

7 (Commissioners Hiranaga, Iaconetti, Mardfin,  
8 Hedani and Starr)

9 All opposed please raise your hand.

10 (Commissioner Guard).

11 (Commissioner Pawsat recused).

12 (Commissioners U'u and Domingo excused)

13 Okay, the motion passes by a vote of five to one  
14 with one recused. Thank you very much for getting us  
15 through that, and I really apologize for the time it took,  
16 and I thank everyone for their patience in this matter. We  
17 will be in recess until 5 minutes after 1:00. Everyone have  
18 a good lunch.

19 (Whereupon the lunch recess was taken).

20 CHAIRMAN STARR: Good afternoon, everyone. The  
21 Maui Planning Commission meeting of July 8th is back in  
22 session, and we will be proceeding with our next agenda  
23 item. I will let the Director introduce the next item  
24 scheduled for 1:00 pm.

25 DIRECTOR HUNT: Your next item involves Mr. Greg

1 Kaufman of Iwa Ike LLC requesting comments on the Draft  
2 Environmental Assessment Determination in support of the  
3 Community Plan Amendment from single family to rural for the  
4 Iwa Ike subdivision, a four lot rural subdivision and  
5 related improvements at 6699 Makena Road, TMK: 2-1-005, lot  
6 116, in Makena.

7           There are several file numbers, EA 2007/0013, CPA  
8 2007/0005 dba 2007/0007, and SM1 2007/0013, and the planner  
9 assigned to this project is Joe Prutch.

10           MR. PRUTCH: Good afternoon, everybody. You  
11 should have received the environmental document for this one  
12 on about June 30th with your packet, so I hope you guys had  
13 some time to review this EA. You also should have received  
14 a Cultural Impact Assessment back on June 10th of 2008, so  
15 you should have both of those documents to review today.

16           Iwa Ike is a rural four lot subdivision in the  
17 Makena area on about 2.88 acres of land, vacant land. The  
18 EA is of course because of the Community Plan Amendment  
19 that's the trigger for the environmental review.

20           The project does, as Jeff mentioned, include an  
21 initial Community Plan Amendment, a change in zoning,  
22 District Boundary Amendment, and because it's in the SMA, an  
23 SMA major permit as well. These will all be reviewed by  
24 your Commission at a later date, and eventually forwarded up  
25 to Council for review.

1           After the final EA is adopted by your Commission,  
2 if it is adopted by your Commission in the future, then the  
3 project will be -- I'm sorry, the project will be forwarded  
4 on to the County Council, as I mentioned.

5           This project, this environmental assessment was  
6 already routed to OEQC for a 30 day review back in January  
7 of 2008. It was also transmitted to various state, county  
8 and federal agencies back in January and March of this year.  
9 We've received comments from the various agencies and  
10 forwarded on to the applicant for his comments.

11           Now today I'm seeking comments on the draft EA  
12 from your Commission, which I will put in a letter and  
13 forward to the applicant so that he can respond to your  
14 comments in the final EA. Then that final EA will be  
15 brought back before you at a later date, after the applicant  
16 has had time to respond, as well as responding to agency  
17 comments.

18           I ask that you only comment on the environmental  
19 issues at this point, as the actual project will come before  
20 you at a later date, and you will be able to comment on that  
21 project when we get to that point. The applicant, Mr.  
22 Kaufman, is here if there are any questions of him. And the  
23 engineer, Stacie, is back here also as well, if you have any  
24 engineering questions.

25           That concludes our presentation, and we are ready



1 to take whatever comments you might have on the  
2 environmental assessment, and the applicant will answer any  
3 questions that might come up.

4 CHAIRMAN STARR: Is there a Power Point  
5 presentation for this project?

6 MR. PRUTCH: Not for this one. There is Power  
7 Point for the next project. There is, but unfortunately  
8 there are some computer problems for this and he can't get  
9 the presentation for this one to open. But he will have the  
10 presentation for the next one. And these two projects  
11 before you back-to-back, mine and Paul's, are both right  
12 adjacent to each other, so they'll have similar issues,  
13 similar comments that come up. Just one of them is four  
14 lot, the one I'm working on, and Paul is working on a two  
15 lot subdivision.

16 CHAIRMAN STARR: Okay. First of all, Members, did  
17 everyone get a copy of the EA draft document? Okay,  
18 Members, questions for the applicant. Let's start with  
19 questions, and we will go to a portion of the meeting where  
20 we will solicit specifically comments to be included in the  
21 draft. Members? Commissioner Pawsat.

22 COMMISSIONER PAWSAT: I have so much to say I  
23 don't really know where to start. The overall format of  
24 this EA I think includes a lot of superfluous information.  
25 I think it could probably be about this thick (indicating)

1 and contain about the same information.

2           Just as an example of some of the silly things I  
3 think are in here, I'll just read a portion. "He came  
4 boldly alongside but entered the ship with a sort of partial  
5 confidence, accompanied by several chiefs who attended him.  
6 His age I suppose must have exceeded 60." Blah, blah, blah.  
7 His faltering voice bespoke the decline of life in his  
8 countenance referred by his years."

9           This is all from Captain George Vancouver,  
10 reported as meeting in Lahaina, and it's just not relevant.  
11 I know there's a pattern of cutting and pasting when putting  
12 these things together, and this has nothing, this whole  
13 section virtually has nothing to do with the site in  
14 question. I'd just as soon it not be in there.

15           There's a lot of redundant information, a lot of  
16 maps are redundant, they aren't really explained. A  
17 covenant -- I have a question about covenants for  
18 corporations. Are those even enforceable by law? I mean I  
19 don't understand why the covenants of this subdivision would  
20 necessarily be pertinent, unless it's something that -- as  
21 far as I know, I believe covenants cannot be enforced by a  
22 court of law, so I don't even know if their inclusion is  
23 pertinent.

24           MR. GIROUX: Covenants are usually done at the  
25 subdivision level by a developer, and basically the

1 enforcement is a private enforcement where if there's an  
2 association or if other members of the neighborhood see a  
3 violation they can require the enforcement through  
4 injunction, through the courts, the Circuit Courts.  
5 Basically they would file a lawsuit to enforce the  
6 covenants. There can also be private enforcement, such as  
7 fines, fees, those types of things.

8           COMMISSIONER PAWSAT: I just thought that there  
9 had been instances where there has been covenants tried and  
10 been enforced in a court of law, like you mentioned, and the  
11 judge threw it out basically saying they're going to get  
12 involved on that level, which I can understand actually.  
13 Why would they start meddling with the eccentricities I  
14 suppose of each development?

15           I have a problem with the whole methodology of  
16 your archeological report. The general archeology premise  
17 is basically you go to what looks like some sort of remnant  
18 and you dig a hole, and see if you can find something in the  
19 hole, which is kind of silly to me, as if they're looking  
20 for buried treasure.

21           And I have here -- also, in all the things it just  
22 says there not, you know, every single proposal says it's  
23 not going to have reaction, no reaction, no reaction, no  
24 reaction. As I mentioned before, you know, this is all kind  
25 of being -- this is kind of a divide and conquer

1 archeologically as far as this area goes, because I  
2 mentioned before that on a parcel-by-parcel instance it may  
3 seem like nothing is there, but they aren't looking at the  
4 general vicinity of the area. And so also because these  
5 things have all been divided up, collectively as like a  
6 development. If this were considered a development district  
7 down in Makena Landing, by allowing piecemeal development  
8 that's going on, there hasn't been concessions to public  
9 space at all, and that's going to be admitted.

10           And by the time it gets to the last applicant, you  
11 can't ask the last applicant of the area to compensate for  
12 all the lack of public space everyone else ignored. So  
13 everyone thinks they don't have to include any sort of  
14 public resource down there. And so far, since I've been on  
15 the committee we have seen four projects kind of piecemeal  
16 come up in this area, and not one of them has included any  
17 public space. They've included a lot of catch basins, but  
18 no public space.

19           And just as far as the mythology as far as  
20 archeologically speaking, I did a little research a little  
21 bit and I found something about a fellow named Professor Pat  
22 Kirch. He's with the Archeological Research Facility at the  
23 University of California, Berkeley. And from 2001 to 2002  
24 or something, I believe, he had a \$1,400,000 three year  
25 grant from the National Science Foundation for Maui to study

1 human eco and dynamics in the Hawaiian ecosystem. And for  
2 this particular one it was by Kaupo, in the moku of  
3 Kahikinui, and it seeks to explore and define the indigenous  
4 Hawaiian structures of economic, social and political  
5 organization that had developed during the late expansion  
6 and proto-historic periods of pre-contact Hawai'i, 1200 to  
7 1795.

8 I'm just going to read a little bit of this, just  
9 to show how, what they're missing basically. The survey was  
10 100 percent surface survey of this area from the coast up to  
11 1200 meters above sea level, and comprised an area of 8  
12 square kilometers. And here he talks about the internal  
13 structure of the ahupua'a.

14 "Understanding the organizational structure of the  
15 ahupua'a system is key to the larger research questions  
16 surrounding Hawaiian sociopolitical change. Yet the  
17 ahupua'a as such has really been the focus of archeological  
18 investigation, because such large units are conceived to be  
19 beyond the scope or resources of individual projects, or do  
20 not correspond with the development-imposed boundaries of  
21 most projects where resources are frequently more generous.  
22 A few projects have been conceived at the ahupua'a level,  
23 but in reality involved only partial survey coverage."

24 So that's what I'm talking about. All these  
25 things talk about partial survey coverage.

1           "The internal organization of ahupua'a units,  
2 including the variation in these organizational structures,  
3 is a problem that must be tackled empirically through  
4 intensive archeological surveys of several entire ahupua'a  
5 units, and requiring attention to, 1, the distribution of  
6 residential and production features in relation to  
7 environment and resource zones; 2, the distribution and  
8 siting of elite versus commoner households; and 3, the  
9 imposition of ritually-marked political control through the  
10 hierarchy of temple sites (the heiau)."

11           Then he goes on to talk about the "inter-ahupua'a  
12 and inter-island exchange," which these discourses are  
13 missing in every archeological survey that I've found. And  
14 they should be pertinent particularly around the heiaus,  
15 because that you can tell was a center.

16           "While the ahupua'a constituted the structural  
17 units through which the political economy was implemented,  
18 they were not independent, despite such portrayal in earlier  
19 anthropological discussions of Hawai'i."

20           "In anthropological writings in Hawai'i  
21 environmental and resource variability among the islands has  
22 too often been downplayed obscuring a fundamental political  
23 dynamism between polities centered on the geologically  
24 older, resource-diversified western islands."

25           "The dry land agricultural regimes of these

1 eastern islands, as they became increasingly intensified  
2 through shorter-fallow and labor-intensive methods in late  
3 prehistory, put increasing pressure on the political elite  
4 for territorial expansion. In this model, it is no  
5 coincidence that the Hawai'i Island polity developed the  
6 Ku-Lono cult cycle to its most elaborate manifestation."

7           Saying that all these dry land areas, that because  
8 they had to, that caused them to be more involved in the  
9 Ku-Lono cult, because they had less resources available.

10           "There has been little archeological investigation  
11 of the production systems that underpinned the political  
12 economy of Maui and its dominions."

13           "For our research objectives, it is essential to  
14 understand the reciprocal effects that the human-induced  
15 environmental change may have had on the political economy.  
16 For example, in the early phases of agricultural expansion  
17 into leeward regions, the dryland forests would have offered  
18 diverse non-agricultural resources, such as native birds,  
19 for food as well as highly valued feathers, medicinal  
20 plants, fibers, hardwoods, and so on."

21           "As these forests were opened up and ultimately  
22 eliminated in the lower elevations, such resources must have  
23 become scarce and the subject of increased competition. In  
24 some areas, wood itself may well have become a scarce  
25 commodity, for the leeward forests are noted for their

1 slow-growing species. Development of this research issue  
2 requires inter-disciplinary study of biotic remains from  
3 archeological contexts as well as geomorphological,  
4 palynological, malacological, and other lines of evidence."

5 And so there's also local community involvement, I  
6 would like to point out in this Professor Kirch's research.

7 "Local community involvement. Portions of the  
8 moku of Kahikinui are currently being resettled by the  
9 Native Hawaiians under the Kuleana Homestead Program of the  
10 Department of Hawaiian Home Lands, in cooperation with Ka  
11 'Ohana o Kahikinui."

12 So just the fact that resource-wise they say  
13 there's nothing there is funny to me, because there's  
14 nothing there because it's all been destroyed. So, you  
15 know, when he talks about there's no endangered plants, you  
16 know, or it's nonetheless we all know there's wili wili  
17 trees there. And they said there would be an effort to  
18 preserve what wili wili trees remain.

19 But instead I would prefer to see something more  
20 along the lines of a complete archeological survey of the  
21 area, and something along the lines of the entire area, you  
22 know. And also along the lines of native habitat  
23 restoration, and restoration of the dryland forest that was  
24 there, instead of presuming that kiawe and mongoose and rats  
25 were the original ecosystem that existed there, so therefore



1 there's nothing. But that's all my comments for now.

2 CHAIRMAN STARR: Okay. I just want to add to  
3 that. I spent a day with a gentleman at Kahikinui with him  
4 and Mo Muller, and he really was brilliant. And at that  
5 time he and his team were looking for fossilized insects.  
6 They were spending their whole time on hands and knees  
7 looking for fossilized insects, because that was the best  
8 way of learning what trees were in different areas, to get  
9 an idea of what the rainfall used to be and what the uses  
10 were. Really, he did some great work. I'm looking forward  
11 to seeing his report when it comes out.

12 COMMISSIONER PAWSAT: So that's my point,  
13 basically. If someone with the background and the knowledge  
14 of Patrick Kirch were hired to study this area, and then  
15 allowed, you know, areas of development within this area,  
16 that would be something agreeable to me. But it just fails  
17 miserably, and I think it's a shame and it's a pity and it's  
18 a little pathetic.

19 CHAIRMAN STARR: You know, this report did show  
20 that the next door site was the Luakini heiau that was the  
21 sacrificial heiau, and it talks about the importance of it  
22 and the heiau next to that. And when we did see the  
23 archeological report on that site, of course it denied that  
24 and said there was no proof of that. So I guess that is a  
25 good point. Commissioner Mardfin.

1           COMMISSIONER MARDFIN: I'd also like to support  
2 what Commissioner Pawsat has said. Patrick Kirch is a very,  
3 very well respected Pacific anthropologist and  
4 archeological, and he's done wonderful work. In fact, I  
5 think I'm a little familiar with some of the studies. He  
6 looked at -- did some estimates of the population, which  
7 were amazingly high for that area, and how they used to --  
8 they moved from upper areas down to the seashore at  
9 different times. And he was able to draw out dramatic  
10 analysis of what the life was like during those days.

11           And I believe a few weeks ago, a few meetings ago,  
12 we established a precedent for looking at the larger  
13 archeological thing at Commissioner Pawsat's suggestion.  
14 And I believe we've established a fund to -- I think my  
15 recollection is it was \$10,000 a unit for four units on the  
16 issue we were dealing with last time. I didn't know if this  
17 was right next that or within the whole area, but it seems  
18 to me that this is more argument for having a more  
19 independent, larger area study of the whole thing. So I  
20 support what Commissioner Pawsat said.

21           CHAIRMAN STARR: Commissioner Pawsat.

22           COMMISSIONER PAWSAT: Well, my fear is that this  
23 archeological study is going to be done after everything is  
24 already built. I mean we're giving these people the leeway  
25 and then saying oh, pay this money. But then once it's

1 paid, everything is built and destroyed. Whatever remains  
2 is destroyed.

3 But back to Professor Kirch, I do have a little  
4 bit of his background. I can pass this around. But he was  
5 born and raised in Hawai'i, he went to the University of  
6 California at Berkeley, class of 1954. Went ahead and  
7 received his Ph.D in 1975 from Yale. From 1975 to 1984 he  
8 served on the staff of the Bishop Museum in Honolulu,  
9 leading expeditions to the Solomon Islands and Tonga, and  
10 carrying out field research in the Hawaiian Islands.

11 In 1984 he was the director of the Burke Museum in  
12 Seattle, Washington, and Associate Professor at the  
13 University of Washington. He was finally recruited to the  
14 University of California. In addition to his professorship,  
15 Kirch is a curator at the Oceanic Archaeology in the Phoebe  
16 A. Hearst Museum of Anthropology.

17 He's conducted extensive archeological and  
18 ethnoecological research throughout the Pacific Islands,  
19 with many expeditions over the past three decades. His  
20 field work has encompassed the Mussau Islands, Papua New  
21 Guinea, Palau, Yap, the Marshall Islands, the Solomon  
22 Islands, the Wallis Islands, American Samoa, Tonga, the Cook  
23 Islands, the French Polynesian Rapanui, and the Hawaiian  
24 Islands.

25 His research interests include the origins of

1 Oceanic peoples and the chronology of Pacific settlement,  
2 the Lapita cultural complex, evolution of the Polynesian  
3 chiefdoms, human impacts to island ecosystems, which I think  
4 is particularly important, and the development of a  
5 phylogenetic approach and historical anthropology, which I'm  
6 not sure what that means.

7 CHAIRMAN STARR: Well, it's certainly my hope  
8 that at some point we can create an agenda item and have a  
9 discussion about how we should be dealing with cultural and  
10 archeological analysis, and the impacts. I think that may  
11 be something we need do on another day, though it's possible  
12 at that point all we'll be able to study is swimming pools  
13 and septic tanks and stuff.

14 But I want to try to get the discussion back to  
15 what we can, what questions we have that are relevant to  
16 this particular project, and then we will have a special  
17 section of the discussion where we're specifically making  
18 comments that will be used in the draft EA.

19 So who would like to ask some questions or make  
20 some other comments about it before we get to that portion  
21 where we're making specific comments? Go ahead,  
22 Commissioner Guard.

23 COMMISSIONER GUARD: Make specific comments?

24 CHAIRMAN STARR: No, we're still in questions  
25 before we're doing that.

1           COMMISSIONER GUARD: Okay, I just had a question  
2 on the water and drainage.

3           CHAIRMAN STARR: Well, if you have questions, go  
4 ahead with them.

5           COMMISSIONER GUARD: Just to look at possibly  
6 taking on more drainage with the proximity to Oneloa right  
7 across the street, as well as the reef. I think in the past  
8 a lot of these projects have been trying to retain more than  
9 just the additional sheet flow, correct? And then this one  
10 it discussed taking on the net increase in drainage created.  
11 That's what I saw.

12           CHAIRMAN STARR: We'll take that when we get to  
13 specific comments.

14           COMMISSIONER GUARD: All right.

15           CHAIRMAN STARR: Members, any questions? And then  
16 not seeing any at this time, I want to allow any member of  
17 the public who would like to give testimony on this item to  
18 come forward and make yourself known.

19           Okay, not seeing any, then the time for public  
20 comment on this item is over. Director?

21           DIRECTOR HUNT: My comments are meant as  
22 constructive criticism. It's to help you guys have an  
23 orderly process. Technically, the step that you just went  
24 through should have been to ask questions of the applicant  
25 or staff to clarify information in your mind. So it's

1 strictly a question/answer. Then once that's over, we go  
2 into public hearing and you can ask questions of them. And  
3 then you can go into deliberations, you can offer opinions,  
4 you can read testimony, whatever. I think it's a cleaner  
5 process.

6 CHAIRMAN STARR: Yes, you're correct, and that's  
7 what we are trying to do, is separate the process into a  
8 question, information gathering portion, and then a  
9 deliberation. Commissioner Guard.

10 COMMISSIONER GUARD: Is there typically a  
11 presentation? I guess that might be part of the hiccup on  
12 this one, is typically we get a presentation to go along  
13 with it. Hopefully we don't miss a few items that should be  
14 in the final EA that we might have caught in a presentation.

15 DIRECTOR HUNT: I believe the applicant stated  
16 they had technical difficulties on the electronic  
17 presentation. You can certainly ask them to come back later  
18 if you feel that there's information you want.

19 COMMISSIONER GUARD: I don't want them to come  
20 back as the final EA thinking they're going to get it  
21 approved when there's questions that would have come up  
22 today through no fault of our own, just so that they're  
23 prepared for that.

24 CHAIRMAN STARR: Let me ask the applicant a  
25 question. Because they had asked me before the meeting if

1 they could combine the Power Point presentation on the two  
2 projects, which are very similar, they're next to each  
3 other. I said since they're separate items we should take  
4 them sequentially.

5 But perhaps since the presentation for this one is  
6 not technically available, we might wish to see the  
7 presentation which was actually prepared for the second one  
8 but is relevant to both. Then that will allow us to  
9 continue the process on this one. Members, is that  
10 acceptable?

11 COMMISSIONER GUARD: Should we recess this one?

12 CHAIRMAN STARR: I don't think we need to, I think  
13 that's relevant to this one as well. We're okay.  
14 Commissioner Mardfin?

15 COMMISSIONER MARDFIN: I would just like to  
16 suggest that the applicants for this one listen to the  
17 comments for the next one, and treat it as if they were for  
18 both in many cases.

19 CHAIRMAN STARR: Well, if there's comments that  
20 are relative to both they can be made to both. But I do  
21 want to actually take our -- when we do specifically  
22 comment, I want to be sure that we handle each of them. So  
23 I am going to ask the applicant and Joe whether we can --  
24 let's see the Power Point that he does have for the second  
25 one, and then we can come back.

1           COMMISSIONER MARDFIN:    Can I ask a question about  
2 the first one?

3           CHAIRMAN STARR:    Yes, go ahead.

4           COMMISSIONER MARDFIN:    This would be a question.  
5 We received I believe it's this June 10th memorandum dealing  
6 with the Iwa Ike cultural impact assessment, and on page 14  
7 it's talking about the people they consulted for their  
8 cultural assessment.  And I could be wrong, but it looks to  
9 me like they interviewed -- sent letters to people to get  
10 responses, and didn't get any responses.  Is that more or  
11 less what happened?

12           MR. KAUFMAN:    There's a 30 to 45 day hearing in  
13 which they send out notifications for response, and if  
14 there's no responses received by then, then my understanding  
15 is they also then give them another 15 days notification.  
16 And if no response, it's considered a no response.

17           I will comment that the majority of the people  
18 that they solicited responses from had responded to requests  
19 by the County Planning Department with regard to the  
20 subdivision process.  So they have been in the loop and they  
21 have commented in other areas, specifically OHA.

22           COMMISSIONER MARDFIN:    I'm just looking at page  
23 14.  It says, "CIA inquiry response," and I presume that's  
24 not the Central Intelligence Agency.

25           CHAIRMAN STARR:    They would have gotten an



1 answer.

2 MR. KAUFMAN: Cultural Impact Assessment.

3 COMMISSIONER MARDFIN: It says in the second  
4 paragraph, The stated above consultation was sought from,  
5 Thelma Shimaoka, I'm skipping a few, and they list seven or  
6 eight or nine or ten. And it says a letter from the Office  
7 of Hawaiian Affairs was received acknowledging our letter  
8 inquiry, but it doesn't say that any of them said anything.

9 MR. KAUFMAN: None of them did. There was no  
10 response.

11 CHAIRMAN STARR: Okay, why don't you proceed with  
12 your Power Point, Mr. Kaufman.

13 MR. KAUFMAN: Again, I'll apologize.  
14 Unfortunately I'm an Apple guy, and this is a PC, and it's  
15 two generations behind the one I'm operating off of. So  
16 what we have is even worse technological issues here. So I  
17 will try to muddle through this.

18 I will tell you I'd like to go on the record on  
19 the onset to say that I'm not a developer, I'm a scientist,  
20 and I'm an environmentalist. And the issues that we deal  
21 with down in Makena, one of the reasons why one of the  
22 interests in undertaking this down-zoning on both these  
23 properties, they're currently both in the community plan as  
24 single-family. And about 13 years ago I purchased the  
25 property at 116, TMK 116. And just as an aside, when I went

1 in to get the water meter, and again, this is 13 years ago,  
2 I asked for one water meter and the water department told  
3 me, "Why do you only want one? You can have as many as 44  
4 lots." And I said, "That's exactly why I'm buying the  
5 property, so there wouldn't be 44 lots there."

6 So on Ke Kani Kai and again, these two have  
7 different names, they're not planned to be named  
8 subdivisions, these are just place holder names simply  
9 because I learned my lesson the last time I did this. They  
10 named the subdivision after me, which I had no intention of  
11 that happening, but it happens by de facto I found out.

12 Ke Kani Kai means Sound of the Sea. Currently  
13 State Land Use classification ag, county zoned interim,  
14 single family community plan, and it's flood zone Z in a  
15 Special Management Area.

16 What we are proposing to do is to change the  
17 zoning from interim to rural, change the community plan from  
18 single-family to rural, from ag to rural, and we received a  
19 preliminary subdivision approval on this property on January  
20 28, 2008, and I believe it was the middle of December 2007  
21 on Iwa Ike.

22 The area is south of Makena. It's in the urban  
23 zone. It is completely wrapped by the already approved  
24 resort property of Makena, the Maui Prince, and the Maui  
25 golf course land there. Yes, it's true that at present

1 there is essentially haole koa, kiawe and cactus.

2 In recent history as far as 30, 40 years ago, 50  
3 years ago or more, this area was bulldozed and used by the  
4 military as a munitions dump. It's one of the reasons why  
5 there's very little growth on this property. It was part of  
6 the military operations down in Makena. There exists to  
7 this day bulldoze cuts that you can see through the property  
8 that MECO put on the property when they used to grade it and  
9 use it as a service road through there.

10 There is no wetlands on the property, there are no  
11 streams on the property, it is not critical habitat for any  
12 animal that's been identified. There is not a known scenic  
13 corridor. The property itself, this is --Ke Kani Kai is  
14 here and Iwa Ike is there, and our current -- the property I  
15 live on here is 116, right next door. This property has  
16 currently been rezoned as rural, down-zoned from  
17 single-family, as is the Tavares' property down here, was  
18 rezoned at the same time ours was, is rural as well.

19 So this is a rural area, and it's recognized as  
20 such in the Kihei Community Plan, and current deliberations  
21 have been going forward.

22 We are not proposing any habitable structure at  
23 this time. We are essentially going to propose underground  
24 utilities, a water distribution system, fire protection  
25 system, a drainage retention basin, and a paved roadway.

1 And again, this is just a blowup. This is Makena Road here.  
2 Across the street is a state park at Makena, and it's  
3 essentially two .65 acre lots.

4           And there we have the wonders of science there.  
5 If you have got your booklet in front of you, those are the  
6 pictures of the property. And I did want to point this out,  
7 if you could go to section, the exhibits section of the --  
8 this will help us. What I wanted to point out there on the  
9 exhibits section, if everybody can follow me there, if you  
10 look at the first pictures, the frontage along Makena Road.  
11 One of the things that I'd like to comment on is that there  
12 is -- the county has asked for, DSA has asked for a 56 foot  
13 right-of-way. We ask for a 48 foot ultimate right-of-way,  
14 and in the preliminary subdivision approval they asked for  
15 56.

16           In terms of open space, it was unlikely that this  
17 will ever get sidewalks, curbs and gutters down there. If  
18 you look down the roadway here this will essentially provide  
19 off-road parking for beach access there. That will be  
20 approximately 16 to 17 feet wide, enough for people to both  
21 parallel and in-park. If you look down in front of our  
22 property in photograph two, where you can see the hybrid  
23 there, regularly we have 10 to 12 cars parking there every  
24 day.

25           So prior to our clearing and developing that

1 parcel, those were bushes and weeds there, there was no  
2 parking there whatsoever. So by de facto, one of the  
3 advantages of this subdivision is that you in fact are  
4 creating more public and beach access down there. Again,  
5 we're missing -- the next shot is just photographs.

6           The other thing I'd like to point out is that on  
7 picture one and picture three you will see the telephone  
8 poles, which are excruciatingly close to the roadside there.  
9 Those will go underground. When we did our property we  
10 actually stubbed out underground utilities already, and  
11 these poles are literally six inches off the pavement right  
12 now. If you have driven down there it is, even for my  
13 taste, it's very scary to drive through there. So those  
14 poles will all disappear, and essentially you are going to  
15 end up now with 650 feet of frontage along Big Beach, with  
16 essentially 16 feet of parking all the way down there, which  
17 did not exist prior to this.

18           The property is not part of the productive  
19 agricultural lands. The soil type is rated E, it has been  
20 fallow and laid fallow for years. It essentially is  
21 non-productive land in terms of modern uses. And if you  
22 look at the archeological issues in terms of finds, there  
23 were in archeological finds on Ke Kani Kai.

24           Now I'd like to speak to the archeological issues  
25 because the comments that I heard earlier are exactly why we

1 purchased this property and exactly why we're developing it.  
2 Because when we discovered the fishing shrine on 116, the  
3 State of Hawaii said that we had to get a one meter buffer  
4 around that, or three feet. I went before the Burial  
5 Council and they asked for 10 feet. I gave them 20 feet.  
6 Our intent was to protect that and the surrounding areas.  
7 And if you go down there now you will see that in fact  
8 there's closer to about 35 feet around that area.

9           The reason why we use eminent researchers for our  
10 archeological is that they have a long history of doing work  
11 for Seibu in that area. And if you look at Theresa Dunhams'  
12 recent work and Lucienne de Naie's recent work, there's some  
13 seminal work on exactly this issue of the tie-in with all  
14 these archeological sites.

15           Our concern is looking at these three properties  
16 in sum in terms of archeologically, we have a unique ability  
17 here. And what we found is that there was a fishing shrine  
18 which has been preserved and protected with public access on  
19 116. On 117 uniquely nothing was found, but not so uniquely  
20 because that property, as I mentioned before, has literally  
21 been bulldozed over the years. 118, which is Iwa Ike, the  
22 four lot subdivision, what exists on there is cattle walls,  
23 literally 40 to 50 years old, and there was one scattered  
24 pile that was found there.

25           Now, I'll tell you to date that on both properties

1 they both have had archeological inventory surveys done,  
2 they both have approved archeological monitoring programs  
3 done, they both have CIA's, Cultural Impact Assessments have  
4 been done. These inventory survey reports have both been  
5 approved and accepted by the State Historic Preservation  
6 District. The monitoring plans have been approved and  
7 accepted by the State Historic Preservation Plan. And in  
8 addition, we just received on June 26th the Chapter 6E-42  
9 Historic Preservation Review by the State's Historic  
10 Preservation Plan, again concurring with all the assessments  
11 and all the findings that we made on this property.

12           So I will tell you that as a landowner we have  
13 done everything possible to adhere to these archeological  
14 issues. Let me tell you how far this goes, however.

15           CHAIRMAN STARR: Mr. Kaufman, how much longer will  
16 you be going on with this?

17           MR. KAUFMAN: I'm nearly done. I would like to  
18 conclude by saying that the property adjacent to ours,  
19 despite the fact that we've done all this, has brought in  
20 load after load after load and covered it and turned it into  
21 a horse pen. So I find it unique when we're all concerned  
22 about protecting and preserving the culture that we also  
23 have rules that allow you, as long as you bury it and make  
24 it disappear, it doesn't exist, and I think that's a shame.

25           And I think that is a landowner that we've

1 undertaken these extensive efforts on 118, 117 and 116 to  
2 preserve and protect and actually sustain and maintain the  
3 rural nature of these properties down there. It is a credit  
4 to what we're trying to do. Thank you.

5 CHAIRMAN STARR: Okay, Members, questions for the  
6 applicant? We're going to confine ourselves at this time to  
7 the one, to the Iwa Ike. Go ahead, Commissioner Pawsat.

8 COMMISSIONER PAWSAT: You make a reference to a  
9 fishing shrine and such. Is that included in your EA, and  
10 where is that mapped?

11 MR. KAUFMAN: It's not on these parcels.

12 COMMISSIONER PAWSAT: Well, right, but you keep  
13 saying in your cultural resources that part of your thing is  
14 to look at identify, preserve, protect, and restore  
15 significant and historical cultural sites located within or  
16 adjacent to the project area prior to application as part of  
17 the development. So you do have archeological sites on some  
18 or whatever or surrounding these parcels.

19 And so if you are talking about a shrine that you  
20 feel like we're supposed to give you the benefit of the  
21 doubt because you have considered this shrine, I'd like to  
22 know where this shrine is in relation to your property and  
23 such. I mean because I don't feel that hiring the  
24 archeologist from Seibu is very impressive. You know, I  
25 would prefer an archeologist who is completely removed from



1 any sort of influence, developmental influence.

2 And if you are going to -- you say you're  
3 concerned about all these things, but none of them are in  
4 your -- you don't map anything. I just don't find any of  
5 your maps convincing. Your map, your parcel is in a void  
6 basically. You talk about the heiaus, but you don't say  
7 where they are in relation to it.

8 So if we're talking about this archeological  
9 system I would like to know where your projects fall within  
10 that system. I mean you bring up the heiau, but then the  
11 heiau -- and I know we've looked at it, but when I look at  
12 this map you have provided I still don't know where the  
13 heiau is in relation to it.

14 You talk about the fishing shrine, you have a  
15 whole beach cut off, and I know there is processional  
16 pathway through this area that leads to an island with an  
17 archeological ruin out in the ocean. And I'd like to know  
18 where your property is in relation to that, or if that  
19 pathway is right there. I just don't know where it is.

20 In another map you have your parcel I think it's  
21 on the flood plane. You locate your parcel on South Kihei  
22 Road, which is just a mistake, I suppose. So I want to know  
23 how you're showing how -- I just don't buy the fact. Your  
24 archeological interest is not portrayed well in your  
25 environmental assessment, in your assessment here.

1 CHAIRMAN STARR: Please respond, Mr. Kaufman.

2 MR. KAUFMAN: Well, first of all, the flood  
3 insurance map is drawn by the flood insurance agency, and  
4 they erroneously list that as Kihei Road instead of Makena  
5 Road. But clearly the property is located right here on  
6 Ahii Bay, which everyone knows is in Makena.

7 In terms of 40185, what is referred to as 40185,  
8 you will see in both reports the archeological reports on  
9 page 14, it's called the Kaufman Project. And on the  
10 Kaufman Project it clearly identifies 40185. And throughout  
11 both archeological inventory surveys it makes reference to  
12 this 40185 on the adjacent parcel, and the reason why the  
13 interest in making the survey was so important.

14 I will point out that maybe I misspoke. Eric  
15 Frederickson is an independent agency, he does not work for  
16 Seibu. I merely meant to imply that they had done work over  
17 the years in that area, as well as Theresa Dunham, as well  
18 as other archeological agencies. If you look at Theresa  
19 Dunham's recent work she culls together all the work of all  
20 those individuals, and you'll see in her report that in fact  
21 40185 is listed there as well, as one of the preserved and  
22 protected spaces in Makena.

23 Again, if you look on page, on the Ke Kani Kai you  
24 will see a photograph, photographs four and five on page 18  
25 of the archeological report from the archeological field

1 report. Ke Kani Kai, if you go to the archeological  
2 inventory survey it's page 18. It shows you a photograph of  
3 the old utility road, and it says no site 40185 is located  
4 in the upper center of the photograph. So again --

5 COMMISSIONER PAWSAT: Again, that tells me  
6 nothing. I mean looking at this photograph and saying site  
7 40185 is located at the upper mid-center of the photograph,  
8 I mean you're getting a blurry photograph and you are  
9 talking about 40185. You don't have it on a general map.  
10 You know, I mean it is a just --

11 MR. KAUFMAN: We can add that.

12 CHAIRMAN STARR: We haven't quite gotten to the  
13 point where we're going to make specific comments, but when  
14 we do that should probably be a comment. But I'll ask you  
15 to hold it until then and we will put that on our list.

16 MR. KAUFMAN: Again, the comment regarding 40185  
17 is on a separate parcel that is not under discussion, it's  
18 on an adjacent parcel. And I will point out that under the  
19 rules at the time we could have buried that and put a tennis  
20 court on top of it, which other people have done, which we  
21 find horrible. I have no interest in doing that. I'm just  
22 saying that that site was protected, as well as the adjacent  
23 sites.

24 CHAIRMAN STARR: Members, comments? Okay, are we  
25 ready to move to a point where we're making specific

1 comments for inclusion in the final document? It looks like  
2 we are.

3           Okay, did I ask for testimony on this? They're  
4 blending together in my mind, folks. We are going to see if  
5 there are any members of the public who would like to give  
6 us testimony on this. Although it's not required, it's a  
7 good practice. Please make yourself known if there are.

8           Not seeing any, the public testimony portion will  
9 be closed. We are ready to issue specific comments which  
10 will be transmitted to the applicant on this.

11           Commissioner Pawsat, I know you had some comments  
12 regarding an overall mapping of archeological sites on this  
13 and adjacent property. Oh, hold on one second. Joe?

14           MR. PRUTCH: I just want to make a clarification  
15 that we are talking about Iwa Ike right now and not Ke Kani  
16 Kai.

17           CHAIRMAN STARR: Yes, we're talking about Iwa Ike.  
18 But I think it is relevant to talk about the cultural  
19 mapping of this area. So Commissioner Pawsat.

20           COMMISSIONER PAWSAT: Well, it does say in the  
21 Iwa Ike that it would require development projects to  
22 identify all cultural resources located within or adjacent  
23 to the project area prior to application, and you don't. I  
24 mean you identify it by referencing it, but you don't give  
25 us any sort of visual map. You know, you have some very

1 specific shaped ruins -- I'm getting them confused. Is this  
2 the one without anything on them? The Iwa Ike does have  
3 some.

4           You know, there's two, there's the circular ruins,  
5 and they're all identified, I mean they all say the same  
6 thing. First of all, you can't read this thing. I mean I'm  
7 under exhibits right now at the maps towards the back of the  
8 exhibits.

9           CHAIRMAN STARR: In any case, as I understand it  
10 what we're looking for is a clear mapping of the area. Not  
11 just this site, but the surrounding area showing all  
12 cultural assets that are known, and features. Is that  
13 right, Commissioner Pawsat?

14           COMMISSIONER PAWSAT: Yes. I mean I would like a  
15 little more detail. I mean you can't just, you know,  
16 clearly these rectilinear structures that are the same shape  
17 but different scale. So that's interesting to me, that  
18 there's two structures kind of like the same shape but  
19 different scale, located in different spots.

20           And then there's this other typology of these  
21 circles, you know, and what are those? But both of them, I  
22 mean they're obviously different functions, but both just  
23 say archeological site and loose rock mound.

24           I think if you were as much of a scientist as you  
25 purported to be, you'd have more interest in what these

1 structures actually are, and how these structures related to  
2 the heiau, and what sort of patterns are being made, and not  
3 make us feel happy because you aren't putting a tennis court  
4 over the whole site.

5           And it also concerns me about, you know, about  
6 altering when you talk about catch basins. If you are going  
7 to dig a big hole in the ground what are you destroying? I  
8 mean you don't know what you are destroying because you  
9 haven't taken the time to identify what these things are.

10           CHAIRMAN STARR: Okay, Joe, do you have that?

11           MR. PRUTCH: Yes, I do.

12           CHAIRMAN STARR: Commissioner Guard, you had  
13 regarding drainage. If you want to state it, otherwise I  
14 could.

15           COMMISSIONER GUARD: You can.

16           CHAIRMAN STARR: Okay, a comment. And I know  
17 Commissioner Guard was getting to this before. That since  
18 this is a very sensitive area in terms of the ocean quality  
19 and the reef, and that it looks like it's going to be  
20 landscaped and cultivated, that any runoff coming off this  
21 property, which we're told will sheet flow eventually into  
22 the ocean, will have a high level of lawn chemicals and so  
23 on, which can create impacts.

24           And so the retention that's mentioned in here is  
25 only a plan to retain the increase in runoff caused by

1 development, but the existing runoff will now contain  
2 chemicals and so on. So we're looking for to see how that  
3 will affect the ocean quality and how much of that, if not  
4 all, can be retained on site to reduce impacts on the near  
5 shore environment. Is that okay, Commissioner Guard?

6 COMMISSIONER GUARD: Sure.

7 CHAIRMAN STARR: It works. Okay, Members.

8 Commissioner Hedani.

9 COMMISSIONER HEDANI: I don't know if I'm just  
10 having trouble reading this thing, but I'd like to see all  
11 of the pages numbered sequentially so that we can figure out  
12 what page we're talking about. And my draft seems to go  
13 from five, the Draft Environmental Assessment, to exhibits,  
14 which is not listed as six. And it has exhibits 1 through  
15 7, which I seem to be missing, unless these are exhibits 1  
16 through 7 that were not labeled.

17 CHAIRMAN STARR: So Joe, have you got that? It is  
18 confusing and possibly misnumbered.

19 COMMISSIONER HEDANI: But I'm trying to follow the  
20 index, which is on page 1. Specifically I was looking for  
21 the subdivision plan, and I can't find it.

22 MR. PRUTCH: You're saying to number the exhibits  
23 themselves or just number the entire document sequentially?

24 COMMISSIONER HEDANI: All of the pages in the  
25 entire document.

1 MR. PRUTCH: Sequentially.

2 CHAIRMAN STARR: I think I got two out of that.  
3 One is proper numbering and sequential ordering of  
4 everything, and the second is a subdivision map doesn't seem  
5 to be existent.

6 Mr. Kaufman, did you have a comment there?

7 MR. KAUFMAN: The subdivision map appears after  
8 the plat map of the property, after the photographs and the  
9 exhibits. It's the last figure in the exhibits.

10 CHAIRMAN STARR: Is that numbered?

11 MR. KAUFMAN: No, I agree that the numbering is an  
12 issue there. But under exhibits if you go to the exhibits  
13 section, after the photographs you then have a plat map, and  
14 then you have the subdivision map that follows that.

15 COMMISSIONER HEDANI: Okay, I found it. I found  
16 it.

17 MR. KAUFMAN: Sorry, thank you.

18 CHAIRMAN STARR: Okay. Then just the indexing and  
19 contents. Next, Members? I have one, which is something  
20 that I want to ask for all studies done, which is a report  
21 on public transportation in regards to the project, in  
22 addition to the traffic analysis.

23 MR. KAUFMAN: Could I ask for clarification on  
24 that, because there is no public transportation. It ends in  
25 Wailea right now.



1 CHAIRMAN STARR: Then that's what the report will  
2 have to say.

3 MR. KAUFMAN: Okay, thank you.

4 CHAIRMAN STARR: Whatever it is. Commissioner  
5 Mardfin.

6 COMMISSIONER MARDFIN: Now that I'm seeing these  
7 two exhibit 2's, the vicinity map, I see the two properties  
8 you are talking about and the two things. And I see how  
9 they're right next to each other. And you're saying that  
10 you were referring to a third property.

11 MR. KAUFMAN: Yes.

12 COMMISSIONER MARDFIN: That has this Luakini  
13 heiau on it.

14 MR. KAUFMAN: It's not a Luakini heiau, it's a  
15 fishing shrine. That's what they call it.

16 COMMISSIONER MARDFIN: Sorry, fishing shrine.

17 MR. KAUFMAN: That's what they call it. If you go  
18 to the subdivision map on Ke Kani Kai and it may show it  
19 there. Yes, if you look at the -- have you found the  
20 subdivision map on Ke Kani Kai? The subdivision map.

21 COMMISSIONER MARDFIN: That's under exhibits?

22 MR. KAUFMAN: Yes. It should be the last page of  
23 the exhibits.

24 MR. PRUTCH: But that's in the Ke Kani Kai, that's  
25 in the other one.

1 MR. KAUFMAN: He was asking where in proximity was  
2 site 40185. Okay, do you have it there? Do you see the  
3 roadway that bisects right here, the top one-third of the  
4 property. That was the road that MECO used to use. So if  
5 you follow that right up to the top where the page blanks  
6 out, 40185 sits right there.

7 MECO had planted a telephone pole right in the  
8 middle of it, which took me three years to get that one  
9 resolved. They had actually bulldozed that site partially  
10 and planted a telephone pole right in the middle of 40185,  
11 so that's where it's located. So when we talk about that.  
12 And I agree, we will include that.

13 COMMISSIONER MARDFIN: You own that property also,  
14 is that correct?

15 MR. KAUFMAN: Yes.

16 CHAIRMAN STARR: Are you asking questions or are  
17 you making a specific comment?

18 COMMISSIONER MARDFIN: I'm really trying to get an  
19 understanding of what's going on here. I know today we're  
20 supposed to just be looking at the environmental impact,  
21 environmental assessment, but I'm trying to get a picture of  
22 what's going on. Here we're looking at two properties and  
23 it sounds like there's a third property involved adjacent to  
24 these two.

25 MR. KAUFMAN: That property was subdivided in 19

1 -- excuse me, in 2000, 2001.

2 COMMISSIONER MARDFIN: And how many homes could  
3 be built on that?

4 MR. KAUFMAN: Four.

5 COMMISSIONER MARDFIN: And how many will be,  
6 assuming you get what you want, how many will be able to be  
7 built on Ke Kani Kai?

8 MR. KAUFMAN: Two.

9 COMMISSIONER MARDFIN: And how many would be able  
10 to be built on Iwa Ike?

11 MR. KAUFMAN: Four. They're all rural size, half  
12 acre or larger.

13 COMMISSIONER MARDFIN: Thank you.

14 CHAIRMAN STARR: So no specific comments on that,  
15 right?

16 COMMISSIONER MARDFIN: I just wanted to get a  
17 sense of the scale.

18 CHAIRMAN STARR: Commissioner Pawsat.

19 COMMISSIONER PAWSAT: So in addition to the  
20 archeological mapping of the whole area, I would want to  
21 have a map of the whole area of provisions of public space,  
22 because right now all these projects are all burden  
23 projects, you know. So far maybe you're just proposing  
24 eight total, but then we had, you know, eight more with the  
25 Frampton brothers' proposals, and then with Pacific Rim

1 there's another three. And so then you start getting into  
2 these high numbers, and there still hasn't been any addition  
3 of public space.

4           So I don't understand what we're going do about  
5 that, how that collectively is going to be addressed, you  
6 know. And I just, you know, I feel like the county should  
7 take the bull by the horns and subject this whole district  
8 to some sort of review before it just starts putting all  
9 these burden projects on it that are too under the radar to  
10 make any requirements upon them, but collectively they  
11 destroy the area.

12           CHAIRMAN STARR: I can't disagree. So we're  
13 looking for a map showing public space and public recreation  
14 areas in the vicinity, you know, and that would include any  
15 beach parks and any other parks and so on.

16           COMMISSIONER PAWSAT: And I don't know if in here  
17 he's talking about La Perouse, and I don't think that  
18 counts. Everything should be walking distance. It  
19 shouldn't be something you have to get in a car to drive to,  
20 because that defeats the purpose.

21           CHAIRMAN STARR: Let's start with a map showing  
22 that and then discuss that. Okay, one more comment is these  
23 lots. It's mentioned that they will have septic systems,  
24 and I'd like to know the potential for impact of those  
25 septic systems, considering this is lava, on the shoreline

1 water, and what the -- I'd like to also see alternatives on  
2 that, you know. All the other projects in that area will be  
3 connecting into a sewer system, and this is with a treatment  
4 plant this is the only one that seems to be putting in  
5 septics. Got that, Joe?

6 MR. PRUTCH: Yes.

7 CHAIRMAN STARR: Okay. And one other question  
8 for the Director. I'm surprised that this was interim. I  
9 know that I have seen that in other areas. Is there a lot  
10 of interim down there in Makena, or is this the only one?

11 DIRECTOR HUNT: I don't know off the top of my  
12 head if there's -- how many lots are on interim down there.  
13 As part of the environmental assessment you can request that  
14 the document include an analysis of the zoning, how much  
15 interim there is in the area or the particulars of this lot,  
16 when was it zoned interim, has it ever been zoned something  
17 else.

18 CHAIRMAN STARR: So an analysis of the zoning of  
19 this lot. And also of that surrounding area what the  
20 different zonings are, I'd like to see that analysis.  
21 Members, anything else? Commissioner Hedani.

22 COMMISSIONER HEDANI: I'd like to see a map that  
23 consolidates both subdivision proposals. And I guess the  
24 question that I would have is why is the project being  
25 pursued as two separate subdivisions.

1 CHAIRMAN STARR: First of all, have you got the  
2 comment, Joe?

3 MR. PRUTCH: When you guys are finished I will go  
4 through every comment you made to make sure that I've got it  
5 right.

6 COMMISSIONER HEDANI: The other question that I  
7 would have is, what is the criteria for the work force  
8 housing to kick in, is it four lot subdivision versus five  
9 lot subdivision?

10 CHAIRMAN STARR: Why don't we start with that  
11 question, and Mr. Kaufman can say why he's doing it that  
12 way. As far as the workforce, Joe, do you want to comment?

13 MR. PRUTCH: My understanding is it's five or  
14 more lots is where work force housing kicks in.

15 COMMISSIONER HEDANI: So if it was consolidated  
16 this would have been a six lot subdivision.

17 CHAIRMAN STARR: Mr. Kaufman, what is your reason  
18 for keeping it this way?

19 MR. KAUFMAN: I'm simply an agent for Ke Kani Kai,  
20 I don't own that property at all. When I went to my  
21 neighbors and told them our intent to down zone the property  
22 and to subdivide it, my neighbor said, "I'd be interested in  
23 doing the same, can you help me with that?" So it's simply  
24 a matter of coincidence here. There's no ownership, I have  
25 no ownership of Ke Kani Kai at all.

1 CHAIRMAN STARR: Did you sell them that lot?

2 MR. KAUFMAN: No, I didn't.

3 COMMISSIONER HEDANI: So you're pursuing the  
4 Community Plan Amendment on a property that you don't own?

5 MR. KAUFMAN: I'm the designated agent. The  
6 documents are in the paperwork submitted to you. It's  
7 simply a coincidence, it's not any attempt to subvert the  
8 law or do anything. Just the neighbor asked me if I could  
9 help him, and here I am.

10 CHAIRMAN STARR: Commissioner Pawsat?

11 COMMISSIONER PAWSAT: This is something  
12 Commissioner Guard had brought up at some previous meeting,  
13 about the dissolution of this whole Seibu property. You  
14 mention briefly in the history of the parcel, that Seibu, or  
15 whatever it's called, owned this and that there is some sort  
16 of plan for what was going to happen, which included a 10  
17 acre park or something like that and now it's turned again  
18 and now it got sold off.

19 That's the part of the history, you know, you give  
20 the history in here and then you talk about Ulupalakua,  
21 which of course, again, has nothing to do with it. So if  
22 you are going to go elaborate on something, I would like to  
23 see you elaborate on the dissolution of the Seibu deal and  
24 how we've gotten where we are that we can't make any public  
25 space down there.

1 CHAIRMAN STARR: I'm trying to -- can I ask you to  
2 kind of make that a concise statement so Joe can make that?

3 COMMISSIONER PAWSAT: The historical property  
4 transference of the area.

5 CHAIRMAN STARR: Okay, so Joe, I guess we're  
6 looking for --

7 MR. PRUTCH: This is what I put down, and help me  
8 with this. Elaborate on the, is it called the Sebring deal?

9 COMMISSIONER PAWSAT: Seibu.

10 MR. PRUTCH: Show why no public space in Makena or  
11 in this project area, is that correct?

12 COMMISSIONER PAWSAT: Give the history of and the  
13 dissolution and the redistribution of the assets of Seibu.

14 MR. KAUFMAN: Chairman Starr, if I could comment.

15 CHAIRMAN STARR: Please, just wait.

16 MR. PRUTCH: History, dissolution and --

17 COMMISSIONER PAWSAT: Redistribution of Seibu  
18 assets, I suppose.

19 CHAIRMAN STARR: Seibu and other ownership in the  
20 Makena area. We're providing comments now, I don't think  
21 you need to answer at this time. We are going to document.  
22 But if you have a comment, please be brief.

23 MR. KAUFMAN: Thank you. For edification  
24 purposes, this was never part of Seibu's property. This has  
25 been in other families for generations, so this had nothing



1 do with it.

2 CHAIRMAN STARR: Well, that will show in the  
3 documentation. Members, anything else? Commissioner  
4 Mardfin.

5 COMMISSIONER MARDFIN: Just to sort of summarize,  
6 I think what we're asking for is that we look at this area,  
7 not these two properties, but the surrounding area  
8 holistically, and we kind of want to know what's there  
9 already in terms of housing and lots and potential for  
10 build-out and how it all fits together. And I don't know  
11 whether it's appropriate to put it on any one property owner  
12 for this, but I think we're asking for that so we can get a  
13 picture of how this fits into the overall scheme, rather  
14 than doing piecemeal approvals.

15 CHAIRMAN STARR: Well, we've asked for it in terms  
16 of land ownership, we've asked for it in terms of  
17 archeological mapping. Is there any other mode that you  
18 want to ask for?

19 COMMISSIONER MARDFIN: I think the potential  
20 build-out, the number of houses that could be on each one.

21 CHAIRMAN STARR: Joe, there's a request for a  
22 drawing showing potential build-out of the Makena area. Is  
23 that it? Okay, Commissioner Pawsat.

24 COMMISSIONER PAWSAT: Just a comment, a follow-up  
25 comment on that. Looking at this map, I mean I don't even

1 really know, but looking at this whole map of this whole  
2 area, it looks as if the only possibility of any open space  
3 in the area, there's two parcels kind of tucked away, and  
4 they're the State of Hawaii, but I don't been know if that  
5 means that those would remain vacant or not.

6 CHAIRMAN STARR: They may be under lease.

7 COMMISSIONER PAWSAT: Right.

8 CHAIRMAN STARR: Members, any other comments for  
9 this document for the Iwa Ike? Commissioner Hedani.

10 COMMISSIONER HEDANI: If we could get a map  
11 designating what Royal Patent 1476 looked like.

12 CHAIRMAN STARR: Okay. Got that, Joe?

13 MR. PRUTCH: Repeat that, please.

14 COMMISSIONER HEDANI: If we can get a map that  
15 designated what Royal Patent grant 147 -- I think it's a 6,  
16 1476 looked like. 1475 maybe. Whatever Royal Patent grant  
17 included this property, which would kind of give you an idea  
18 of what the ahupua'a looked like basically, probably.

19 CHAIRMAN STARR: Commissioner Iaconetti?

20 COMMISSIONER IACONETTI: I'm not clear about the  
21 water availability in this area. Could that be enlarged  
22 upon?

23 CHAIRMAN STARR: Was there a letter from the  
24 Department of Water Supply in here, Joe?

25 MR. PRUTCH: That's what I'm looking for. Give me

1 a minute.

2 COMMISSIONER PAWSAT: I don't think there is.  
3 They just have graphs of daily usage that they estimate  
4 based on a house, like there's going to be so many gallons  
5 per day. But I would like to see that figure broken up, how  
6 much is going to be potable, how much is going to be used  
7 for landscaping, what does that mean.

8 CHAIRMAN STARR: So we're looking on a comment on  
9 water availability.

10 MR. PRUTCH: Well, there is a letter from the  
11 Water Department dated February 21st of 2008. They do say  
12 there's currently no additional source available to  
13 accommodate new customers. The department may delay the  
14 issuance of additional meters to serve this project until  
15 additional sources are on line.

16 CHAIRMAN STARR: Okay, so there you go. Yes,  
17 Paul?

18 MR. FASI: On the neighboring property for Ke Kani  
19 Kai the Department of Water Supply in their letter of  
20 February 6, 2008 says the subject, the system infrastructure  
21 of the subject property is bordered by an 8-inch water line  
22 and one fire hydrant along Makena Road.

23 CHAIRMAN STARR: It could have gone from a one  
24 inch galvanized pipe to an 8-inch line not too long ago.  
25 But I think there may not be water getting poured in the

1 other end of it. I mean do we want any other comments?  
2 It's probably the same situation as all over central and  
3 South Maui. If you want something, let's be clear about  
4 what we want.

5 COMMISSIONER PAWSAT: Can we have them contact  
6 Professor Kirch about the area specifically?

7 CHAIRMAN STARR: Can we get -- can we do that? I  
8 mean that means we're asking them to contact a specific  
9 consultant. Joe?

10 MR. PRUTCH: He's got the archeological inventory,  
11 he's got the cultural impact assessment, he's got I think  
12 one or two consultants that have worked on this. I would  
13 say continue to work with the consultants that have done the  
14 archeological out there, and get any mapping or questions  
15 that you have from them, since they're familiar with the  
16 site.

17 COMMISSIONER PAWSAT: I question their integrity  
18 though in assessing that, and I feel that Kirch has as much  
19 knowledge from analyzing adjacent ahupua'as, and that his  
20 expertise can easily be transferred to this area. And  
21 whether that means that the existing archeologist contact  
22 him for consult is another thing.

23 CHAIRMAN STARR: Director?

24 DIRECTOR HUNT: You folks can ask for virtually  
25 any additional information you want, as long as it's related

1 to the proposal. If you're dissatisfied with the extent of  
2 the information on any subject you can say, "We would like  
3 additional information regarding this, this or that." I  
4 would caution you against requesting it from a specific  
5 person, party or company. I'm not sure that's fair. But if  
6 you are not happy with the information, ask for more. When  
7 it comes back if you are still not happy you don't have to  
8 accept the document. You can ask for more information  
9 again.

10 CHAIRMAN STARR: I was reluctant to ask from a  
11 specific vendor of information. But if you do have, if you  
12 want them go further with it, all I'd ask you to do is just  
13 make it concise so Joe can write it down.

14 COMMISSIONER PAWSAT: Well, in particular, I had  
15 mentioned before this processional pathway that I think  
16 leads through that area out to the island in the water.  
17 That's something that if they aren't going to contact them,  
18 I've got photos that I have and I'm going to send them to  
19 Kirch.

20 CHAIRMAN STARR: How about we make a specific  
21 question that we want to know about, traditional foot paths  
22 and ceremonial procession paths in the area, and  
23 particularly leading to the shoreline.

24 COMMISSIONER PAWSAT: Yeah. Well, my particular  
25 little thing is, you know, I want to see the relationship

1 between the heiau, between the fishing shrine he brought up,  
2 between the archeological, the boat-shaped archeological  
3 site that's out on that little island protrusion, and then  
4 these over-look sites that are on the far northern end of  
5 the site.

6 CHAIRMAN STARR: So additional data relating to  
7 walkways, pathways, particularly in relation to the --

8 COMMISSIONER PAWSAT: Right, archeological axis  
9 that may not be visible on the ground, that can only be  
10 identified by locating specific sites and drawing the lines  
11 between them basically.

12 CHAIRMAN STARR: Have you got that, Joe?

13 COMMISSIONER PAWSAT: I mean if they had a good  
14 archeologist they would be able to -- I mean I'm not even an  
15 archeologist, and I mean this is pretty obvious to me. And  
16 it's really disappointing that the archeologists they have  
17 coming out don't even mention these things.

18 MR. PRUTCH: Would you like me to kind go through  
19 and summarize the comments I have?

20 CHAIRMAN STARR: Let me first see if we're done.  
21 Members, any more? It looks like we're about there.  
22 Commissioner Hedani.

23 COMMISSIONER HEDANI: I was wondering if we can  
24 get a larger map of the ASCM, ASACSM land title survey so we  
25 can make out what's on the detail, because it's on an 8 and

1 a half by 11 sheet. It's difficult to read.

2 CHAIRMAN STARR: A larger high definition map of  
3 the Alta survey. Any more? Okay, I think we're there.  
4 Joe, go ahead.

5 MR. PRUTCH: Okay. Let's see. The first one I  
6 have comments from the group here, and I'll clean these  
7 sentences up when I write the letter out, but this is what I  
8 have as my job down here. Provide clear mapping of the  
9 adjacent area and the project site showing all archeological  
10 sites including heiaus, fish shrines, processional pathways,  
11 et cetera, clearly identified on the map.

12 Number two I have show the drainage and on-site  
13 retention, and make an attempt to -- make an attempt to  
14 retain all runoff on site so as to not harm the offshore  
15 environment. I have to have the number of pages, to have  
16 the pages in the document numbered sequentially throughout.  
17 Report on the public transportation --

18 CHAIRMAN STARR: And a really clear index table of  
19 contents.

20 MR. PRUTCH: Okay. Then I have a report on  
21 public transportation in traffic analysis. If none, state  
22 so. I have another map showing any public spaces, areas or  
23 parks that are adjacent to or in the vicinity of the project  
24 site. I'm going to have one condition on the maps just, or  
25 one comment just to say that all maps shall be 11 by 17 to

1 be able to show legibly, which I think most of them were, or  
2 some of them were. Okay, so that's all the maps.

3 I've got provide potential impacts on shoreline  
4 waters from the proposed septic system, and provide  
5 alternatives, choices to the septic system. Is that  
6 correct? I've got an analysis of zoning of the lots and of  
7 the current lots and the surrounding lots, and show  
8 potential build-out in the project area. That's about it.

9 COMMISSIONER MARDFIN: Broadly construed.

10 MR. PRUTCH: What's that?

11 COMMISSIONER MARDFIN: Broadly construed. When  
12 you say adjacent lots, I'm not asking for the one right next  
13 to it, I'm talking about a descent distance.

14 MR. KAUFMAN: Could we get a parameter? Are you  
15 talking about a mile on either side of the property, can we  
16 get some parameters?

17 COMMISSIONER MARDFIN: That may be too much.  
18 Maybe a half mile on each side, or something like that.

19 CHAIRMAN STARR: How about a one mile radius, is  
20 that okay? Okay, one mile radius.

21 COMMISSIONER MARDFIN: I can't answer because I'm  
22 not familiar enough with the area to know whether it's a  
23 mile or not.

24 MR. KAUFMAN: Can I get one more clarification on  
25 that, just so we know what we're after here. The non-resort



1 property that's vacant down there my understanding is a  
2 majority of it is still zoned single-family in the community  
3 plan. So one would have to define the development on those  
4 properties. Is there a number you want me to use, 8,000  
5 square foot lots or something to divine that development  
6 that could happen on those properties?

7 CHAIRMAN STARR: I would say work with your  
8 planner.

9 MR. KAUFMAN: Okay, thank you.

10 MR. PRUTCH: Essentially whatever the minimum lot  
11 size out there is, divided by the number of acres out there,  
12 and that's the potential build-out, what could be built at  
13 the most.

14 Let's see, wait, did I get to drainage? We talked  
15 about drainage, sorry. You wanted a map showing both of  
16 these subdivisions side by side on one page so you could see  
17 them together. You wanted to have the applicant elaborate  
18 on the -- I'm not sure how I'm pronouncing this, I'll get  
19 the spelling, but the Seibu property. Seibu property. And  
20 provide or show the history, the dissolution and the  
21 re-distribution of this property's assets, and other  
22 properties in the Makena area. Does that sound about  
23 correct on that?

24 MR. KAUFMAN: Can I get clarification? Is that as  
25 it relates to these properties?

1 CHAIRMAN STARR: You're out of order.

2 Commissioner Hedani.

3 COMMISSIONER HEDANI: Not showing 1476.

4 CHAIRMAN STARR: Should we use a one mile radius  
5 for that as well?

6 MR. PRUTCH: Which one are you on now?

7 CHAIRMAN STARR: Instead of the word "vicinity"  
8 let's use a one mile radius just to pick a number out of a  
9 hat. And next, Joe?

10 MR. PRUTCH: Okay, the next one I have is a map  
11 designating this Royal Patent Grant number 1475 -- 1476.

12 CHAIRMAN STARR: Yeah. Well, we can't quite read  
13 it, so whatever it is.

14 DIRECTOR HUNT: That's why we need the map.

15 CHAIRMAN STARR: And the last one I -- well, the  
16 last one I wrote down, all maps should be 11-by-17, or at  
17 least legible. At least 11-by-17, and high resolution.  
18 Okay, Members, anything else? Commissioner Pawsat.

19 COMMISSIONER PAWSAT: I just wanted to  
20 reemphasize, please take out the fluff in there that has  
21 nothing to do with the area.

22 CHAIRMAN STARR: Okay, that's a comment. Okay,  
23 Commissioner Iaconetti.

24 COMMISSIONER IACONETTI: What about the water  
25 availability?

1 CHAIRMAN STARR: Yeah, there is a letter from the  
2 Water Department. Wait, there is saying that there may not  
3 be water. So where do we go from there?

4 COMMISSIONER PAWSAT: I'd ask for a more detailed  
5 projection of water use, instead of just so many gallons per  
6 day.

7 CHAIRMAN STARR: So a more detailed projection of  
8 water use. And do we want anything more from the water  
9 department? Commissioner Hedani.

10 COMMISSIONER HEDANI: Just show me the water bill  
11 that's supposed to identify sources for future development.  
12 It's a relationship in this proposal.

13 CHAIRMAN STARR: When does that kick in, Paul?

14 MR. FASI: The water kicks in at five houses.

15 CHAIRMAN STARR: Commissioner Hedani.

16 COMMISSIONER HEDANI: I'd like to see an analysis  
17 of the work force housing ordinance would apply to a six lot  
18 subdivision on this as a consolidated subdivision, since the  
19 same developer is proposing to subdivide both parcels.

20 CHAIRMAN STARR: Okay. So we're asking can we  
21 send that to water? Can we extend that so that it's an  
22 analysis of what the additional impacts would have been had  
23 it been a six lot project.

24 COMMISSIONER HEDANI: Right, for both water as  
25 well as housing.

1           CHAIRMAN STARR: Yeah, housing, water, and any  
2 other entitlements. Any other requirements for  
3 entitlements.

4           MR. PRUTCH: So you want the analysis as if these  
5 properties were one, and they were being subdivided into six  
6 lots, because they are two separate properties, two separate  
7 ownerships, neither of them been being subdivided.

8           CHAIRMAN STARR: We're doing a what if.

9           MR. PRUTCH: What if.

10          CHAIRMAN STARR: Commissioner Guard.

11          COMMISSIONER GUARD: I guess, okay, I guess we're  
12 going with what if's. It just seemed like if it was Chris  
13 Hart up there representing two applicants, that would not be  
14 a question. We're kind of burdening the applicants here,  
15 and you wonder why people go and bulldoze archeological  
16 sites and beg for forgiveness. I'm starting to see why  
17 people do it the other way.

18          CHAIRMAN STARR: Commissioner Hiranaga.

19          COMMISSIONER HIRANAGA: Yeah, I just wanted to  
20 make a similar comment. Two separate owners, two separate  
21 lots. We're trying to find some type of collusion I guess,  
22 but I don't see it here. Everything you ask for does cost  
23 money.

24          CHAIRMAN STARR: Commissioner Mardfin?

25          COMMISSIONER MARDFIN: I have a question. Right