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M I N U T E S  
LAND USE COMMITTEE  
Council of the County of Maui  
Council Chamber  
December 19, 2007

APPROVED:



Committee Chair

1     **CONVENE:**        **9:08 a.m.**

2     **PRESENT:**        Councilmember Michael J. Molina, Chair  
3                        Councilmember Joseph Pontanilla, Vice-Chair  
4                        Councilmember Gladys C. Baisa, Member  
5                        Councilmember Jo Anne Johnson, Member  
6                        Councilmember Danny A. Mateo, Member  
7                        Councilmember Bill Kauakea Medeiros, Member  
8                                (Arrive 1:35 p.m.)  
9                        Councilmember Michael P. Victorino, Member

10    **EXCUSED:**        Councilmember Michelle Anderson, Member  
11                        Councilmember G. Riki Hokama, Member

12    **STAFF:**            Tammy M. Frias, Committee Secretary  
13                        Carla M. Nakata, Legislative Attorney

14                        Michael J. Geers, Legislative Analyst  
15                        Lei Kihm, Executive Assistant to Councilmember  
16                                Bill Kauakea Medeiros

17    **ADMIN.:**        Colleen Suyama, Deputy Director, Department of  
18                                Planning  
19                        Joseph Alueta, Administrative Planning  
20                                Officer, Department of Planning  
21                                (Item No. 52)  
22                        Robyn Loudermilk, Planner, Department of  
23                                Planning (Item No. 20)  
24                        Michael Miyamoto, Deputy Director, Department  
25                                of Public Works (Item Nos. 5 and 52)  
26                        Stephen Orikasa, Administrative Sergeant,  
27                                Department of Police (Item Nos. 5 and 52)  
28                        Scott English, Lieutenant, Fire Prevention  
29                                Bureau, Department of Fire and Public  
30                                Safety (Item No. 5)  
31                        James A. Giroux, Deputy Corporation Counsel,  
32                                Department of the Corporation Counsel

33    **OTHERS:**        **Item No. 5:** William Frampton, Project  
34                                Manager, Frampton &  
35                                Ward, LLC  
36                                Eric Taniguchi, AIA (Applicant's  
37                                architect)  
38                                Stacy Otomo, President, Otomo  
39                                Engineering Inc.  
40                                        (Applicant's civil engineer)  
41                        Mark Matsuda, Project Engineer,  
42                                Otomo Engineering, Inc.  
43                                        (Applicant's civil engineer)  
44                        Bryan Maxwell, Maxwell Design

1 Group, Inc. (Applicant's  
 2 landscape architect)  
 3 Ken Jencks, Maxwell Design Group,  
 4 Inc. (Applicant's landscape  
 5 architect)  
 6 Stan Cohen, Property Manager,  
 7 Paia Town Center  
 8 Charlene Shibuya, Construction  
 9 Engineer, Maui District  
 10 Office, State Department of  
 11 Transportation  
 12 Kristy Vega, Wailuku Main Street  
 13 Association, Inc. - Tri  
 14 Isle Main Street Resource  
 15 Center  
 16 Lisa Starr, Chair, Paia Main  
 17 Street Association  
 18 David Peterson, Paia Main Street  
 19 Association  
 20 Dean Frampton  
 21 Additional attendees (10)

22 **Item No. 52:** Don Young, President, Haleakala  
 23 Ranch Company  
 24 Greg Friel, Livestock Manager,  
 25 Haleakala Ranch Company  
 Thomas Schnell, Senior Associate,  
 PBR Hawaii & Associates,  
 Inc. (Applicant's land use  
 consultant)  
 Stacy Otomo, President, Otomo  
 Engineering, Inc.  
 (Applicant's civil engineer)  
 John Hirashima, Sunrise Country  
 Market and Protea Farm  
 Charlene Shibuya, Construction  
 Engineer, Maui District  
 Office, State Department of  
 Transportation

26 **Item No. 20:** Valerie Lewis Okamura

27 **PRESS:** Akaku--Maui County Community Television, Inc.

28 . . . . .

29 CHAIR MOLINA: ...(gavel)... The Land Use Committee meeting

30 for December 19th, 2007, is now in session. For the

1 record, we have in attendance Members Mateo, Baisa,  
2 Johnson, Pontanilla, Victorino, and Molina; excused  
3 are Members Anderson and Hokama and Medeiros. Good  
4 morning, Members.

5 COUNCIL MEMBERS: Good morning.

6 CHAIR MOLINA: And -- and I want to thank you all for being  
7 here this morning. We do have to make up some time.  
8 As you very well know, on December 5th, we canceled  
9 our Land Use meeting because of the weather concerns  
10 so we do have a lot of time to have -- to address  
11 Land Use issues today. We have the afternoon slot  
12 open as well.

13 Now, depending on how much questions and  
14 discussion you have, we can wrap things up today by  
15 lunch; or if need be, we will come back in the  
16 afternoon if that is your choosing, Members.

17 We have, from Committee Staff, Carla Nakata,  
18 as well as our new Analyst, Mr. Michael Geers, and  
19 we have our Committee Secretary, Tammy Frias,  
20 available to us. And also from the Corporation  
21 Counsel's Office, we have Mr. James Giroux and our  
22 Deputy Planning Director, Colleen Suyama.

23 Good to see you folks again. It seems like  
24 it's been a while, so, anyway, it -- you can tell  
25 it's Christmas, folks; six days, and everybody's in

1 a good mood for right now, anyway.

2 **ITEM NO. 5: COMMUNITY PLAN AMENDMENT AND CHANGE IN ZONING**  
3 **TO REDEVELOP THE PAIA TOWN CENTER (C.C. No.**  
4 **07-24)**

4 CHAIR MOLINA: All right. We've got three items to address  
5 on our agenda, which is LU-5, which is a Community  
6 Plan Amendment and Change in Zoning to redevelop the  
7 Paia Town Center; LU-52, which is a Conditional  
8 Permit for the Haleakala Ranch Visitor's Center; and  
9 LU-20, which is a Conditional Permit time extension  
10 for Maui by the Sea.

11 Our first item that we will address, of  
12 course, is LU-5. But before that, we have three  
13 Members of the public that have signed up for  
14 testimony for LU-5.

15 We do have a PowerPoint presentation related  
16 to LU-5. Of the three who have signed up, if you  
17 need to testify now, and I do realize we have some  
18 parking restrictions out there, the Chair will make  
19 it open for you to testify before the presentation;  
20 otherwise, we will do the presentation first and  
21 then I'll give you an opportunity to testify.

22 So of the three members who've signed up to  
23 testify, we have Kristy Vega, Lisa Starr, and David  
24 Peterson. Do any of you three want to testify now?

25 MS. STARR: Yes.

1 CHAIR MOLINA: Okay. Come on up here, Ms. Starr. Members,  
2 any objection to proceeding in this fashion?

3 COUNCIL MEMBERS: No objections.

4 CHAIR MOLINA: Okay. Come on up -- Kristy? Okay, Kristy,  
5 come on up. And the Chair would like to go over a  
6 few ground rules with you in terms of public  
7 testimony.

8 You'll be given three to testify, with  
9 one minute to conclude. Please state your name or  
10 any organization that you may be representing and  
11 please turn off all cell phones and pagers so as not  
12 to disrupt our proceedings this morning.

13 Good morning, Ms. Vega.

14 . . . **BEGIN PUBLIC TESTIMONY.** . . .

15 MS. VEGA: Good morning, Council Chair and Council Members.  
16 My name is Kristy Vega, and I am providing testimony  
17 on behalf of Jocelyn Perreira and the Tri-Isle Main  
18 Street Resource Center.

19 Dear Chair Molina and Committee Members,  
20 aloha. On behalf of the Main Street -- Wailuku Main  
21 Street Association, Tri-Isle Main Street Resource  
22 Center, we ask for your expeditious [sic] review and  
23 support of the Community Plan Amendment and Change  
24 in Zoning applications to redevelop the Paia Town  
25 Center.

1           From 2003 to the present, it has been our  
2           great pleasure to work with the Paia Main Street  
3           Association's Board and the property owners of the  
4           Paia Town Center and their representatives on this  
5           exciting project. Our structure and design team of  
6           professionals has provided numerous reviews and  
7           recommendations which are reflected in the current  
8           plans and have been shared at public town meetings.  
9           Careful attention has -- was given to incorporating  
10          crime prevention measures, more parking, and a  
11          courtyard within the Project that draws in the  
12          public to a space that celebrates Paia's unique  
13          sense of place.

14          The resulting revised plans reflect ongoing  
15          community-based planning -- planning efforts and  
16          Paia's special character. The Project is in a  
17          highly visible area of Paia Town that has been  
18          undergoing change. This redevelopment Project will  
19          compliment the architecture of other buildings on  
20          the street and also help to energize the street  
21          life. This Project represents a win-win situation  
22          for our community.

23          We appreciate the owner's willingness to work  
24          with the community to ensure that the Project fits  
25          the town's character. This Project is a welcomed

1           addition in the ongoing efforts to revitalize Paia  
2           Town.

3                       In closing, we respectfully request your  
4           assistance in moving this Project forward.

5           Sincerely, the Wailuku Main Street Association,  
6           Tri-Isle Main Street Resource Center, Jocelyn  
7           Perreira.

8   CHAIR MOLINA:   Okay.  Thank you for your testimony.

9   MS. VEGA:   Thank you.

10   CHAIR MOLINA:  Committee Members, questions for the  
11           testifier?  Seeing none, thank you for your  
12           testimony.

13                    Okay, Members, as mentioned earlier, we had  
14           two other folks who wanted to testify after the  
15           presentation.  I see now Ms. Starr.  You prefer to  
16           testify now?

17   MS. STARR:   Yes.

18   CHAIR MOLINA:  Go -- go right ahead.

19   MS. STARR:   Good morning, Chair Molina and Council Members.  
20           I'm Lisa Starr.  I'm the Chair of Paia Main Street  
21           Association, and Jocelyn has already said most of  
22           everything that we need to say.

23                    The one thing I would like to add -- actually,  
24           two things I'd like to add -- is when this Project  
25           was first brought to Paia Main Street for review by



1           the developers, our initial reaction to what we saw  
2           was not entirely positive because we felt that the  
3           scale of the buildings was oversized for what was in  
4           keeping with the town and that they were -- the  
5           density was higher than what we really felt would be  
6           appropriate for that particular location.

7                         In that regard, they were completely  
8           compliant. They reduced the scale of their building  
9           by -- I don't have the facts, but I would say  
10          probably anywhere between 20 to 30 percent, and they  
11          created a courtyard between the building and then  
12          another -- between two buildings. It was going to  
13          be wall-to-wall buildings so we appreciated that  
14          enormously.

15                        And the other thing that is really valuable  
16          about this Project for Paia, it's really pertinent  
17          right now because just in this last week or so, I  
18          can cite three situations with crime that are so  
19          egregious and unacceptable, one being that a young  
20          woman was held up at gunpoint at the end of her  
21          closing a little store, little Hana Highway Surf;  
22          one, the -- another store had their plate glass  
23          window shot out with a gun; and just yesterday, I  
24          heard of a -- somebody who witnessed a tourist  
25          getting harassed and beaten up by some girls in --

1 by Paia Park.

2 And I don't need to elaborate any further on  
3 the -- the rampant crime and vagrancy, and that's  
4 things that happen in Paia. In a town that's  
5 growing and becoming quite shiny and sparkling, it's  
6 just such a blight to -- that this persists.

7 So back to the point of the town -- Paia Town  
8 Center. They have agreed to put in a substation, a  
9 police substation right in their building which is  
10 going to help a lot, but I hope nobody minds me  
11 saying that's kind of a long way off and maybe we  
12 could try to find some policing solution sooner than  
13 that as well. Thank you very much.

14 CHAIR MOLINA: Okay. Thank you, Ms. Starr. Committee  
15 Members, questions for the testifier? Seeing none,  
16 thank you for your testimony.

17 I guess, Mr. Peterson, you're going to go  
18 ahead and testify now? Go right ahead.

19 MR. PETERSON: Good morning, Councilmember Molina, Council  
20 Members. I'm David Peterson. I'm also a Member of  
21 the Paia Main Street Association, but I'm here  
22 testifying today really as an individual and as a  
23 business owner in Paia.

24 My wife and I, we own a small business there,  
25 a sugar cane clothing company, and we're very

1 excited about the -- the Project that's -- that's  
2 going on.

3 From what I've seen as a member of the Paia  
4 Main Street Association from the plans, the -- the  
5 scope and nature of it is -- is very appropriate in  
6 keeping with the character of the town. It's --  
7 it's not -- it's the right size. It's going to  
8 maintain the small-town feel of Paia, which is very  
9 important. It's a really wonderful town up there.

10 And I'd just like to underscore what Lisa said  
11 regarding the crime. My wife's six months pregnant,  
12 and she watches our store every day. And it's  
13 really scary when you start to see the kind of  
14 things that are going on up in that town.

15 And the idea of having a police substation up  
16 there is -- it would be great. We'd love to have  
17 that presence up there. It's such a wonderful town,  
18 and we'd just like to be able to maintain it, so  
19 that's all I have to say.

20 CHAIR MOLINA: Okay. Thank you, Mr. Peterson. Committee  
21 Members, questions? Hang on, Mr. Peterson.  
22 Councilmember Johnson?

23 COUNCILMEMBER JOHNSON: Yes. Thanks very much for coming.  
24 And because you are a small business owner who's  
25 experiencing firsthand some of the problems with

1 growth and, of course, people passing through, do  
2 you believe the crime problem that you're  
3 experiencing is related to drugs, or could you kind  
4 of give us an idea if you've been able to identify  
5 with the Police Department where this violence is  
6 coming from?

7 MR. PETERSON: I -- I think a lot of it is just the  
8 vagrancy. It -- it -- it seems -- I mean, when --  
9 if you just -- when -- when -- after they shut down,  
10 you know, they moved everyone off the beach at -- at  
11 -- I believe it was Kanaha, and really things  
12 started to uptake after that because, you know, you  
13 just move people along, well, they ended up in Paia.

14 COUNCILMEMBER JOHNSON: Mmm.

15 MR. PETERSON: And they're in our public parking lot,  
16 they're over by the community -- by the youth  
17 center, you know, and, you know, they -- they don't  
18 have any place to live.

19 And -- and for the most part, you know, we  
20 find, you know, it -- it's best to just try to  
21 maintain a peaceful coexistence but, you know, at  
22 night, you know, things get bad. And, you know,  
23 there -- people just drinking and drugging all day  
24 long up there in the parking lot and all around and,  
25 you know, it's going to lead to no good. And so,

1           you know, that's what we find is -- is primarily the  
2           cause of it.

3           You know, that -- that -- we -- we -- in -- in  
4           terms of working with the police to do anything, we  
5           don't find that they're as present up there as they  
6           could be. It's hard to get them to respond to  
7           things. I've called for problems in the parking lot  
8           up there before. Forty-five minutes until someone  
9           shows up.

10           I personally -- you know, the -- the parking  
11           lot behind Charley's and Milagro's turns into a real  
12           party on Friday nights.

13   COUNCILMEMBER JOHNSON: Mmm.

14   MR. PETERSON: And, you know, I -- I -- I had mentioned to  
15           a police officer there a couple of weeks ago, I  
16           said, hey, you know, these guys are back there  
17           drinking and -- and, you know, smoking pot, and it's  
18           a little intimidating for people that are walking  
19           back there, walking to their cars, single women.  
20           And he said he'd take care of it, and he proceeded  
21           to just drive right through the parking lot and head  
22           up Baldwin.

23           So, you know, I -- it's -- I don't know what  
24           the answer is, but I -- you know, I do -- I do know  
25           that there's a problem. And if we just had a

1           little -- little presence up there, I think that  
2           would go a long way to alleviating the situation.

3   COUNCILMEMBER JOHNSON: Thank you. And could you tell me  
4           how long it's been since you've had a Community  
5           Police Officer? I know it's been a while. You used  
6           to have one, but --

7   MR. PETERSON: You know, we've only been up there, really,  
8           for the last year and a half.

9   COUNCILMEMBER JOHNSON: Oh, okay.

10   MR. PETERSON: So I don't know. I -- I know Lisa could  
11           probably answer that question.

12   MS. STARR: It's been about 10 or 12 years.

13   COUNCILMEMBER JOHNSON: Okay. So it's -- it's quite a  
14           while. I --

15   MR. PETERSON: It -- it's quite a while. You know, in the  
16           last couple of weeks with the incidents, there has  
17           been a little bit more presence, and that's been  
18           nice. There's been some cars around, and they've  
19           been checking the parking lot.

20           But, really, a sustained presence would --  
21           would really help us out. I mean, it's -- you know,  
22           I mean, there's guys -- I mean, you just -- if you  
23           just go up there and spend a day just, you know,  
24           watching people pass by, you know, I mean, people  
25           just walking up and down the street with, you know,

1 bottles in -- in their bags and -- you know, the --  
2 the -- the problem's pretty -- pretty evident, so...

3 COUNCILMEMBER JOHNSON: And one final question. Have you  
4 considered the possibility that as an interim  
5 measure, that the Merchants Association might want  
6 to hire some type of a security?

7 MR. PETERSON: That's not something that we've considered.  
8 And, you know, certainly I'd be happy to bring that  
9 up at our -- at our next meeting.

10 You know, the Merchants Association, separate  
11 from the Main Street Association, has really been  
12 pretty dormant for the last couple of years and only  
13 recently has started to get back together.

14 We had a recent event that was sponsored by  
15 the Merchants Association and so there's some new  
16 blood in -- in town up in Paia, and we hope to get  
17 that going again and -- and so I'll certainly bring  
18 that up the next time we get together. I -- you  
19 know, but certainly, you know, I -- I'm not -- we're  
20 not a mall. We're a small town, and I don't think  
21 it's incumbent upon the -- the merchants to have to  
22 hire security.

23 You know, when people are -- are having those  
24 kinds of, you know, activities in public parking  
25 lots out on the street, I don't think merchants and

1 residents and -- you know, are -- need -- need to  
2 pay for private security. I think that's something  
3 that -- that is properly before the Council and your  
4 local government, so...

5 COUNCILMEMBER JOHNSON: And I -- I thank you for that.

6 And, of course, we face some of the similar --

7 MR. PETERSON: Of course.

8 COUNCILMEMBER JOHNSON: -- challenges that you do in terms  
9 of not enough applicants for the jobs --

10 MR. PETERSON: Sure.

11 COUNCILMEMBER JOHNSON: -- and, you know --

12 MR. PETERSON: I -- I --

13 COUNCILMEMBER JOHNSON: -- these people, I wish we could  
14 clone them; but unfortunately --

15 MR. PETERSON: I understand that there's --

16 COUNCILMEMBER JOHNSON: -- that's not within our purview.

17 MR. PETERSON: There's not enough good people to go around,  
18 but nonetheless.

19 COUNCILMEMBER JOHNSON: Thank you very much --

20 MR. PETERSON: Thank you.

21 COUNCILMEMBER JOHNSON: -- for your testimony, though.

22 CHAIR MOLINA: Okay. Thank you, Member Johnson. Committee  
23 Members, any other questions for the testifier?

24 Seeing none, thank you, Mr. Peterson.

25 Is there anyone else that would like to



1           testify on Land Use Item 5 before the Chair closes  
2           public testimony on this particular item?

3                       Seeing none, then, Members, the Chair will  
4           close public testimony for Land Use Item 5. Any  
5           objections?

6 COUNCIL MEMBERS: No objections.

7 CHAIR MOLINA: Okay. Seeing no objections, very good,  
8           Members.

9                       . . .**END OF PUBLIC TESTIMONY.** . . .

10 CHAIR MOLINA: At this time, the applicant has a PowerPoint  
11           presentation to give to us so the Chair will take a  
12           short recess to prepare the Chambers for our  
13           PowerPoint presentation on LU-5. Meeting in recess.  
14           ...(gavel)...

15 **RECESS:           9:23 a.m.**

16 **RECONVENE:       9:25 a.m.**

17 CHAIR MOLINA: ...(gavel)... Committee Members, we're going  
18           to get started. Land Use Committee meeting for  
19           December 19th, 2007, is now back in session.

20                       Members, we have Mr. Bill Frampton, along with  
21           Dean Frampton, to do a presentation on Land Use Item  
22           No. 5 related to the Paia Town Center.

23           Mr. Frampton?

24 MR. W. FRAMPTON: Okay. Thank you very much, Chair. Aloha  
25           and good morning and happy holidays, Land Use

1           Committee Members. My name is Bill Frampton, and I  
2           am here on behalf of the landowner as their  
3           representative today, and I'll be presenting the  
4           Paia Town Center.

5                     The Paia Town Center, why we're here today, is  
6           to respectfully request the approval of a change in  
7           Community Plan and a Change in Zoning for three  
8           contiguous parcels within the Paia Town Center.

9                     The Paia Town Center consists of four parcels;  
10          however, the -- what we're here for today, again, is  
11          three small -- relatively small parcels. But rather  
12          than look at just those three small parcels and --  
13          and do a piecemeal approach, we prefer to share with  
14          you the entire master plan of the Project to help  
15          you better understand the context of how those three  
16          parcels relate to the land that's already zoned.

17                    The subject properties, you can see, are  
18          located right here in the heart, core of Paia Town  
19          at the corner of Baldwin and Hana Highway. The  
20          property is also bounded by Luna Place to the east  
21          side, if you will, the Hookipa side of the property.

22                    The subject property -- three subject  
23          properties are identified here as parcel -- portion  
24          of Parcel 04, Parcel 109, and Parcel 25. The entire  
25          Paia Town Center is outlined in blue on this

1 exhibit; but again, we're looking at three parcels  
2 that require a zoning change.

3 This is an exhibit to try to identify the  
4 existing land conditions on the property. The  
5 subject property consists of five buildings right  
6 now and a very large dirt/gravel parking area. The  
7 five buildings that exist, four of 'em are  
8 commercial buildings, one is a single-family  
9 residence.

10 Some of the uses, there's three restaurants  
11 within the property and many other several small  
12 shops and businesses. However, the probably biggest  
13 concern of the property that we're looking at today  
14 is the existing dirt/gravel parking area that's  
15 located behind Charley's, Milagro's, and the other  
16 buildings and just below the Bank of Hawaii.

17 You can see the arrows. Those green arrows  
18 indicate the existing access patterns. There's four  
19 two-way driveways to the subject property right now  
20 -- two along Hana Highway, two along Baldwin, and  
21 it's very unorganized, informal, and most  
22 importantly not to Code, and it creates a hazardous  
23 situation in more -- in the back of the parking lot  
24 at night. It's not lighted; and as you heard  
25 previously by the testifiers, it's very conducive to

1 crime and criminal kind of activities that are  
2 really shady and we want to help resolve.

3 Again, here are the three subject parcels  
4 totalling about 13,000 square feet. It's about  
5 17 percent of the entire Paia Town Center, about --  
6 again, 13 percent is -- 17 percent, I'm sorry, is  
7 what we're looking at.

8 These next several slides are photos to help  
9 describe and portray the property, as well as the  
10 surrounding land uses. This photo, in -- in the  
11 lower left-hand corner, you'll see a location map  
12 and an -- the red arrow typically stands for where I  
13 was standing looking with the camera, but this is  
14 the intersection of Baldwin and Hana Highway. You  
15 can see Milagro's Mexican Restaurant right there in  
16 the Mercantile Building off to the side.

17 This is standing on Hana Highway looking at  
18 the property across the -- the property is across  
19 the street at this point. The Paia Town Center  
20 right there, there's Charley's Restaurant, one of  
21 the -- two of the existing driveways you can see,  
22 and of course there's Hana Highway with its recent  
23 improvements.

24 This is looking up Baldwin Avenue with the  
25 property on your left-hand side. The site that's

1 proposed for the new buildings identify with that  
2 blue arrow right there on the mauka side of -- of  
3 Milagro's.

4 Here's the property again where the new  
5 building would go. We're looking directly at that  
6 portion of vacant land right now.

7 This is -- starts to show some of the photos  
8 in the back of the property that we're -- I think a  
9 lot of us are familiar with. That red dashed line  
10 represents the -- the separation between the land  
11 that's already zoned and land that isn't zoned. The  
12 land to the left, if you will, that's sort of away  
13 from us is the land that we're looking at trying to  
14 zone so that we can do the master plan. We can't do  
15 it today with the existing zoning. And in the  
16 background, you can see the existing dilapidated  
17 residence.

18 Another photo, this time looking makai towards  
19 Hana Highway; but again, you start to get the feel  
20 of what that property is like in the back. And  
21 another photo of the back property.

22 This is a photo of Luna Place. That's the  
23 street that bounds the property on the Hookipa side,  
24 the east side. It's an unimproved roadway that  
25 has -- serves as access for numerous residents.

1           I'd like to briefly touch upon some of the  
2           significant factors that helped influence and shape  
3           the ultimate design of our Project. I think one of  
4           the biggest factors was public health and safety,  
5           what can we do to deter the criminal activities, the  
6           drugs, the fights that go on back there.

7           Our proposal was to pave the parking lot,  
8           provide ample lighting, the landscape plantings, and  
9           also provide for space for -- for a new Community  
10          Police Officer in the building on Baldwin Avenue.  
11          We've discussed this with the Police Department, and  
12          there is an officer here today that can help share  
13          further those discussions.

14          The parking shortage in Paia Town, I'd like to  
15          note that we maximized the number of off-street  
16          stalls. We -- we -- we absolutely maxed out as many  
17          as we could get, which required incorporating the  
18          25 percent that's allowed by Code of -- of compact  
19          parking stalls.

20          But I would like to note, those compact  
21          parking stalls, they're only compact in length, not  
22          width. And I think that's an important note to keep  
23          in mind that it's not a narrow parking lot where you  
24          squeeze a car in next to a truck and you get  
25          dinged-up doors. It's -- it's still a wide lot,

1           it's just the length we -- we reduced.

2                     The building design, massing, and scaling;  
3           again, Paia Main Street Association worked with us  
4           to make sure that we kept with the -- the great  
5           character and Code of -- of Paia and following the  
6           Paia Town Design Guidelines.

7                     The community-based planning to help build  
8           consensus and transparency; again, for almost  
9           four years now, we've worked with Paia Main Street  
10          Association. It was really a positive process, and  
11          we really enjoyed it because they were great people  
12          to work with.

13                    We tried to enhance the sense of place by  
14          including the public courtyard gathering areas with  
15          historic information board, and impact -- the  
16          impacts upon Luna Place residences are also a very  
17          important consideration. That building that we're  
18          going to show you eventually needs to be designed  
19          with sensitivity to the residents.

20                    And also, how can we help reduce the reliance  
21          of vehicles and then ultimately reduce the need for  
22          parking? We did that by working with the County,  
23          Department of Transportation, in trying to increase  
24          bus ridership, providing a bus stop and shelter, as  
25          well as bicycle racks.

1           This is the subject property. The -- if we go  
2           and hit the next slide, we're going to identify the  
3           89 parking stalls proposed with lighting and  
4           landscaping. With that comes an improved flow of  
5           access. We're going to have a one-way-in entrance  
6           along Hana Highway and a one-way-out exit on Baldwin  
7           Avenue, and we're going to abandon the two other  
8           driveways. And we really think that in talking with  
9           various government agencies and the community, that  
10          this will be a help -- really help in the area in  
11          terms of understanding the flow.

12                 Here's our two new commercial buildings. The  
13          building along Baldwin Avenue is a two-story  
14          commercial building consisting of 5,640 square feet.  
15          The building in the rear is a two-story commercial  
16          building that's 4,200 square feet.

17                 Here's the two courtyard gathering areas that  
18          we -- that Lisa Starr talked about earlier, one's  
19          between the new building and Milagro's and the  
20          other one's up near Charley's. And we really think  
21          these are going to be a nice, fun area with  
22          landscaping and tables and whatnot for people to  
23          hang out.

24                 We also are going to include public rest  
25          rooms, space for a Community Police Officer and,



1           again, I mentioned bicycle racks, as well as that --  
2           if you push it again, Dean, I think they're -- we're  
3           talking along Hana Highway of trying to provide a  
4           new bus stop area and shelter, too, and the County  
5           was very receptive to that.

6                     Again, and there -- the red dashed lines up  
7           there in the upper right-hand corner, that -- those  
8           are the three parcels that we're talking about that  
9           we would require zoning change and Community Plan  
10          Amendment in order to implement this plan.

11                    Architectural drawings of the building along  
12          Baldwin Avenue. This parcel, again, is already  
13          zoned, and we're entitled to build it; however, I  
14          just wanted to share that with you for the master  
15          plan.

16                    And the next slide shows the building that  
17          would require a zoning change in order to build  
18          this. And there's two different architectural  
19          styles there that I'll let our architects share more  
20          detail if you have questions about later; but,  
21          again, they were designed to being consistent with  
22          the design guidelines and in keeping with the  
23          character of Paia.

24                    These next three slides just identify the  
25          State -- the government Land Use designations. This

1 is the State Land Use Commission Map, and you can  
2 see that we're engulfed within an Urban area.

3 Here's the Paia-Haiku Community Plan. The  
4 three parcels that we're looking at have been  
5 designated Single-Family; however, they have -- only  
6 one parcel, Parcel 25, has been in Single-Family  
7 use. The other two have not been in Single-Family  
8 use. They're used for parking and also a portion of  
9 Charley's Restaurant. It's just the Parcel 25 that  
10 we would need to really change.

11 Here's the zoning map again. Interesting,  
12 these three parcels were not changed during the  
13 comprehensive zoning that was -- took place several  
14 years ago of Paia. We don't know exactly why, to be  
15 honest, but we do know that they are Interim today,  
16 and we're requesting to be changed to  
17 Business-Country Town.

18 Drainage plan, I'd just like to note that the  
19 existing runoff right now is 5 cubic feet per second  
20 for a 50-year one-hour storm; after construction, it  
21 will be increased to 7; therefore, the difference  
22 caused by our Project, or the increase from our  
23 Project is 2.CFS -- 2.0.

24 We are proposing to handle that via  
25 underground drainage systems, and we're also

1           proposing to oversize the system to handle more than  
2           required. We think that's just part of doing the  
3           fair share in the area. And we also will include --  
4           if you go back one second, Dean, to that slide, the  
5           catch basin inserts is something that we're --  
6           we're -- we've been using for other projects and we  
7           look forward to using here. They're absorbant  
8           pouches that go within these drainage basins to help  
9           absorb pesticides, oils, gas, whatnot.

10                    Okay, this next slide here is the traffic  
11           impact analysis for the master plan. And I  
12           apologize that our traffic engineer could not be  
13           here today. He's had an emergent -- a  
14           health-related emergency that came up at the last  
15           minute.

16                    However, I -- I -- the big picture that we're  
17           talking about is we're looking at increasing  
18           existing uses on that property. We want to add  
19           about 9,000 square feet of commercial use to an  
20           existing 20,000 square feet that's there.

21                    We think that when you look at the existing  
22           traffic conditions, then we assess the future  
23           traffic conditions without the Project, and then  
24           when you include our generated trips, the net -- the  
25           incremental difference between the existing and the

1 future conditions without our Project is what our  
2 impacts would be.

3 And on the bottom titled number 4, "Project  
4 Related Impacts," at the intersection of Hana  
5 Highway and Baldwin is what we're looking at, the  
6 average delay in seconds per car what we're -- in  
7 the morning peak hour would be anywhere between 0 to  
8 .9 seconds average, which is very negligible; during  
9 the peak afternoon, it would be 0 to 6.9 seconds,  
10 maybe, per vehicle.

11 The percentage increase, again, would be --  
12 we'd add about 2 percent during the peak hours. In  
13 the morning, we'd add about 2 percent more vehicles  
14 to the existing flow; and in the afternoon, about  
15 1.6 percent.

16 But I -- I do want to make one comment  
17 regarding traffic. If you look at what we show  
18 under existing conditions, the level of service  
19 under number 1 shows LOS B, a level of service B, as  
20 well as in the -- both the morning and the  
21 afternoon.

22 That is very deceiving, and I -- I want to  
23 make sure that no one thinks we're trying to cover  
24 up anything. Because if we all know Paia,  
25 especially during the afternoon peak hours,

1 experiences heavy congestion.

2 The problem is when we -- when we do an  
3 assessment of traffic and the related impacts, our  
4 traffic engineer is required to use national  
5 standards. And you need to look at things like  
6 volume -- the volume of the highway to the capacity  
7 of the roadway -- the volume of vehicles, I mean, to  
8 the capacity. You need to look at delays in seconds  
9 and whatnot.

10 Ironically, there are other forces that play  
11 in Paia that cannot be accounted for, such as it's  
12 the -- related to the island lifestyle, to me, I  
13 believe. You've got on-street, angled parking. Any  
14 time those cars want to reverse out or pull into  
15 their stalls and do this maneuvering, that's a point  
16 of friction.

17 Delivery trucks don't have anywhere, really,  
18 to pull in, that causes another source of friction;  
19 anybody just driving into town just sort of doing  
20 the nice thing that locals can do, stopping, saying  
21 go ahead, come on out, stop up traffic, let somebody  
22 out, or stopping and just talking story with  
23 somebody; residents J-walking going across the  
24 street.

25 All these things start to add up, and all of a

1 sudden, we got some peak traffic hours with  
2 congestion. However, when you calculate it versus  
3 national standards, those intersections should flow  
4 freely, and that -- that's one thing I do want to  
5 make sure that we're not up here trying to kid  
6 anybody. We know that there's congestion.

7 However, our Project we believe the amount of  
8 traffic we're adding to that situation will be  
9 negligible. And we think that by having one-way in,  
10 one-way out and our -- and providing more off-street  
11 parking stalls is going to be an improvement for the  
12 area.

13 This is just a slide we may want to come back  
14 to later, but it just shows the recent improvements  
15 that took place since our Project began. And I  
16 think the one of most significance is on the  
17 left-hand side, you'll see the left-turn storage  
18 lanes that the State Department of Transportation  
19 recently put in.

20 You have nice pockets now to pull into to --  
21 if you want to take a left in either direction that  
22 you don't cause a backup. That will help the  
23 increase in flow in the area. And also a crosswalk  
24 near our Project was also added and that's a --  
25 that's a nice addition.

1           Lighting, we're very concerned about providing  
2 proper lighting. This was just an exhibit to  
3 identify that we want to make sure that we don't  
4 include light trespassing, where we throw the light  
5 onto our property, not into the neighbors' eyes or  
6 into their windows or into the driver's eyes, and  
7 that sort of bottom -- the top exhibits show you  
8 standards of lights that shine down that we can use  
9 now with proper shielding, and the bottom exhibit is  
10 just a property -- example of if the property is to  
11 the -- boundary is to the left-hand side, we would  
12 -- we would place our light pole so that the light  
13 would not trespass into the neighbors' yards. And I  
14 think that's a good thing for safety and just  
15 overall conditions.

16           And the last slide is a parking analysis. I  
17 just -- we wanted to point out that currently today,  
18 there are about 278 parking stalls in all of Paia  
19 Town. That includes the two public parking lots,  
20 on-street parking, and a few other private  
21 off-street parking lots.

22           Our analysis shows that in the end -- right  
23 now, we provide about 18 percent of the stalls in  
24 the area. When we're completed with our new -- with  
25 the 89 stalls, we're going to represent -- that

1 number up there is incorrect, the 28 percent. The  
2 handout that I gave you shows 39 percent. So we're  
3 going to provide 39 percent of the off-street  
4 parking, while we'll only be 22 percent of the total  
5 commercial space in the area. And the landowner is  
6 very happy about this. We really believe it's going  
7 to be a good increase -- help in the area, and it's  
8 an exciting thing to be doing.

9 The last slide, you folks can review on your  
10 own. Eventually -- it's just the conclusion that  
11 with the -- the Change in Zoning is required for  
12 conformance and consistency. We believe we're going  
13 to improve public health and safety with the parking  
14 lot, increase of parking is going to be helpful,  
15 the -- the appropriate location for the Project, the  
16 size, massing, and scale of the buildings we think  
17 are appropriate, and the enhanced sense of place.

18 And finally, on the very bottom, I just wanted  
19 to note that when we did do our environmental  
20 assessment, which again was triggered because of the  
21 Community Plan Amendment for the three parcels, we  
22 did it for the entire Project, and it resulted in a  
23 findings of no significant impact or a FONSI. That  
24 meant no significant impact to our environmental  
25 resources or socioeconomic conditions.



1                   And that will conclude our presentation, and  
2                   we'll be available, Mr. Chair, for any questions the  
3                   Members may have. Thank you very much.

4 CHAIR MOLINA: Okay. Thank you very much, Mr. Frampton.  
5                   Members, I'm going to call for a short recess to put  
6                   the screen up; and when we come back, we'll resume  
7                   deliberations on Land Use Item 5. Meeting in  
8                   recess. ...(gavel)...

9 **RECESS:           9:39 a.m.**

10 **RECONVENE:       9:42 a.m.**

11 CHAIR MOLINA: ...(gavel)... Land Use Committee meeting for  
12                   December 19th, 2007, is now back in session.

13                   Thank you very much for that presentation,  
14                   Mr. Frampton. We are on Land Use Item 5, which is a  
15                   Community Plan Amendment and Change in Zoning to  
16                   redevelop the Paia Town Center.

17                   The Committee is in receipt of the following,  
18                   County Communication No. 07-24, from the Planning  
19                   Director, transmitting proposed bills to grant a  
20                   request from Grace Condos, on behalf of 120 Hanna  
21                   Highway, LLC, for a Community Plan Amendment from  
22                   Single -Family to Business/Commercial and a Change  
23                   in Zoning from Interim District to B-CT Country Town  
24                   Business District for properties located at 142 Hana  
25                   Highway, 20 Luna Place, and 24 Luna Place, Paia,

1 Maui, and collectively comprising approximately  
2 13,334 square feet, in order to redevelop the Paia  
3 Town Center, which will also encompass properties  
4 located at 120 Hana Highway and the remainder of 142  
5 Hana Highway.

6 In addition, a correspondence dated  
7 October 8th, 2007, from the Department of  
8 Corporation Counsel, transmitting the following, a  
9 revised proposed bill entitled "A BILL FOR AN  
10 ORDINANCE TO AMEND THE PAIA-HAIKU COMMUNITY PLAN AND  
11 LAND USE MAP FROM SINGLE-FAMILY TO  
12 BUSINESS/COMMERCIAL FOR PROPERTY SITUATED AT PAIA,  
13 MAUI, HAWAII." The purpose of the revised proposed  
14 bill is to grant a Community Plan Amendment from  
15 Single-Family to Business/Commercial for the subject  
16 property.

17 And a revised proposed bill was also received  
18 entitled a Bill for an Ordinance to Change Zoning  
19 from Interim District to B-CT Country Town Business  
20 District, otherwise known as Conditional Zoning, for  
21 Property Situated at Paia, Maui, Hawaii. The  
22 purpose of the revised proposed bill is to  
23 conditionally change the zoning from Interim  
24 District to B-CT Country Town Business District for  
25 the subject property.

1                   And with that mouthful being said, Members, I  
2                   will turn matters over to the Deputy Planning  
3                   Director, Ms. Suyama, to give a brief overview of  
4                   the proposed Project. Madam Director?

5   MS. SUYAMA: Thank you. This Project was heard by the  
6                   Planning Commission on March 14th, 2006, and we had  
7                   one person who testified at the hearing and one  
8                   written testimony.

9                   The only concern that was raised by the  
10                  community was that of the substandard road, Luna  
11                  Place. And they did not want, you know, additional  
12                  business traffic coming onto a substandard  
13                  residential street. And for that reason, both the  
14                  Department and the Commission supported one  
15                  condition of zoning, which is that vehicular access  
16                  from Luna Place shall be prohibited.

17                  The applicant has no objections to that. And  
18                  as you saw in the presentation, their roadway  
19                  traffics pattern would be one-way in from Hana  
20                  Highway and exiting onto Baldwin Avenue, so all of  
21                  these properties will have access through those two  
22                  driveways. Okay.

23   CHAIR MOLINA: Okay. Thank you, Madam Director. Committee  
24                  Members, any questions first for the Planning  
25                  Director?

1           And also, just a reminder, we do have the  
2           applicant's representative, Mr. Frampton, available  
3           for questions as well. And I might want to mention  
4           we have from -- for our Resource Personnel available  
5           for questions from the Public Works Department,  
6           Deputy Director Mike Miyamoto; and from the Police  
7           Department, Sergeant Stephen Orikasa is also  
8           available; and from the State Department of  
9           Transportation, Charlene Shibuya is here. And we  
10          did invite the Fire Department; however, due to an  
11          emergency, we were not able to get a representative  
12          here to give us any of their input on this matter.

13                 So for right now, I believe Mr. Pontanilla had  
14          a question for the Deputy Director of Planning.

15          Mr. Pontanilla?

16   VICE-CHAIR PONTANILLA: Thank you. Ms. Suyama, in regards  
17          to Luna Place, is that a private road or a public  
18          road?

19   MS. SUYAMA: I'm not sure. You may want to talk to the  
20          Deputy Director of Public Works.

21   VICE-CHAIR PONTANILLA: Thank you.

22   CHAIR MOLINA: Mr. Pontanilla, would you like Mr. Miyamoto  
23          to come up and respond to that question?

24   VICE-CHAIR PONTANILLA: Yes.

25   CHAIR MOLINA: Okay. And I see Mr. Miyamoto just left the

1 room when we need him. So when we comes back,  
2 Mr. Pontanilla, we'll -- we'll call him to the  
3 front. Committee Members?

4 VICE-CHAIR PONTANILLA: I -- I hope I no forget the  
5 question.

6 CHAIR MOLINA: Okay. The Chair will make -- make an effort  
7 to remember for you.

8 VICE-CHAIR PONTANILLA: Thank you.

9 CHAIR MOLINA: Committee Members, any other questions for  
10 the Planning Director at this point? Member  
11 Johnson?

12 COUNCILMEMBER JOHNSON: Yes. Thank you, Colleen. Two  
13 areas. Because -- I -- I know we just got through  
14 doing the Water Bill, which only applies to  
15 subdivisions so it's not really going to be  
16 applicable to this.

17 In your review, was -- was there ever an issue  
18 raised about having sufficient water service for the  
19 area, pressure, anything?

20 MS. SUYAMA: That did not come up. We just have the  
21 standard comments from the Water Department about  
22 the Central Maui Aquifer and the -- you know, the  
23 availability of water will be determined at the time  
24 of building permit application. That's about the  
25 only thing.

1                   And they do say that if you need to do any --  
2                   you know, upon building permit review, if you need  
3                   to do any upgrades at that time, that the applicant  
4                   will be required, you know, during the building  
5                   permit review to meet whatever system upgrades.

6   COUNCILMEMBER JOHNSON:   And -- and the same thing would be  
7                   true for Fire Department for fire flow?

8   MS. SUYAMA:   That's correct.

9   COUNCILMEMBER JOHNSON:   Okay.   Because I -- I know that  
10                   that is something that -- in that area particularly,  
11                   of course the proximity to the fire station, it's  
12                   very, very close, you know, so that wouldn't be a  
13                   problem.

14                   I -- I notice also on I guess it would be  
15                   Exhibit 19, which is the Chapter 6(e)(42), Historic  
16                   Preservation Review, one of the comments, I guess,  
17                   they make is, will await the submittal of an  
18                   archaeological monitoring plan.

19                   So I know we had this come up before on  
20                   another application, so what is the status on that?

21   MS. SUYAMA:   Normally, the monitoring plan is done prior to  
22                   them initiating construction.   In this case, because  
23                   the Project is already -- you know, the property is  
24                   developed --

25   COUNCILMEMBER JOHNSON:   Uh-huh.

1 MS. SUYAMA: -- that they did not require them to do an  
2 inventory survey.

3 COUNCILMEMBER JOHNSON: Okay.

4 MS. SUYAMA: But they do want a monitoring plan just in  
5 case during construction activity, there are  
6 inadvertent finds --

7 COUNCILMEMBER JOHNSON: Uh-huh.

8 MS. SUYAMA: -- on the property. And that is worked out  
9 after approvals are granted.

10 You know, normally before the building permit  
11 is issued, the applicant would be working with the  
12 State Historic Preservation Division to getting a  
13 monitoring plan approved by State Historic  
14 Preservation so that when they're ready with their  
15 building permit, they're ready to go. Because  
16 without that monitoring plan, they basically, you  
17 know, would not be able to initiate construction.

18 COUNCILMEMBER JOHNSON: Okay. And then I also notice in  
19 the comments made by the Office of Hawaiian Affairs  
20 that they state that they're pleased with this  
21 landowner, that they undertook an archaeological  
22 inventory survey of the affected parcel, as well as  
23 conducted a cultural impact assessment, which I  
24 think is very useful. So they do make that comment.

25 And they state that it does -- they do not

1 believe the proposed Project will have any adverse  
2 impacts on any known native Hawaiian traditional or  
3 customary practices, you know, and I -- I -- I  
4 appreciate that because of past experience that  
5 we've had with comments from OHA.

6 That's all I have, Mr. Chair, at this time.

7 Thank you.

8 CHAIR MOLINA: Okay. Thank you, Member Johnson. Committee  
9 Members, any other questions for the Planning  
10 Director? Mr. Victorino?

11 COUNCILMEMBER VICTORINO: Yes. This one would partly be  
12 for the Planning Director and then for Charlene  
13 because I -- I -- I'm -- I've had a number of calls  
14 from people who are very concerned, and -- and --  
15 and I did not bring this up to the developer till  
16 today, so I -- I'm not sure that they would be ready  
17 to answer it.

18 But I'm all for the entry and exit, one in and  
19 one out, but many people are concerned that many  
20 visitors, as well as local residents who would be  
21 going to Haiku or to east end who stop there and may  
22 have pick up their coffee, spend a little time  
23 shopping and then heading out to Hana or wherever,  
24 now have to go back onto Baldwin and come back  
25 around and making not only Baldwin congested and



1 Hana Highway congested to go where they may have  
2 just come in from.

3 And so they're very concerned that there is --  
4 and -- and -- and the question came up, and I -- I  
5 guess the answer or the -- the answer that I wanted  
6 to propose was a right lane only like they presently  
7 have for exiting the property onto Hana Highway for  
8 -- for the specific movement towards East Maui  
9 instead of recongesting Baldwin Avenue and then  
10 recongesting Hana Highway with cars that have come  
11 in and now are going back out that way have to come  
12 completely around the -- the -- the facility.

13 So I don't know how the Planning Commission  
14 viewed this, but I'd ask you first of all because  
15 I'll ask Charlene later, Ms. Suyama, do you think  
16 that would be a reasonable concern as far as the  
17 exiting of the property?

18 CHAIR MOLINA: Director?

19 MS. SUYAMA: This -- yeah. This didn't come up during the  
20 time of the Planning Commission review. They  
21 accepted the one-way in, one-way out scenario.

22 COUNCILMEMBER VICTORINO: Uh-huh.

23 MS. SUYAMA: I think one of the problems is that because of  
24 the location of the building on Baldwin Avenue, that  
25 would have been a difficult proposal for them to do

1           a two-way driveway access because of the  
2           constriction of the building.

3                   I'm not sure about the one on Hana Highway.

4 COUNCILMEMBER VICTORINO: Uh-huh.

5 MS. SUYAMA: That may be something you may want to address  
6           to the applicant as to whether provisions can be  
7           made for a right turn out of Hana Highway.

8 COUNCILMEMBER VICTORINO: Okay. I -- I -- I guess we'll --  
9           I'll wait till -- till we get to Charlene and -- and  
10          the applicant to discuss that matter.

11                   I -- I also recognize the fact that they have  
12          tollgates on both ends, which is part of the control  
13          factor as far as the parking is concerned. And, you  
14          know, for most commercial entities today, control  
15          gates are a part of the -- the ambience, yeah? But  
16          maybe that might be another factor or loss of  
17          parking or whatever, but I'd like to ask that  
18          question at a later point, Mr. Chair.

19 CHAIR MOLINA: Okay. Thank you, Mr. Victorino. Committee  
20          Members, any other questions for the Planning  
21          Director before we invite our other resource  
22          personnel? Mr. Pontanilla?

23 VICE-CHAIR PONTANILLA: Thank you. Ms. Suyama, so coming  
24          from the Planning Commission, the only condition  
25          that they imposed was the vehicular access from Luna

1 Place shall be prohibited?

2 MS. SUYAMA: That's correct.

3 VICE-CHAIR PONTANILLA: Thank you.

4 CHAIR MOLINA: Okay. Thank you, Mr. Pontanilla. Any other  
5 questions for Director Suyama? Seeing none, at this  
6 time, the Chair would like to invite Mr. Miyamoto to  
7 respond to a question from Mr. Pontanilla.

8 And after we're done with questions from  
9 Mr. Miyamoto, I'd like to invite Sergeant Orikasa  
10 from the Police Department to respond to questions  
11 from the Committee.

12 Good morning, Mr. Miyamoto.

13 MR. MIYAMOTO: Good morning, Mr. Chair.

14 CHAIR MOLINA: Mr. Pontanilla?

15 VICE-CHAIR PONTANILLA: Thank you. Simple question. Luna  
16 Place, private or public?

17 MR. MIYAMOTO: Mr. Chair. In checking with Staff, the  
18 current inventory lists Luna Place as a private  
19 roadway.

20 VICE-CHAIR PONTANILLA: Private roadway.

21 MR. MIYAMOTO: Yes.

22 VICE-CHAIR PONTANILLA: So we don't have to require any  
23 dedicated portions from the developer?

24 MR. MIYAMOTO: Not at this point.

25 VICE-CHAIR PONTANILLA: Thank you. Maybe get two

1           questions. The second question is in regards to --  
2           and this caught my eye, the catch basin insert,  
3           which is very environmental friendly.

4                        I don't know if we have any of this catch  
5           basins with the inserts anywhere on Maui. Can you  
6           enlighten us if, you know, any other developer  
7           provided, you know, that absorbant pouches to  
8           capture oil and debris?

9   MR. MIYAMOTO: Actually, Deputy Director Suyama can confirm  
10           that. The Planning Commission is making that pretty  
11           much a standard condition of all proposals at this  
12           point, that all drainage inlets have the -- these  
13           separators and the filters.

14   VICE-CHAIR PONTANILLA: Not on the roadways but for parking  
15           lots only?

16   MS. SUYAMA: Maybe I can address some of this. The  
17           Planning Commission, because only those projects  
18           that are in the -- the Special Management Area that  
19           they have jurisdiction on, drainage and the  
20           retention of contaminants on the property and  
21           filtering it out is -- is very important to the  
22           Commission when they review these Projects so it's  
23           become mostly a norm for the developers to now  
24           integrate these types of systems into their  
25           projects.

1                   There's only one case that I remember that --  
2                   during the review of the Commission that the Public  
3                   Works Department had made provisions for similar  
4                   type of filters, and that was when they were doing  
5                   the Lower Honoapiilani Road improvements by  
6                   Napilihau, that they were going to be accommodating  
7                   concerns that were raised to putting a filter in one  
8                   of the -- in one of the catch basins.

9                   Other than that, I'm not familiar of the  
10                  County implementing this or requiring this as part  
11                  of other developments as your -- they review their  
12                  drainage plans.

13       VICE-CHAIR PONTANILLA: Thank you. And -- and, Chairman,  
14                  you know, the idea of, you know, this insert, you  
15                  know, could help us in -- in regards to our  
16                  environment so I think it's something that we need  
17                  to look at probably, you know, in the County, as  
18                  well as the State roadways, to capture the oils.  
19                  Thank you, Chairman.

20       CHAIR MOLINA: Okay. Thank you, Mr. Pontanilla. Committee  
21                  Members, questions for the Public Works Director?  
22                  Ms. Johnson?

23       COUNCILMEMBER JOHNSON: Thanks very much, Mike. The -- I  
24                  guess the drainage structures, how often do they  
25                  generally require maintenance? And with recent

1           rains that we've had, how do they function during  
2           periods of torrential downpour?

3 CHAIR MOLINA: Mr. Director?

4 MR. MIYAMOTO: Mr. Chair. The -- the -- the first flow  
5           during a rain is primarily when you have a lot of  
6           the -- the oils from the roadway so naturally, the  
7           filters will capture that.

8           Then as -- you know, its primary goal is to  
9           capture the beginning part because if you have a  
10          very high flow, the -- a lot of the particulates  
11          will not have time to settle out. So obviously,  
12          the -- the maintenance of these facilities is  
13          dependent upon the number of rain events.

14          Typically, what you would -- I think in the  
15          Planning Commission, that question always comes up  
16          about maintenance. And, you know, typically, the  
17          applicants have said that, you know, they'll check  
18          it before if -- if it's anticipated for a major rain  
19          event, they'll make a maintenance check to make sure  
20          that, you know, their -- their systems are clear,  
21          and they'll also look at it after an event to make  
22          sure that, you know, the system is not clogged so  
23          that the next event will be a problem. So it really  
24          depends on the number of frequencies.

25 COUNCILMEMBER JOHNSON: How are they accessed in terms of

1 service? Are -- is there a port, you know, up above  
2 where you would go down and change the filtration  
3 mechanism?

4 MR. MIYAMOTO: Yeah. Typically, it's like a regular catch  
5 basin or a manhole where you -- you access it from  
6 the top. You lift the grate off and then you can  
7 get access to the filters.

8 COUNCILMEMBER JOHNSON: Okay. But during some of the most  
9 recent storm events, we had -- the manhole covers  
10 actually lifted off and then went somewhere.

11 Would this be a similar concern, or do they  
12 have a locking mechanism on them?

13 MR. MIYAMOTO: Typically, they're not locked, you know, but  
14 the -- the events of the manhole filling up and the  
15 lids floating, probably because there's some kind of  
16 debris that may be clogging the system so that's  
17 something that needs to -- to be, you know, just  
18 checked.

19 And when it's clogged like that, generally,  
20 you -- there's nothing you can really do because the  
21 more you try to suck the water out so you can try  
22 and address the clog, the more water will come in.

23 So you pretty much -- you're sort of in a  
24 holding pattern till the water coming in can subside  
25 and then you can go in and -- with a vac truck and

1           suck out the water and see what obstruction's down  
2           there, or you could probably try and drop a hook to  
3           try and cap -- try and hook on to whatever debris  
4           may be in there, but you also run the risk of  
5           hooking your pipe and creating another problem at  
6           that point.

7   COUNCILMEMBER JOHNSON:  And this is not in the Special  
8           Management Area, is that correct?

9   CHAIR MOLINA:  Director Suyama?

10  MS. SUYAMA:  This Project is within the Special Management  
11           Area.

12  COUNCILMEMBER JOHNSON:  Oh, it -- it is.

13  MS. SUYAMA:  And it did go concurrently with an SMA Permit  
14           before the Commission.  That permit is deferred  
15           until the Council acts on the Community Plan and  
16           Change in Zoning.

17  COUNCILMEMBER JOHNSON:  Okay.  And there were no  
18           intervenors or anything?

19  MS. SUYAMA:  No.  No.  So far, most of the testimony I  
20           think has been in support of this Project.

21  COUNCILMEMBER JOHNSON:  Okay.  Again, Mr. Miyamoto, if you  
22           could -- do you have any experience with regard to  
23           the drainage structures?  Do they perform similarly  
24           to other drainage structures, or do they clog -- do  
25           they need more frequent service?



1                   Because the filtration mechanism, because it  
2                   is so efficient, I would think it would clog up more  
3                   rapidly. So do these require a little bit more  
4                   intense service, or do they perform the same as any  
5                   other drainage structure?

6 CHAIR MOLINA: Mr. Director?

7 MR. MIYAMOTO: Mr. Chair. That's probably one -- one of  
8                   the reasons why we're not -- we're concerned about  
9                   putting them on the public roadways because we  
10                  keep -- whereas when you have them in the parking  
11                  lots, you know, your amount of debris is somewhat  
12                  limited to that parking lot area; and with the  
13                  landscaping plans, you can control the amount of  
14                  debris that enters into your system.

15                  Whereas when you have it on the public  
16                  roadways, you know, debris in -- on the roadways  
17                  from the adjacent properties can be the biggest  
18                  problem. That's why we haven't really pushed hard  
19                  to try and have them installed in the -- the public  
20                  roadways at this point specifically for that reason  
21                  because the debris -- whether it's on the top  
22                  clogging it or if it's actually inside the manhole.

23                  If it's on the top, it's easier to clean; if  
24                  it's alongside the curb and gutter, you can easily  
25                  clean the -- the -- the grates out and then the

1 water can go into the system. But once it gets into  
2 that manhole, it's very -- it becomes more difficult  
3 to try and clean that -- that filtration system  
4 while there's water coming in, so...

5 COUNCILMEMBER JOHNSON: I -- I really appreciate that  
6 because a lot of times with new technology or new  
7 systems, we don't know until they've performed for a  
8 while that sometimes it was better to use the old  
9 system.

10 Okay. Thank you very much, Mr. Chair.

11 CHAIR MOLINA: Thank you, Member Johnson. Committee  
12 Members, further questions for our Public Works  
13 Director? Mr. Pontanilla?

14 VICE-CHAIR PONTANILLA: Yeah, thank you. You know whenever  
15 they suck the manholes or if -- if they get rid of  
16 the liners -- I know we had some problems in regards  
17 to car washes that whatever debris or oils that they  
18 get from the car wash, an area to get rid of this  
19 thing was a problem.

20 So when they suck the manholes, you know, in  
21 this case here and as well as the liner replacement,  
22 where do they take the debris, the liner for  
23 disposal?

24 CHAIR MOLINA: Mr. Director?

25 MR. MIYAMOTO: Mr. Chair. My understanding is that the

1 liner, because it, you know, becomes a hazardous  
2 material, it goes through that process of being  
3 disposed of as -- typically like you would a  
4 hazardous material.

5 One of -- you know, you'd contact a company,  
6 and you'd go ahead and take that filter material and  
7 put it in a container and then they would dispose of  
8 it for you. That's my understanding at this point.

9 VICE-CHAIR PONTANILLA: So we don't have any receiving  
10 sites here on Maui County?

11 MR. MIYAMOTO: Not so much to dispose of but, I mean,  
12 there's certainly companies that will -- can -- can  
13 package the -- the material up and ship it away for  
14 disposal for incineration or whatever other methods  
15 that -- that's out there but, no, on Maui, there  
16 isn't anything specific.

17 VICE-CHAIR PONTANILLA: Thank you. Thank you, Chairman.

18 CHAIR MOLINA: Okay. Thank you, Mr. Pontanilla. Seeing no  
19 further requests for questions from the Public Works  
20 Director, the Chair has just one quick question.

21 On page 18 and 19 of the Planning Department's  
22 report, there was a recommendation to install a  
23 parabolic mirror to provide drivers with a view of  
24 approaching pedestrians along the adjacent sidewalks  
25 of Baldwin Avenue and also to install a speed bump

1 along Drive A to slow traffic down as it approaches  
2 the sidewalk and the installation of a stop sign.

3 Mr. Miyamoto, do you have any comments on this  
4 suggestion?

5 MR. MIYAMOTO: Yes, Mr. Chair. Those -- these suggestions  
6 are primarily to protect -- you know, because  
7 there's a building that's so close in proximity to  
8 the sidewalk and the driveway, it creates such a  
9 blind spot.

10 And, you know, you -- one, you want to control  
11 the speed of the people so you have the stop sign  
12 and the speed bump; and two, you want to make it  
13 visible for pedestrians that may be blocked out  
14 by -- by the building so that -- you know, that --  
15 that mirror will certainly change color when a  
16 vehicle is coming out so that at least they can be  
17 aware of.

18 There may be additional things that we may  
19 have to consider to -- to let -- let people know to  
20 look at that mirror, to let 'em know, so, yeah,  
21 we're in favor of it.

22 CHAIR MOLINA: Okay. All right. Thank you very much.  
23 That's a nice segue now to our next resource  
24 personnel as it relates to traffic and other police  
25 concerns.

1                   I'd like to invite Sergeant Orikasa up to take  
2                   the stand -- or take a seat. Always wanted to say  
3                   that. I'm just kidding. I'm just kidding.

4 COUNCILMEMBER VICTORINO: For the defense, eh?

5 CHAIR MOLINA: Good morning, Sergeant Orikasa, and thank  
6                   you for waiting so patiently. We all know you're a  
7                   very busy individual like the rest of our men and  
8                   women in blue.

9                   Can you give us some -- just some brief  
10                  comments on the Project itself as it relates to  
11                  police matters?

12                 And I'm sure you heard some testimony as it  
13                 related to the issue of crime within the area and  
14                 the Project site. Are you available to give us some  
15                 initial comments before I turn the floor over to the  
16                 Members for questions?

17 MR. ORIKASA: Yes. In regards to traffic -- traffic trends  
18                 in the area, it -- it's commonly known that Paia, it  
19                 has been a problem area for a large amount of years.

20                 The development of this parcel would include  
21                 crime prevention through design of the property,  
22                 whether it be structurally or through landscape and  
23                 foliage, also through the design of the -- the  
24                 parking area. So I've been speaking with  
25                 Mr. Frampton about that and trying to initiate some

1 measures.

2 CHAIR MOLINA: Okay. So I guess in your opinion at this  
3 point, the way the Project is being designed and the  
4 lighting that's going to be put in, it would, I  
5 guess, meet some of the best management practices  
6 that the police have always recommended to any  
7 project sites?

8 MR. ORIKASA: Yes. There are certain standards that other  
9 states follow as far as crime prevention through  
10 environmental design, and we're going to try and  
11 mirror those standards in the -- discussing the  
12 development of this Project.

13 CHAIR MOLINA: Okay. Thank you. Committee Members, the  
14 floor is open for questions to the Police  
15 Department. Mr. Mateo?

16 COUNCILMEMBER MATEO: Chairman, thank you. Sergeant, good  
17 morning. You've heard in this morning's testimony  
18 that a couple of the testifiers, one of the aspects  
19 that really is an advantage with the development of  
20 this Project is the police substation.

21 In 2005 when the Planning Commission had your  
22 discussion and it included the concept of the  
23 substation, the developer was willing to construct  
24 it, but the Police Department at that time was not  
25 able to commit that it would be manned.

1                   Since 2005 till now, has any position changed,  
2                   and can you tell me whether or not the Department  
3                   had made this a priority in manning this station?

4   MR. ORIKASA:   Okay, at this time, we're doing our best to  
5                   fulfill the Community Police Officer positions,  
6                   though we are dealing with a manpower shortage, and  
7                   we will -- we are continuing recruitment to do our  
8                   best so we can optimize coverage in that area.

9   COUNCILMEMBER MATEO:   Okay.

10   MR. ORIKASA:   At this time, we still don't have an officer  
11                   committed to man that station.  An alternative was  
12                   to use the -- that office as a substation, rather  
13                   than a Community Police Officer's post.

14                   So in -- in shifting the use from a -- the  
15                   Paia Community Center, where we have our existing  
16                   substation, the officers could also use that  
17                   location, which is centralized and closer -- you  
18                   know, just in closer proximity to most of the  
19                   activities in Paia Town.

20   COUNCILMEMBER MATEO:   So in essence, it will be used -- it  
21                   could be used primarily how the Wailuku substation  
22                   along Market Street --

23   MR. ORIKASA:   Correct.  Yeah.  And in -- in doing so, it  
24                   will come along with the same benefits.

25   COUNCILMEMBER MATEO:   Okay.  Thank you.  Thank you,

1 Chairman.

2 CHAIR MOLINA: Okay. Thank you, Mr. Mateo. Mr. Victorino?

3 COUNCILMEMBER VICTORINO: Thank you. And -- and --

4 and you -- thank you, Mr. Mateo, for leading into

5 the question I was going to lead into because that

6 was my understanding, this was going to be a

7 substation, not so much for the Community Police

8 Program, which you know has been a real challenge in

9 a lot of our communities throughout the County.

10 MR. ORIKASA: Yes.

11 COUNCILMEMBER VICTORINO: And by doing that, am I correct

12 in saying it will also free up the officers if you

13 could have something of that nature there to be

14 closer to the proximity of Paia Town and some of the

15 challenges we face, but right now at the Paia

16 Community Center, especially when you have family

17 gatherings and all that, the police officers

18 sometime have a very difficult time getting in

19 because of the parking situation.

20 MR. ORIKASA: Yes.

21 COUNCILMEMBER VICTORINO: Yeah. So I thought that was kind

22 of like the plan that we were leading alone, so

23 thank you, Mr. Mateo, for clarifying that.

24 I have one question as far as traffic. And,

25 again, we're going to go with Charlene because part



1 of it is State, but we got Baldwin Avenue which, if  
2 I'm correct, is a County roadway. I should ask  
3 Mr. Miyamoto, but I'm going on that assumption,  
4 Mr. Chair. And if I'm incorrect, I apologize.

5 But I'm curious to under -- you know,  
6 understand this traffic plan, you know, where they  
7 have everything exiting or entering through Baldwin  
8 Avenue. And I'm very familiar, and I think you're  
9 familiar with Baldwin Avenue, traffic --

10 MR. ORIKASA: Yes.

11 COUNCILMEMBER VICTORINO: -- impact on Baldwin because the  
12 exiting right now -- or I should say all the  
13 existing onto Baldwin Avenue, how would that create  
14 -- especially the left-hand turn because we really  
15 don't have turn lanes on Baldwin Avenue --

16 MR. ORIKASA: Correct.

17 COUNCILMEMBER VICTORINO: -- as far as the upper part where  
18 this exit is. Is -- am I correct, Mr. Orikasa?

19 MR. ORIKASA: Yes.

20 COUNCILMEMBER VICTORINO: Okay. So, you know, now we're  
21 going to have that -- people wanting to turn left  
22 out of here to go up to Baldwin; that creates  
23 another traffic jam.

24 You got people trying to turn right to go down  
25 to -- you know, do you see this possibly as being a

1 congested -- you know, taking congestion from one  
2 area and just moving it to another and -- and a  
3 street which really don't have much area to make  
4 widening for turn lanes and all that?

5 MR. ORIKASA: Well, the way I -- in review of the -- the  
6 plans --

7 COUNCILMEMBER VICTORINO: Uh-huh.

8 MR. ORIKASA: -- from what I could see is there -- there  
9 will be congestion as far as -- due to the one-way  
10 traffic flow through this development and exiting  
11 onto Baldwin Avenue.

12 COUNCILMEMBER VICTORINO: Uh-huh.

13 MR. ORIKASA: But the congestion would take place more on  
14 the private property side rather than out on Baldwin  
15 Avenue.

16 COUNCILMEMBER VICTORINO: Uh-huh.

17 MR. ORIKASA: And once the vehicle is able to exit, no --  
18 it -- it will move into the -- the regular normal  
19 traffic flow onto Baldwin Avenue, whether it's a  
20 left turn or a right turn.

21 COUNCILMEMBER VICTORINO: Uh-huh.

22 MR. ORIKASA: So as -- as far as the increase in congestion  
23 in that one area, I would say yes, there will be an  
24 increase; as far as the impacts, I -- I don't have  
25 anything specific regarding that.

1 COUNCILMEMBER VICTORINO: Uh-huh. Okay. And -- and,  
2 again, I appreciate that, and -- and we'll be  
3 talking with the State, too, as far as Hana Highway.

4 I'm just, you know, kind of concerned because  
5 even though I agree conceptually with the whole  
6 plan, this -- this exiting only one side and  
7 entrance only on one side really, to me, creates --  
8 really will create more trouble in my mind, traffic  
9 wise, than it will solve.

10 But we will -- we'll -- you know, we'll talk a  
11 little bit more further with the developer and as  
12 well as the State, so thank you, Officer Orikasa.

13 CHAIR MOLINA: Okay.

14 VICE-CHAIR PONTANILLA: Chairman?

15 CHAIR MOLINA: Thank you, Mr. Victorino. Mr. Pontanilla?

16 VICE-CHAIR PONTANILLA: Thank you. The property next door  
17 of this proposed development is Bank of Hawaii.  
18 Right now, they do make left turns and, of course,  
19 right turns going into -- into the bank area with  
20 both -- you know, one -- one -- for this  
21 development, it's strictly exiting the property, and  
22 you have the same condition as far as Bank of Hawaii  
23 exiting their property and going both directions.

24 Have you guys taken a look at that one  
25 particular intersection to make sure that -- you

1 know, if -- if this would cause any problems? And  
2 I'm sure it's going to cause some problems in  
3 regards to, you know, customers from the bank,  
4 customers from this development coming out the same  
5 time.

6 MR. ORIKASA: It's not something that I reviewed or  
7 addressed directly but just in general. The -- I --  
8 I don't believe it -- it will change anything from  
9 what exists currently.

10 If there's -- if there's a problem that  
11 exists, it wasn't -- it hasn't been brought up to  
12 our attention. There -- and there have -- there  
13 hasn't been any traffic mitigation effort to date,  
14 so...

15 VICE-CHAIR PONTANILLA: Thank you. And -- and maybe,  
16 Chairman, I -- I could ask the developer in regards  
17 to question the -- the possibility of working with  
18 the Bank of Hawaii to create just one exiting and  
19 entering, you know, at that one particular property  
20 boundary.

21 CHAIR MOLINA: Okay. All right. Thank you,  
22 Mr. Pontanilla. Committee Members, any other  
23 questions for Sergeant Orikasa of the Police  
24 Department? If not, I'd like to thank you, Sergeant  
25 Orikasa, for spending time with us to share your

1 views on this matter.

2 At this point, the Chair now would like to  
3 invite Charlene Shibuya from the State DOT to  
4 respond to a question I guess from Mr. Victorino  
5 related to traffic, along that area, and I'm sure  
6 some of the other Members, including myself, will  
7 have a question or two for you.

8 And thank you for making yourself available.  
9 We know you, too, are a very busy person with all of  
10 the State road projects that are going on in the  
11 island here.

12 MS. SHIBUYA: Well, actually, Fred is busy, you know,  
13 taking care of all of the storm damage stuff so  
14 that's why I'm here.

15 Anyway, my name is Charlene Shibuya, and I'm  
16 the Construction Engineer with the DOT's Maui  
17 District Office to answer any questions.

18 CHAIR MOLINA: Okay. Mr. Victorino?

19 COUNCILMEMBER VICTORINO: Thank you, Ms. Shibuya, for being  
20 here. And I -- I was very impressed in how you  
21 travel around incognito over the weekends.

22 You -- I have a chance to look at this --  
23 this -- this traffic plan that they have with the  
24 entrance in from Hana Highway and exiting out onto  
25 Baldwin, and that's the only in and out of this

1 whole Project. And you heard my concerns about  
2 traffic coming out here and now have to come  
3 completely around again regressing back onto Hana  
4 Highway which then, you know, clogs Hana Highway to  
5 a point.

6 And my suggestion is a right turn only out of  
7 here, like they presently have on -- well, they  
8 don't have, excuse me, they -- because they can go  
9 either way.

10 Would you think that would be a more plausible  
11 solution to this situation, as far as traffic flow  
12 in and out of the commercial entity?

13 MS. SHIBUYA: Well, you know, when I looked at this traffic  
14 pattern, this is -- this was what DOT kind of looks  
15 at. You know, for example, like at driveways, you  
16 know, if the driveways are simple movements like,  
17 for example, the one off of Hana Highway is an  
18 entrance -- I mean, you get in, you enter, you don't  
19 have any exit movements, you don't have any, you  
20 know, conflicting cross-movements to wait for?

21 COUNCILMEMBER VICTORINO: Uh-huh, uh-huh.

22 MS. SHIBUYA: So the simplicity there takes that friction,  
23 yeah, off -- off for the highway.

24 And then the pattern right now, it --  
25 everybody exits off Baldwin Avenue, which makes it

1           orderly, and then it sends it down the traffic --  
2           the signalized intersection so in -- in the event  
3           that they need to turn left, they have a signal to  
4           assist them. And if they need to turn right, they  
5           can either do a free right on the green, or they can  
6           do a right after stopping if -- if it's red.

7                         And so, you know, when you look at the numbers  
8           on the traffic study, as you remember in the  
9           viewgraph that Bill brought up, the p.m. peak hour  
10          is the worst.

11       COUNCILMEMBER VICTORINO: Uh-huh.

12       MS. SHIBUYA: And if you look at the numbers for the p.m.  
13          peak hour in the traffic study, it's -- it's very  
14          small, you know, and this -- this -- this represents  
15          an hourly volume.

16       COUNCILMEMBER VICTORINO: Uh-huh.

17       MS. SHIBUYA: So if you translate it to, you know, like a  
18          two- to four-minute cycle, I know people say they  
19          got to wait four minutes so it must be a four-minute  
20          cycle out there, that, you know, it -- it really --  
21          I think the advantage of having a more orderly  
22          one-way in and one-way out pattern --

23       COUNCILMEMBER VICTORINO: Uh-huh.

24       MS. SHIBUYA: -- would work probably better because in  
25          case, you know, say for example they get confused

1           and they just try to go out Hana Highway and -- and  
2           realize that they cannot turn left, you know,  
3           whereas the signalized intersection of Baldwin and  
4           Hana is the -- is the easiest way to turn left,  
5           yeah, then -- then that could create some -- I -- I  
6           would call it friction, not -- not necessarily  
7           congestion but, you know, some short-term friction.

8   COUNCILMEMBER VICTORINO:   Okay.   And, you know, Charlene,  
9           then what is the storage capacity off of Baldwin  
10          Avenue for right turn only?   Do you have any idea  
11          what --

12   MS. SHIBUYA:   It's -- I didn't measure it specifically, but  
13          it's probably about 150 feet.

14   COUNCILMEMBER VICTORINO:   And that would be how many cars,  
15          more or less?

16   MS. SHIBUYA:   Six -- six cars.

17   COUNCILMEMBER VICTORINO:   Six cars?

18   MS. SHIBUYA:   Yes.

19   COUNCILMEMBER VICTORINO:   Okay.   Because, you know, I -- I  
20          know the congestion, I've been there in the  
21          afternoons where, you know, you get traffic turning  
22          right, traffic trying to turn left, and the guys  
23          turning right always get stuck further back up, and  
24          that -- and that's what I consider to be -- I  
25          consider as being the real challenge.



1                   It's not so much the left turn because you  
2                   have the signalized light, but the right turn  
3                   because you're trapped in that traffic, and you're  
4                   not able to move on.

5   MS. SHIBUYA:   Yeah -- I mean, correct.   I -- I know what  
6                   you're saying but, you know, at the point where it  
7                   turns green, at least the -- the traffic will be --  
8                   you know, be able to progress and then -- and then  
9                   those right-turners can get in the right-turn lane.

10                   But, yeah, you're right; if it's, like, six,  
11                   seven cars, then -- then you will get the  
12                   right-turners stuck behind that traffic and the  
13                   parked cars and of course you don't want to get rid  
14                   of street parking.

15   COUNCILMEMBER VICTORINO:   Yeah.

16   MS. SHIBUYA:   Because, you know, street parking is a  
17                   premium.

18   COUNCILMEMBER VICTORINO:   Because if you take away street  
19                   parking, you're just --

20   MS. SHIBUYA:   Yeah, because -- but obviously if you took  
21                   away the street parking --

22   COUNCILMEMBER VICTORINO:   Yeah.

23   MS. SHIBUYA:   -- that would allow the -- better stacking,  
24                   yeah, if -- if -- if you would call that.

25   COUNCILMEMBER VICTORINO:   Right.   And the -- the other part

1           -- and again, because this is County road but going  
2           onto a State highway, what I'm concerned is right  
3           now, we really don't have a turn, you know like a  
4           merge lane if you're going to go up Baldwin Avenue.  
5           And maybe that's something we need to look at if a  
6           truck -- a vehicle comes out turning left going up  
7           to Baldwin, that there is, you know, that merge  
8           lane, you know, maybe 50 feet or whatever, giving  
9           the car an opportunity to get in there then to slide  
10          out into traffic, instead of trying to cross over  
11          two complete lanes like we have right now here even  
12          on Hana Highway, and I see a lot of backups and a  
13          lot of traffic problems right there and then.

14                 So I guess I'll -- I'll -- I'll -- I'll stop  
15          at this point because I -- I think you've answered  
16          most of the questions. I still agree that a  
17          right -- a right-turn lane onto Hana Highway  
18          somewhere along this equation should maybe be  
19          inclusive, but we'll talk a little bit more with the  
20          developer about -- about that. Thank you, Charlene.  
21          I appreciate your help.

22   MS. SHIBUYA:   Okay.

23   CHAIR MOLINA:  Thank you, Mr. Victorino.  Committee  
24                  Members, any other questions for Ms. Shibuya from  
25                  the State DOT?  Member Johnson?

1 COUNCILMEMBER JOHNSON: Thank you, Charlene. I was reading  
2 through the minutes of the Planning Commission  
3 meeting in 2006, and of course the presentation this  
4 morning highlighted some of the things that we're  
5 talking about right now, but had you looked at or  
6 discussed -- I guess because of the conflicts raised  
7 when you're making, I guess, directions in -- I  
8 guess it would be turning right onto Baldwin, also  
9 turning left onto Baldwin, did you consider making  
10 it right turn only and then having the people  
11 backtrack on the mini bypass, or is that not --  
12 because of its hours of operation, is that not  
13 feasible?

14 MS. SHIBUYA: Wait -- wait. I'm a little confused.

15 COUNCILMEMBER JOHNSON: Okay. If you're coming --

16 MS. SHIBUYA: Yeah.

17 COUNCILMEMBER JOHNSON: -- out of the parking lot turning  
18 onto Baldwin Avenue --

19 MS. SHIBUYA: Okay, if you're turning onto Baldwin Avenue.

20 COUNCILMEMBER JOHNSON: If --

21 MS. SHIBUYA: From -- from this -- from this development?

22 COUNCILMEMBER JOHNSON: From this development. If you make  
23 a right turn only and restrict left turn, did you  
24 look at that at all?

25 MS. SHIBUYA: Well, actually, because, you know, Baldwin

1 Avenue is under the County's jurisdiction, at that  
2 particular driveway, you know, we would defer it to  
3 the County as to what they feel would be appropriate  
4 and not affect their facility. So we were more  
5 focused on the Hana Highway driveway.

6 COUNCILMEMBER JOHNSON: Okay. No, and I understand that,  
7 but during the discussion or during the analysis of  
8 how traffic would flow and some of these conflict  
9 issues --

10 MS. SHIBUYA: Uh-huh.

11 COUNCILMEMBER JOHNSON: -- even though Baldwin does not --  
12 you know, it's not a State roadway, it comes in  
13 direct --

14 MS. SHIBUYA: Yeah.

15 COUNCILMEMBER JOHNSON: -- intersection with Hana Highway.

16 MS. SHIBUYA: Correct. Yeah.

17 COUNCILMEMBER JOHNSON: So did you look at what would  
18 happen if there was a right turn only, if turning  
19 was restricted?

20 MS. SHIBUYA: If right turn only at their driveway?

21 COUNCILMEMBER JOHNSON: On -- on -- onto Baldwin feeding  
22 onto Hana Highway.

23 MS. SHIBUYA: Okay, so -- so you're talking about the  
24 vehicle that comes out of the development --

25 COUNCILMEMBER JOHNSON: Uh-huh.

- 1 MS. SHIBUYA: -- and then goes --
- 2 COUNCILMEMBER JOHNSON: It's going to merge right into, and  
3 it's going to come up --
- 4 MS. SHIBUYA: Yeah, it goes -- it's heading towards Hana  
5 Highway and --
- 6 COUNCILMEMBER JOHNSON: Right.
- 7 MS. SHIBUYA: -- and you wanted to --
- 8 COUNCILMEMBER JOHNSON: It will either make a right turn --
- 9 MS. SHIBUYA: Right or left, yes.
- 10 COUNCILMEMBER JOHNSON: -- or it will make a left turn --
- 11 MS. SHIBUYA: Yes. Correct.
- 12 COUNCILMEMBER JOHNSON: -- at the signal.
- 13 MS. SHIBUYA: So -- so you're saying restrict --
- 14 COUNCILMEMBER JOHNSON: No, I'm just saying did you look at  
15 the analysis or that as a possible scenario for  
16 traffic that may come out?
- 17 Because, you know, if you're looking at a  
18 circulation plan and if you're looking at conflicts,  
19 you don't want multiple conflicts. And I think that  
20 was the issue that was raised a little bit earlier,  
21 but I just wanted to find out if you looked at that  
22 at all or if that would create more conflict with  
23 the operation of the intersection at Baldwin and  
24 Hana.
- 25 MS. SHIBUYA: We were actually looking at the volumes.

1           It -- you know, it -- we didn't look at restricting  
2           left turns at the Baldwin Avenue and Hana Highway  
3           intersection because for the rest of the traffic, it  
4           would create a hardship because it's not like we  
5           have a great circulation of network roadways that  
6           they can use, you know, to avoid the intersection.

7                         So in looking at the number of left -- how --  
8           how you say -- the drivers that would come out of  
9           this development, go down Baldwin Avenue, turn left  
10          during this p.m. peak hour --

11         COUNCILMEMBER JOHNSON: Uh-huh.

12         MS. SHIBUYA: -- per cycle, it's -- it's actually  
13                 negligible so it would -- you know, it wouldn't make  
14                 sense for us to look at restricting left turns that  
15                 would actually create more of a severe impact on  
16                 the -- on the rest of the traffic.

17         COUNCILMEMBER JOHNSON: Okay. So --

18         MS. SHIBUYA: If -- if I'm understanding your question  
19                 correctly.

20         COUNCILMEMBER JOHNSON: Yeah. And -- and that's basically  
21                 because it operates as a system, and that's what I'm  
22                 looking at.

23                         Because if your traffic coming down -- or our  
24           traffic coming down Baldwin is going to intersect  
25           with Hana Highway, what I'm looking at is if your

1 cue that's, you know, in the storage lane --

2 MS. SHIBUYA: Yes.

3 COUNCILMEMBER JOHNSON: -- that's making a left-hand turn,

4 if that's so -- cued so far back that you're not

5 going to be able to get cars out of the parking

6 area, that's where I -- I just was concerned. I

7 don't know how far it cues up in the afternoon.

8 MS. SHIBUYA: Yeah, it cues up pretty -- pretty far because

9 --

10 COUNCILMEMBER JOHNSON: Up Baldwin.

11 MS. SHIBUYA: -- the -- the cycle favors Hana Highway,

12 obviously. But on the green, you know, hopefully

13 you can get out, you know, the progression will move

14 and then you can get out.

15 But as -- as I said, just looking at the

16 amount of numbers that this trip will contribute to

17 that left turn movement per cycle, now, because it's

18 -- this -- this is per hour, it -- it's actually

19 negligible to really even think of trying to

20 restrict left turns at that intersection.

21 COUNCILMEMBER JOHNSON: I -- I don't mean restricting left

22 turns at your intersection. I meant --

23 MS. SHIBUYA: Well --

24 COUNCILMEMBER JOHNSON: -- restricting left turns at the

25 intersection on Baldwin.

1 MS. SHIBUYA: Well, even restricting left turns there, they  
2 wouldn't have -- as I said, you know, the -- the --  
3 there is really no network of roadways that they can  
4 take to, you know --

5 COUNCILMEMBER JOHNSON: (Inaudible).

6 MS. SHIBUYA: -- replace that movement, I should say, so  
7 I -- I think that would create a -- you know, an  
8 unreasonable hardship.

9 COUNCILMEMBER JOHNSON: Okay. I -- I just wondered if you  
10 had looked at it, you know, as a possibility because  
11 it's always easier when you go with the flow of  
12 traffic trends --

13 MS. SHIBUYA: Yes, ideally, but it -- it -- it works nice  
14 in, you know, really nice urban areas where you have  
15 a network of roadways; but unfortunately on Maui, we  
16 don't have that in the -- you know, the -- the rural  
17 areas or these country town business-type areas.

18 COUNCILMEMBER JOHNSON: Okay. And with regard to any  
19 improvement, I think there was a -- the issue  
20 mentioned about creating additional storage on -- it  
21 would be on Baldwin Avenue just at the intersection  
22 with Hana Highway on the -- I guess it would be  
23 the -- the right-hand side --

24 MS. SHIBUYA: Yes.

25 COUNCILMEMBER JOHNSON: -- you know, right in that corner.



1           You're not anticipating creating additional storage  
2           there?

3   MS. SHIBUYA: Well, in that case, it starts to impact the  
4           street parking on Baldwin Avenue. And, you know, in  
5           my personal dealings with the town when -- when I  
6           worked on the construction project that we did in  
7           2006, you know, there -- there's -- there's a  
8           sensitive balance.

9                   And, you know, I -- I think, you know, to some  
10           degree, the -- the business community wants to  
11           retain the parking, street parking, even if it means  
12           a -- you know, some congestion because obviously,  
13           you know, DOT went through that issue when, you  
14           know, they tried to eliminate some parking after the  
15           County built the public parking on Hana Highway,  
16           and, you know, we got slapped with a lot of  
17           objection.

18                   And, you know -- you know, you can see.  
19           There's a balance. We cannot get it perfect but,  
20           you know, we're just trying to achieve a balance in  
21           consultation with the businesses over there.

22   COUNCILMEMBER JOHNSON: Okay. I really appreciate that.

23           Thanks, Charlene.

24   CHAIR MOLINA: Okay. Thank you, Member Johnson. Member  
25           Baisa?

1 COUNCILMEMBER BAISA: Yeah. I've been wanting to ask this  
2 question for a long time because a lot of people  
3 have asked me.

4 And I -- you may not be the right person to  
5 ask, but while we're talking about the congestion in  
6 this area, you know the mini bypass that we have,  
7 when people are approaching Baldwin Avenue on that  
8 mini bypass, they're allowed to go right or left and  
9 many times, they go left. And what they're really  
10 doing is just trying to avoid the signalized  
11 intersection and then they gum it all up because now  
12 they're trying to get back on Hana Highway.

13 So I've -- I've worried about that for a very  
14 long time, and I think it's one of the factors in  
15 that congestion.

16 CHAIR MOLINA: Okay. Thank you, Member Baisa.

17 Ms. Shibuya, is the -- as it relates to the  
18 congestion on Baldwin Avenue, a lot of it is also  
19 due to Paia School getting let out at, I guess,  
20 whatever, 2 o'clock or 1:15, is that correct?

21 Because I see -- when I've gone through Paia,  
22 I see the school buses going down Baldwin Avenue to  
23 get onto Hana Highway as well. Is that --

24 MS. SHIBUYA: Well, actually, you know, I know that after  
25 school, they do create a, you know, rush hour but --

- 1 CHAIR MOLINA: Uh-huh.
- 2 MS. SHIBUYA: -- really the worst -- the worst is the pau  
3 hana --
- 4 COUNCILMEMBER VICTORINO: Yeah.
- 5 MS. SHIBUYA: -- afternoon, p.m. --
- 6 CHAIR MOLINA: Uh-huh.
- 7 MS. SHIBUYA: -- where it's -- it's really congested.
- 8 CHAIR MOLINA: And because, as you stated earlier, the -- I  
9 guess every -- everything favors Hana Highway with  
10 the traffic light, the green light being left on a  
11 little longer for Hana Highway commuters --
- 12 MS. SHIBUYA: Yeah, just to push -- push it through because  
13 we've had a lot of complaints from the side road.  
14 But, you know, as I -- as I said, it's like we --  
15 we -- it's just maxed out, the intersection, and the  
16 geometry of the town doesn't, you know, leave you  
17 many opportunities to create, you know, additional  
18 lanes or whatnot so we're just trying to establish  
19 some kind of balance.
- 20 CHAIR MOLINA: Yeah. And a lot of that traffic that uses  
21 Hana Highway is the people on the way to Haiku --
- 22 MS. SHIBUYA: Yeah. And so --
- 23 CHAIR MOLINA: -- and Hana and so it's not so much Paia  
24 people --
- 25 MS. SHIBUYA: Yeah, and so it's the development that has

1           occurred on the east side that has kind of really,  
2           you know, made the problem worse.

3 CHAIR MOLINA: And a lot of that development has not  
4           been -- hasn't come through the Council as well. So  
5           a lot of these small little projects contribute --

6 MS. SHIBUYA: Yeah, it's just the cumulative, yeah --

7 CHAIR MOLINA: Yeah, yeah.

8 MS. SHIBUYA: -- that -- that --

9 CHAIR MOLINA: And which is why we need that permanent  
10          bypass from the State.

11 MS. SHIBUYA: Yes.

12 CHAIR MOLINA: But anyway, just to make a plug for that  
13          since you're here.

14 MS. SHIBUYA: Yeah. I thought that was going to be the  
15          next question.

16 CHAIR MOLINA: Our eternal question that we always ask you.  
17          Committee Members, any other questions for  
18          Ms. Shibuya? Member Pontanilla?

19 VICE-CHAIR PONTANILLA: Thank you. Thank you for being  
20          here. You got any comments in regards to the new  
21          bus stop area? Because it's going to be on the  
22          State highway.

23 MS. SHIBUYA: Actually, we're willing to, you know, work  
24          with the developer, as well as the Paia Main Street  
25          because as I said, you know, if -- if the specific

1 design of the bus stop will impact, say, a street --

2 VICE-CHAIR PONTANILLA: Right.

3 MS. SHIBUYA: -- street parking stall, then we would

4 definitely want to consult with the business

5 community.

6 But we're -- we're definitely open because,

7 you know, the less vehicles we can take through that

8 town would be any -- any plus for us, and we've done

9 a lot of sidewalk improvements last year --

10 VICE-CHAIR PONTANILLA: Uh-huh.

11 MS. SHIBUYA: -- in 2006 so I think that just kind of adds,

12 yeah, to -- to this so-called "Walking Town." And

13 we know a lot of people walk because we -- I see

14 J-walkers all the time.

15 VICE-CHAIR PONTANILLA: So you -- you -- you think the size

16 of the bus wouldn't hamper traffic going towards

17 Haiku --

18 MS. SHIBUYA: Well --

19 VICE-CHAIR PONTANILLA: -- without taking -- without, you

20 know, removing some of those parkings?

21 MS. SHIBUYA: Well, obviously if you use like, you know,

22 the shorter -- shorter buses which would take, you

23 know, maybe one or two stalls, that would be less of

24 an impact than, say, like a 30- or 40-foot bus.

25 But, you know, there are certain parts of the

1 town that you have opportunities to, you know, maybe  
2 create a bus stop simply because it might already  
3 not be a marked stall for, you know, whatever  
4 reason, yeah? And it's -- and it would be just for  
5 like a temporary stop, like a few minutes.

6 VICE-CHAIR PONTANILLA: Okay. Thank you. Thank you,  
7 Chair.

8 CHAIR MOLINA: Okay. Thank you, Mr. Pontanilla. If there  
9 are no other questions for Ms. Shibuya at this time,  
10 I'm going to excuse her.

11 Members, we're going to ask the applicant to  
12 come up; and after we're done with questions for the  
13 applicant, the Chair's aware of the time. We're  
14 going to take a short recess; and when we come back,  
15 the Chair will offer a recommendation.

16 Good morning, Mr. Frampton.

17 MR. W. FRAMPTON: Good morning.

18 CHAIR MOLINA: I'm sure you've been hearing a lot of the Q  
19 and A from the Members with the various resource  
20 personnel. And I know you've brought over a team of  
21 -- a plethora of individuals for the Project.

22 We have Mr. Taniguchi, who's the Project  
23 Architect, as well as Stacy Otomo and Mark Matsuda  
24 of Otomo Engineering, along with Bryan Maxwell and  
25 Ken Jencks of Maxwell Design, the Project's

1 Landscape Architects, and Stan Cohen, the Paia Town  
2 Center Property Manager.

3 Can you share with us who the owner of the  
4 property is as well for public record?

5 MR. W. FRAMPTON: Yes. The owner of the property is 120  
6 Hanna Highway, LLC. It's a gentleman named Jim  
7 Argyropoulos out of California, and I do just want  
8 to note that he's been one of our finest applicants  
9 or clients to work with over the years.

10 The first thing he told us, the first thing  
11 you want to do was just come in and pave that  
12 parking lot and put lighting. However, because of  
13 the zoning conflicts, he wasn't able to do so, but  
14 the -- I think another thing that was very important  
15 was his care for Paia Town.

16 He'd been coming to the islands since the  
17 '60s, and he said Bill, whatever you do, you make  
18 sure you assemble a good team that -- to ensure that  
19 we will not detract from the quality of life in that  
20 town when it comes to designing of buildings, the  
21 parking lot, including access and flow.

22 And so I do have some comments related to the  
23 previous discussions, if -- if it's okay.

24 CHAIR MOLINA: Okay. Hang on, Mr. Frampton.

25 MR. W. FRAMPTON: Go ahead.

1 CHAIR MOLINA: Before you make your comments, I do believe  
2 Mr. Victorino had some questions related to traffic,  
3 and I'll go ahead and entertain his question first.

4 COUNCILMEMBER VICTORINO: Well, Mr. Chair, if those  
5 comments will be addressing that, let -- I will  
6 allow him to make the comments; and if I have  
7 further questions, I'll ask after that, if that's  
8 all right with you, Mr. Chair.

9 CHAIR MOLINA: All right. Thank you, Mr. Victorino.  
10 Proceed, Mr. Frampton.

11 MR. W. FRAMPTON: Thank you. That is the case. This is in  
12 response to Mr. Victorino's questions and comments.

13 You know, the access to this property was one  
14 of the more challenging items we needed to look at.  
15 We went through numerous alternative assessments  
16 when it came to design very early on with the Paia  
17 Main Street Association, as well as a member from  
18 the public who's very active in the community,  
19 Mr. Lance Collins [sic]. We sat down and looked at  
20 the various alternatives.

21 And -- and I'll tell you what, if we -- the  
22 two slides I think that will help to work off of are  
23 slide No. 4 of the PowerPoint and then of course  
24 our -- our proposed plan, which is slide 15.

25 The existing conditions; when you look at the



1 two driveways along Hana Highway, as well as the two  
2 driveways along Baldwin Avenue.

3 It was interesting when we did our traffic  
4 study. We hired our traffic consultant because of  
5 -- he has very conservative traffic study  
6 methodologies. We're very impressed with his  
7 conservative approach, but I do note that of  
8 majority of all of the people coming to this  
9 property, up to 90 percent or so of the people are  
10 coming off of Hana Highway, so that's an interesting  
11 note to take into consideration as we go on and so  
12 that impacted how we approached this Project.

13 The concept of our plan to have one-way in,  
14 one-way out, dealt with many factors. One, of  
15 course is safety and trying to enhance the flow. By  
16 reducing two of those driveways, the two that happen  
17 to be closest to the lighted intersection, we felt  
18 eliminated a point of conflict in terms of traffic  
19 friction, if you will. More distance between the  
20 driveway entrance and the intersection allowed just  
21 for more time for people to get -- make the decision  
22 to go in or out.

23 One-way in on Hana and one-way out on Baldwin  
24 helps, from a management standpoint, managing the  
25 parking, the safety, the crime, and whatnot. By

1           having one-way in, one-way out, it works with our  
2           validated parking concept.

3                   The validated parking concept was chosen based  
4           upon liability and ability to enforcement. All of  
5           the people of course and the employees on this Paia  
6           Town Center will be validated parking, but others  
7           who try to come to park there or abandon their  
8           vehicles for various reasons won't be allowed. So  
9           the one-way in, one-way out works in that favor.

10                   The elimination of the driveway between  
11           Charley's and Jacque's on Hana Highway also creates  
12           an opportunity for another public courtyard, an  
13           outdoor courtyard area. It also creates that  
14           opportunity that, Mr. Pontanilla, you were just  
15           mentioning about the bus stop.

16                   If we were to eliminate that driveway, it then  
17           frees up the space because there will no longer be a  
18           driveway. That's where we strategically thought it  
19           might be an appropriate location for a bus stop.

20                   There was adequate space when we met with Don  
21           Medeiros, who was very happy to hear that we were  
22           eliminating that one access; therefore, we could  
23           help put a bus stop, which ultimately we would hope  
24           would reduce some of the parking requirements in the  
25           town.

1           One -- and then another point I wanted to make  
2           is the one-way out on Baldwin. Again, with  
3           Mr. Lance Collins [sic], we looked at what are the  
4           possibilities of having it come in and out of that  
5           area, having it both -- flow both ways. One was the  
6           County restriction of the width that's required. We  
7           don't have the adequate width because of this  
8           historic building that's on the corner.

9           And then the other thing, again, when we  
10          looked at the number of vehicles that would be  
11          exiting this property during the peak traffic  
12          conditions, we felt, again, consistent with what our  
13          discussions with DOT and Public Works because it's a  
14          County roadway, that the right-hand turnout and the  
15          left-hand turnout would be sort of negligible.

16          That's not to say that we are not adding to  
17          traffic. I'm not going to stand here and try to  
18          pretend we're not; but again, the numbers are  
19          negligible. It's -- to us, we felt that  
20          providing -- by providing more parking, a  
21          significant amount of parking on this property, then  
22          having a coordinated, controlled flow of access, it  
23          just -- there were many benefits that came to it.

24          We did, though, Mr. Victorino, consider how  
25          could we do right-hand out only on Hana Highway.

1           And to do it at the intersection -- or the entryway  
2           of Charley's would cause us to lose numerous parking  
3           stalls because width -- the aisle width would have  
4           to be substantially widened, and I don't know if we  
5           could pull it off, to be honest.

6                     We did -- we did do the assessment there and  
7           -- working with Eric, as well as our engineer, and  
8           the width -- the aisle width that would be required  
9           to have two-way flow there safely --

10   COUNCILMEMBER VICTORINO:   Uh-huh.

11   MR. W. FRAMPTON:   -- wouldn't work at Charley's.  Then to  
12           try it between Charley's and Jacque's, we could do  
13           it there, I'm not saying absolutely no way, but if  
14           we did so, we would then eliminate the courtyard  
15           gathering area and eliminate a nice area for a bus  
16           stop.

17                     Having a bus stop there with the courtyard,  
18           they go together nicely for someone to be able to  
19           hang out and wait in a nice area with a shelter and  
20           tables and whatnot.

21                     So it -- it was really assessed,  
22           Mr. Victorino.  We -- we really looked at this.  And  
23           we don't have the absolute golden answer that --  
24           that it has to be that way.  But when we weighed out  
25           all of the alternatives and you look at the pros and

1           cons, I think the number of people coming off of  
2           Hana Highway, those who come out of Baldwin, a  
3           majority will be making a right-hand turn because of  
4           our traffic studies.

5                   And to make a right-hand turn again on Hana  
6           once you've exited our property, those two traffic  
7           movements, right-hand turns, are ideal compared to  
8           all -- as we all know, left-hands are the  
9           nightmares.

10                   But we -- it was very much a factor throughout  
11           this whole process. We went to the community for  
12           help, we went to the State DOT and the County, and  
13           we had no -- we didn't go to them and say it better  
14           be this, you know, or else we don't have a project.

15                   We really were open to ideas. And I  
16           appreciate your thoughts and concerns related to  
17           right-hand out, but I do -- on Hana Highway, an  
18           additional one, but I really think the way we have  
19           it designed now does work, and it will work compared  
20           to all the other alternatives, if that helps.

21   CHAIR MOLINA: Mr. Victorino?

22   COUNCILMEMBER VICTORINO: Yes. Thank you. And thank you  
23           very much, Mr. Frampton, for enlightening us as far  
24           as what you are and how you've come and derived this  
25           plan.

1                   Again, you know, I had looked and -- and --  
2                   and I was pointing out as far as what the Planning  
3                   Commission when Mr. Holter had discussed this in the  
4                   20, 30 percent --

5 MR. W. FRAMPTON: Holter.

6 COUNCILMEMBER VICTORINO: You have something else you want  
7                   to add? Go ahead.

8 MR. W. FRAMPTON: I'm sorry, it -- it was Lance Holter. I  
9                   apologize. I said Lance Collins.

10 COUNCILMEMBER VICTORINO: Yeah, I -- I thought that was  
11                   Lance Holter, and you said Lance Collins.

12 MR. W. FRAMPTON: It was Lance Holter. I apologize for the  
13                   record. It was --

14 COUNCILMEMBER VICTORINO: That's why I was asking, well,  
15                   you know. That was my next question.

16 MR. W. FRAMPTON: It was Mr. Lance Holter who was very  
17                   helpful.

18 COUNCILMEMBER VICTORINO: Thank you. Mr. Collins would  
19                   like to take credit sometimes --

20 MR. W. FRAMPTON: I'm -- I'm sure he helped, too.

21 UNIDENTIFIED SPEAKER: Thank you.

22 COUNCILMEMBER VICTORINO: Thank you, Colter and Holter and  
23                   Collins and all the people that help us.

24 MR. W. FRAMPTON: Everybody.

25 COUNCILMEMBER VICTORINO: Okay. Anyhow, going back to my

1 question. And again, you know, I -- the -- the  
2 traffic flow I -- I -- I think is really pivotal  
3 because this is the real ambience of this whole  
4 development, okay? And I'm concerned, again, not to  
5 make Baldwin Avenue backing up any -- any more than  
6 it needs to be.

7 Now, there's going to be some. You've heard  
8 Mr. Pontanilla's concern that you have the bank  
9 traffic also coming out in the general proximity.

10 MR. W. FRAMPTON: Sure.

11 COUNCILMEMBER VICTORINO: So now you get traffic coming out  
12 from different exits trying to get onto Baldwin  
13 Avenue.

14 Turning right, not a problem; turning left is  
15 always going to be the challenge. And if you get  
16 two exits fair -- relatively close, now you got a  
17 challenge, and that's something you need to -- to  
18 really look at. I -- I don't know if that was  
19 addressed, yeah --

20 MR. W. FRAMPTON: Yes.

21 COUNCILMEMBER VICTORINO: -- the Bank of Hawaii. As far as  
22 Hana Highway, I think, and -- and I believe there's  
23 a number of people who believe that a right turn  
24 onto Hana Highway would be preferable.

25 But if, in the whole scheme of things, if the

1 bus stop and the courtyard and all these other  
2 things that are very important would be eliminated  
3 or somewhat diminished because of that, then I -- I  
4 think many of us could live without that, you know.

5 But I want you to understand that the -- the  
6 right turn onto Hana Highway because I -- you know,  
7 a lot of the people that will go into it, just like  
8 we talked about, will be people that would be  
9 turning right onto Baldwin and back right onto Hana  
10 Highway and heading to East Maui and all that. Most  
11 of the day traffic up until midday is probably  
12 headed east --

13 MR. W. FRAMPTON: Yes.

14 COUNCILMEMBER VICTORINO: -- to East Maui, right?

15 MR. W. FRAMPTON: Yes.

16 COUNCILMEMBER VICTORINO: And so I just didn't want to clog  
17 up Baldwin and Hana Highway, that intersection, but  
18 both you and Charlene have assured me that you think  
19 it's going to work, and I guess the only way we're  
20 going to find out as we do this plan. And if I have  
21 to put the feet to the fire later, then, you know, I  
22 can always do that, too.

23 But I -- I will yield to my other colleagues,  
24 but thank you very much for your explanation, and --  
25 and I'm satisfied with it. Thank you, Mr. Chair.



1 CHAIR MOLINA: Okay. Thank you, Mr. Victorino. Just a  
2 quick follow-up before I turn the floor back over to  
3 the Members, Mr. Frampton, on Mr. Victorino's  
4 concern.

5 And, I mean -- and Member Baisa brought up  
6 about the fact the Paia Bypass, people sometimes use  
7 it, make that left turn just to go back down to  
8 Baldwin Avenue to get onto Hana Highway.

9 And I appreciate you folks making that  
10 driveway one-way so people don't, you know, go from  
11 the bypass, go onto Baldwin Avenue, and then try to  
12 cut through your property to get onto Hana Highway.

13 MR. W. FRAMPTON: Yeah. That happens.

14 CHAIR MOLINA: Yeah, yeah. So I think it's important that  
15 that be kept one-way so you don't have those people  
16 doing that.

17 Members, any other questions for Mr. Frampton?  
18 Mr. Pontanilla?

19 VICE-CHAIR PONTANILLA: Yeah, I -- I think Member Victorino  
20 touched on it in regards to Bank of Hawaii driveway  
21 being in the same corner as your exit.

22 I don't know if you talked to the bank in  
23 regards to maybe sharing the exit so that people  
24 making right -- you know, bank people make right  
25 turns, too, yeah, as well as left turn.

1 MR. W. FRAMPTON: Right.

2 VICE-CHAIR PONTANILLA: And -- and at that one  
3 intersection, I -- I see a problem right now.

4 MR. W. FRAMPTON: Yes. Mr. Pontanilla, that -- that, too,  
5 was brought up very early on with Mr. Lance Holter  
6 and during the Commission discussions.

7 We did look at the configuration of the bank's  
8 property because -- and the configuration of ours,  
9 and you would hope that they're right there  
10 adjoining with another separated by a thin, you  
11 know, little fence.

12 VICE-CHAIR PONTANILLA: Uh-huh.

13 MR. W. FRAMPTON: However, the configuration of that Bank  
14 of Hawaii property and then their paid parking in  
15 the back, the way the shape of the property as --  
16 would make it really challenging for us and the way  
17 ours is designed to somehow joining.

18 Because that's what we looked at. We were  
19 hoping that we could approach the bank and share in  
20 and out. However, when we further did the analysis  
21 with our architect and engineer, it started to  
22 become sort of impossible or -- I shouldn't say  
23 impossible, really challenging.

24 It's something that I -- I -- I can't say  
25 would be -- ever be impossible. We -- we can

1 continue to explore it during the time of our SMA  
2 approval process, if that would be desired, we  
3 would -- we would look further into it.

4 But, again, when you look at the length of  
5 their driveway and where their parking begins and  
6 where our parking would begin, it becomes sort of  
7 problematic.

8 It would become a pretty challenging  
9 engineering feat to pull it off to make it safe for  
10 cars coming in, trying -- who would come into the  
11 bank driveway and then want to get over to our  
12 property, where would they be able to cross over and  
13 whatnot?

14 VICE-CHAIR PONTANILLA: Well, what I was looking at is --  
15 is where you have your controlled location?

16 MR. W. FRAMPTON: Uh-huh.

17 VICE-CHAIR PONTANILLA: Utilizing the controlled location  
18 and coming out of that property, the proposed  
19 development property, adjoining with the bank's  
20 driveway, you know, exiting only so that, you know,  
21 the bank traffic and -- and the traffic from the  
22 development would kind of, I -- I would think, work  
23 more easily rather than having, you know, vehicles  
24 on both sides of the property, trying to make turns  
25 at the same locations.

1 MR. W. FRAMPTON: I see.

2 VICE-CHAIR PONTANILLA: Yeah, rather than, you know,  
3 joining the parking lot, just exiting the area from  
4 your controlled location.

5 MR. W. FRAMPTON: Okay. Right. When it -- we would not  
6 look to combine parking lots.

7 VICE-CHAIR PONTANILLA: No.

8 MR. W. FRAMPTON: But -- but because of where their parking  
9 lot is situated, if I understand what you're talking  
10 about, would be to -- for us to combine our  
11 accessways, is that correct --

12 VICE-CHAIR PONTANILLA: Yeah.

13 MR. W. FRAMPTON: -- and to -- so that their folks coming  
14 out would sort of share our lane, if you will?

15 VICE-CHAIR PONTANILLA: Exactly, yeah.

16 MR. W. FRAMPTON: And then our folks coming in would share  
17 their lane. That's exactly what we looked at and --

18 VICE-CHAIR PONTANILLA: No, no, no, no.

19 MR. W. FRAMPTON: Sorry.

20 VICE-CHAIR PONTANILLA: Your -- your property -- your --  
21 the entrance to your proposed property --

22 MR. W. FRAMPTON: I'm going to bring up the board. The  
23 board might help.

24 VICE-CHAIR PONTANILLA: -- would be directly from Hana  
25 Highway, right, the way you have it right now. The

1 entrance to the bank --

2 MR. W. FRAMPTON: Oh, exit only.

3 VICE-CHAIR PONTANILLA: -- is -- is the way that they enter  
4 presently. But --

5 MR. W. FRAMPTON: Okay. It's exit only?

6 VICE-CHAIR PONTANILLA: Yeah --

7 MR. W. FRAMPTON: I'm sorry.

8 VICE-CHAIR PONTANILLA: Exiting your proposed --

9 MR. W. FRAMPTON: Okay.

10 VICE-CHAIR PONTANILLA: -- Project --

11 MR. W. FRAMPTON: Okay.

12 VICE-CHAIR PONTANILLA: -- as well as the bank would remain  
13 one exit only.

14 MR. W. FRAMPTON: Okay. One exit. I see what you're  
15 saying. I -- I apologize. I -- I thought we were  
16 looking at trying to include another entrance there.

17 Exit only, we could absolutely look into that  
18 and -- and try to have that worked out before we go  
19 back to the Maui Planning Commission for our SMA.

20 We could work with -- the Department of Public  
21 Works would need to make sure they're okay with the  
22 combined thing. I have a feeling, though, it --  
23 that might be able to work.

24 If it was just exit only, them coming in -- we  
25 would want to make sure that those vehicles coming

1 in to the bank wouldn't try to get into -- our --  
2 why won't we -- I would commit to have no problem,  
3 look at that prior to the Planning Commission  
4 hearing.

5 VICE-CHAIR PONTANILLA: Okay, fine.

6 MR. W. FRAMPTON: That's -- that's -- I -- I hear what  
7 you're saying now. I'm sorry for misunderstanding  
8 that.

9 VICE-CHAIR PONTANILLA: Yeah. Because -- well, my former  
10 employer --

11 MR. W. FRAMPTON: It's in everyone's best interest.

12 VICE-CHAIR PONTANILLA: -- the phone company and the Bank  
13 of Hawaii were neighbors, and we kind of shared the  
14 driveway --

15 MR. W. FRAMPTON: Okay.

16 VICE-CHAIR PONTANILLA: -- exiting the phone company's --

17 MR. W. FRAMPTON: That's right.

18 VICE-CHAIR PONTANILLA: -- premise.

19 MR. W. FRAMPTON: That -- that makes sense. And if we  
20 could -- anything we can do to help enhance safety  
21 and the existing congestion which we know is there  
22 on Baldwin, no problem with that. No problem.

23 VICE-CHAIR PONTANILLA: Thank you. Thank you, Chairman.

24 CHAIR MOLINA: Okay. Thank you, Mr. Pontanilla. Member  
25 Baisa? After Member Baisa's questions, the Chair's

1 going to call for a recess.

2 COUNCILMEMBER BAISA: Thank you, Chair. What really  
3 excites me about this is the idea of having  
4 off-street parking.

5 I think one of the problems that's causing so  
6 much congestion in the area is that too many  
7 vehicles park on the street and the inability to  
8 have people moving freely through it, coupled with  
9 the pedestrians that, as somebody said earlier,  
10 J-walk across the street all over the place.

11 So when you drive, you have to drive very,  
12 very slowly because you have to be careful to avoid  
13 somebody darting out between cars and, you know,  
14 that -- that deters you. So the slower you go, the  
15 slower the traffic goes and the more congestion we  
16 have.

17 So I'm very excited about the off-street  
18 parking, and I had a long conversation with the  
19 developers about the parking lot, of course, and  
20 discussed with them the compact stalls and, you  
21 know, all this kind of stuff.

22 But I think what made me feel better was the  
23 idea that it would be a supervised parking lot.  
24 There will be someone there. And I think that's  
25 really important because what I've seen is people

1 with big vehicles will park, and they'll take up two  
2 stalls, and there's nobody there to enforce or pay  
3 attention. And so what happens is the parking lots,  
4 you -- you lose space in them.

5 And I want to be sure that we're going to get  
6 the maximum bang for the buck here in terms of  
7 parking because Paia's big issue, of course, is  
8 parking and the movement of cars through the area.  
9 So, Bill, did you want to say anything about that?

10 MR. W. FRAMPTON: I just appreciate sharing the comments.  
11 I appreciated the discussion we had, and I liked the  
12 idea of how our architect took advantage that we  
13 know we have a 25 percent permission to use compact  
14 stalls; however, we shared the same concern that you  
15 brought up. If you narrow those -- when you start  
16 making the compacts so narrow, it gets real  
17 challenging.

18 There's a lot of large-size vehicles out there  
19 on the roads today and small sizes, and it gets real  
20 confusing, difficult to pull off, but I really liked  
21 that our architect, Eric Taniguchi, thought about  
22 shortening just the length, and it helped with the  
23 flow, versus shortening the length and the width.

24 So we still have adequate width, which I think  
25 is going to help. And the idea that this landowner



1 is willing to provide 39 percent of all of the  
2 parking in Paia and only have 22 percent, I -- I  
3 can't say enough of how pleased he is to have the  
4 opportunity.

5 He -- he knows in the overall scheme of things  
6 that what he's doing is a benefit for everybody and  
7 that by everybody benefiting, he benefits, you know,  
8 it's a win-win for a lot of people. And -- and he's  
9 a smart guy, I thought, and I like that.

10 COUNCILMEMBER BAISA: Coupled with the benefit of more  
11 parking off street, I am really excited about the  
12 idea of that area being cleaned up and having it  
13 looked at and watched all the time.

14 Because as was stated earlier, you know, when  
15 you have a vacant parking lot and vehicles parked  
16 any old way and no -- nobody there, activities that  
17 we prefer not to have go on are going on.

18 You know, I like to go to Paia. I'm a big fan  
19 of Mana Foods. I love to go around and poke around  
20 in there at all the exciting goods they have --

21 MR. W. FRAMPTON: Uh-huh.

22 COUNCILMEMBER BAISA: -- and it's difficult to park. And  
23 I'm not comfortable in going there unless I'm  
24 accompanied by my husband because I don't feel  
25 comfortable. But I think I would be very

1 comfortable once -- once this is built. So I did  
2 want to share that.

3 MR. W. FRAMPTON: Thank you.

4 CHAIR MOLINA: Okay. Thank you, Mr. Frampton. Okay,  
5 Members, what -- I -- I know some of you --

6 MR. W. FRAMPTON: Mr. Chair?

7 CHAIR MOLINA: -- have your personal needs, and the Chair  
8 has his own personal needs, and I did state that we  
9 want to take a recess upon the completion of --

10 COUNCILMEMBER VICTORINO: Chair?

11 CHAIR MOLINA: -- Member Baisa's questions. So when we  
12 come back, I believe Member Johnson has a question  
13 for you, Mr. Frampton.

14 COUNCILMEMBER JOHNSON: Thank you.

15 CHAIR MOLINA: And after that, the Chair would like to  
16 offer a recommendation. Members, we will be in  
17 recess until 11 o'clock. ...(gavel)...

18 MR. W. FRAMPTON: Thank you.

19 **RECESS: 10:50 a.m.**

20 **RECONVENE: 11:05 a.m.**

21 CHAIR MOLINA: ...(gavel)... The December 19th, 2007, Land  
22 Use Committee meeting is now back in session. Thank  
23 you for that break, Members.

24 When we left off, we had Councilmember Johnson  
25 with a question for Mr. Frampton. Member Johnson?

1 COUNCILMEMBER JOHNSON: Yes. Bill, I just wanted to ask  
2 because this hasn't been asked previously, and I  
3 didn't have an opportunity to ask you during the  
4 break. With regard to handicapped -- because I know  
5 Mr. Ramoda Anand fought so hard for his handicap  
6 parking in Paia Town.

7 The areas that you're designing where they  
8 will -- both on the Baldwin Avenue side, as well as  
9 within the property, that would all be able to  
10 accommodate and work with the width and the handicap  
11 parking is -- or handicapped access so that people  
12 can get their motorized handicap wheel lifts  
13 through?

14 MR. FRAMPTON: That's right. Yes. We -- good question and  
15 good point to bring up to make sure we're clear on  
16 the record that the handicap parking is absolutely  
17 included to meet ADA requirements.

18 And that was also some of the benefits of  
19 these courtyards as well, is it's opened up --  
20 previously, one of the alternative assessments for  
21 our plan showed the building on Baldwin and  
22 Milagro's much closer together, a narrow entryway.  
23 That was very early on. That quickly got  
24 eliminated.

25 But the openness of it and the grades there

1           that we'll work with I think is very friendly to the  
2           AD -- ADA requirements, as well as on the Charley's  
3           and Jacque's side as well.

4   COUNCILMEMBER JOHNSON:   Okay.  And when it integrates with  
5           the sidewalk, because that's where Ms. Shibuya made  
6           substantial improvements --

7   MR. W. FRAMPTON:   Yes.

8   COUNCILMEMBER JOHNSON:   -- the -- and -- and I want to  
9           thank her also for working really hard with the  
10          handicapped community along Hana Highway.

11                 So when your roadways or your driveways exit  
12           on to our public roadways, will that be able to be  
13           integrated so that people who have the small little  
14           wheelchairs or motorized-assist vehicles, they'll be  
15           able to move without risk of tipping or anything?

16   MR. W. FRAMPTON:   That -- yes.  That will have to be worked  
17           out, absolutely, at building permits to make sure  
18           that that is the case for safety.

19                 And that's another reason, maybe, to go back  
20           and sort of recap the safety hand -- standpoint of  
21           the pedestrians and handicap as well.

22                 Why?  I -- I personally am very much a  
23           supporter of on-street parking.  It provides another  
24           buffer from the vehicles that are traveling in  
25           there; and, personally, I don't mind seeing the

1 slowdown of vehicles in this town.

2 I know it's congestion; but at a certain  
3 point, I -- I think it's -- from a community  
4 standpoint, we need to come up with standards or  
5 criteria that we're willing to accept and live with.  
6 We rely upon national standards right now to do our  
7 traffic studies that don't match up with the  
8 conditions that we talked about earlier.

9 But when it comes to safety, slowing the  
10 vehicles down is important to me but especially for  
11 the handicapped. And I will note the -- it was  
12 brought up earlier about the parabolic mirrors --

13 COUNCILMEMBER JOHNSON: Uh-huh.

14 MR. W. FRAMPTON: -- along Baldwin Avenue, signage for the  
15 vehicles, as well as pedestrians, and a speed bump  
16 to slow -- to -- just another measure to let that  
17 car know you're approaching a sidewalk.

18 I actually discussed with Officer Orikasa from  
19 the Maui Police Department an idea that I cannot  
20 promise will happen, but we explored the idea of a  
21 sensor being placed in that exitway, whereas the  
22 vehicle would go over a sensor, it would trigger a  
23 light to maybe blink on the -- on the sidewalk just  
24 as another safety measure to -- to indicate to the  
25 pedestrians, hey, a car's coming out, heads-up, and

1 the car has to be aware as well that he's  
2 approaching a sidewalk.

3 So that's something we're going to explore.  
4 And again, if it can be done, we'll -- we'll  
5 implement it as a condition at the time of the SMA  
6 hearing.

7 COUNCILMEMBER JOHNSON: I -- I really appreciate that  
8 because I know that particularly this one  
9 individual, Mr. Ramoda Anand --

10 MR. W. FRAMPTON: Yes.

11 COUNCILMEMBER JOHNSON: -- really fought very hard --

12 MR. W. FRAMPTON: That's right.

13 COUNCILMEMBER JOHNSON: -- and he was vigilant --

14 MR. W. FRAMPTON: That's right.

15 COUNCILMEMBER JOHNSON: -- and so I just -- I want to let  
16 him know that we're not dropping the ball and that  
17 you're certainly not dropping the ball on this one.

18 MR. W. FRAMPTON: Thank you.

19 COUNCILMEMBER JOHNSON: So thank you.

20 CHAIR MOLINA: Okay. Thank you, Member Johnson.

21 Mr. Pontanilla?

22 VICE-CHAIR PONTANILLA: Thank you. Mr. Frampton, you know,  
23 I was talking to you out there in regards to the  
24 catch basin inserts, you know -- you know, it's  
25 something fairly new, probably, to all of us.

1                   What -- what would be the cost in relations to  
2                   what we doing today to provide these inserts?

3   MR. W. FRAMPTON: Thank you, Mr. Pontanilla. The --  
4                   interesting enough, the timing, as I shared, the  
5                   representatives of these inserts are coming to Maui  
6                   next week to meet with us for another project that  
7                   we did in Waiko Road, the -- the base yard project.

8                   We were I think one of the first ones, if not  
9                   the first, at an SMA hearing for Lipoa and Kihei a  
10                  couple years back to propose these uses -- to  
11                  propose this as a measure to help the pollutants  
12                  catchment. We're very much in support of it.

13                  I think the cost is not cost prohibitive when  
14                  you look at the overall cost of a project. I want  
15                  to say they're -- we estimated maybe a hundred bucks  
16                  for the absorbant pouches.

17                  However, we're meeting with the  
18                  representatives next week; and as I indicated,  
19                  I'd -- I would -- no problem sharing this  
20                  information, maybe putting together a memo for you  
21                  to let you know the costs, how often we need to  
22                  change 'em, whether it's quarterly, semiannually, as  
23                  well as the disposal.

24                  I liked that you brought that question up  
25                  because we go and collect all these pollutants,

1 well, we're going to just go take 'em and toss 'em  
2 in a dumpster or go put 'em in a, you know, landfill  
3 and pollute the water further and the ground water?

4 We will get those answers as far as disposal  
5 and costs, and I -- I -- I could submit that as a  
6 memo for you just to have if you want, but I know  
7 the Planning Commission, as Ms. Suyama shared  
8 earlier, are very much looking at all the drainage  
9 projects that come forward now as almost a standard  
10 condition.

11 VICE-CHAIR PONTANILLA: Thank you. And -- and if you could  
12 provide us with that information.

13 MR. W. FRAMPTON: No problem.

14 VICE-CHAIR PONTANILLA: I -- I think that's going to be  
15 very helpful in the future.

16 MR. W. FRAMPTON: Okay.

17 VICE-CHAIR PONTANILLA: Thank you. Thank you, Chairman.

18 CHAIR MOLINA: All right. Thank you, Mr. Pontanilla.

19 Mr. Victorino, followed by Mr. Mateo.

20 COUNCILMEMBER VICTORINO: I'll -- I'll yield to Mr. Mateo  
21 because I -- my question will be something off the  
22 relationship to this but about the Project itself,  
23 but I'll let Mr. Mateo go first.

24 CHAIR MOLINA: Okay. All right. Mr. Mateo, you have the  
25 floor.



1 COUNCILMEMBER MATEO: Chairman, thank -- thank you very  
2 much. Thank you, Mr. Victorino.

3 Mr. Frampton, thank you for being here and  
4 being real candid with us. So I'd like to continue  
5 and follow up on your -- I guess your projections on  
6 the -- the parking --

7 MR. W. FRAMPTON: Okay.

8 COUNCILMEMBER MATEO: -- in -- in the Project. I was --  
9 you know, I really wasn't sure, until you mentioned  
10 it, that this is really not public parking. You  
11 used the word "validation."

12 MR. W. FRAMPTON: Okay.

13 COUNCILMEMBER MATEO: So this means that people who park  
14 in -- in your development project either will be  
15 paying because they're visiting one of the merchants  
16 that's attached to the Project site; and on your  
17 exit areas, I don't see any specific area for a  
18 collection.

19 MR. W. FRAMPTON: Okay.

20 COUNCILMEMBER MATEO: So can you kind of explain to us how,  
21 you know, that part works? Because this is a --  
22 this is a pay-to-park kind of a situation.

23 MR. W. FRAMPTON: Okay. Yes, that -- that's a good point  
24 to bring up, and I wanted to make sure the Members  
25 appreciate what -- what it was.

1           This is not meant to be a free public parking  
2 lot, if you will, similar to what the County has  
3 built and their -- in terms of their  
4 responsibilities to help provide parking.

5           What this is intended to be is a parking lot  
6 where the employees and those visit -- using the  
7 shops of this Paia Town Center would be validated.  
8 They could probably get better parking, if not for  
9 free, for a very nominal payment.

10           It's to -- it's an incentive to, of course,  
11 come to the shops; but in addition to that, it also  
12 provides, as Ms. Baisa mentioned earlier, when  
13 you -- the way we're going to control this parking  
14 is through -- we -- we need to make the final  
15 decision whether it's an on-site person, security,  
16 or as you've seen in other areas, I'm starting to  
17 see more of it across the country when I travel, as  
18 well as out in Lahaina, it's sort of self -- you --  
19 you go and pay for your ticket, come back, put it on  
20 your dashboard.

21           And I'll -- the reason that came up was DOT  
22 had a specific comment that our original plan did  
23 show a gate, if you will, when you come into the  
24 property off of Hana Highway.

25           That was problematic because they said one car

1 pulls in, starts taking its time doing it, looking  
2 for whatever, another car tries to pull in, and all  
3 of a sudden you have a stacking situation, it would  
4 be really unsafe for the property.

5 We've eliminated that. There's no longer the  
6 gate coming into the property. And we also had a  
7 gate leaving the property. That's going to be gone  
8 as well.

9 But the validation will probably be more than  
10 likely self-enforced in terms of you need to go  
11 get -- not self-enforced. You go and get your own  
12 ticket, put it on your dashboard kind of deal, but  
13 there will be people monitoring that.

14 COUNCILMEMBER MATEO: Okay. Yeah.

15 MR. W. FRAMPTON: But as far as anybody else coming there  
16 to park for the rest of the town, there will have to  
17 be some kind of fee of some sort.

18 COUNCILMEMBER MATEO: Okay. So will it also be durational,  
19 then, the parking, you know, a duration on how long  
20 one can park, like one-hour parking, two-hour  
21 parking?

22 MR. W. FRAMPTON: Yeah, there'll be, I would imagine, some  
23 kind of incremental payments, maybe the first  
24 quarter hour could be no charge. That needs to be  
25 worked out with -- in terms of the cost of the

1 actual improvement.

2 The reason that came up right away in the  
3 beginning was one, to pay for this whole parking lot  
4 that he's going to be putting in. But in terms of  
5 how much it cost, the hour and duration, that would  
6 need to be worked out.

7 And I imagine we could get closer to having  
8 something by the time of the SMA, but the hard part  
9 is committing to some price and then changing market  
10 conditions, cost of construction, whatnot, down the  
11 road. But I -- I -- I would note that I -- I don't  
12 see it being some astronomical absurd cost of  
13 parking in a resort --

14 COUNCILMEMBER MATEO: Yeah, no. No --

15 MR. W. FRAMPTON: -- type community you might imagine.

16 This has got to be fair.

17 COUNCILMEMBER MATEO: No. Mr. Frampton, the cost wasn't  
18 of an -- of interest.

19 MR. W. FRAMPTON: Okay.

20 COUNCILMEMBER MATEO: It was, you know, like to understand  
21 that there is a parking structure -- a parking area  
22 --

23 MR. W. FRAMPTON: Okay.

24 COUNCILMEMBER MATEO: -- that's available, it's validated  
25 so there's -- there's a fee involved. And because

1           there's a fee involved, I guess you need the  
2           circulation so it cannot be --

3   MR. W. FRAMPTON:   Yes.

4   COUNCILMEMBER MATEO:  -- accessible all day.

5   MR. W. FRAMPTON:   Okay, okay, okay.

6   COUNCILMEMBER MATEO:  So we need to understand --

7   MR. W. FRAMPTON:   I see what you're getting at.

8   COUNCILMEMBER MATEO:  -- that --

9   MR. W. FRAMPTON:   Absolutely.

10   COUNCILMEMBER MATEO:  -- you know, there -- this is  
11           durational in terms of there is a limit on the usage  
12           of the stall.

13   MR. W. FRAMPTON:   You're right.  The -- the --

14   COUNCILMEMBER MATEO:  So that's all -- that's all I wanted  
15           to -- what -- what you charge for it is really, you  
16           know --

17   MR. W. FRAMPTON:   Okay.  Thank -- no, thank you, Mr. Mateo,  
18           for clarifying that.

19           The -- the validation point only -- note means  
20           that those who come there will get essentially free  
21           parking if you're there.  You've got to get it  
22           stamped that you've gone to these shops, but it has  
23           to be durational.  You can't go and put up a tent --  
24           a camper and hang out, you know, like it happens  
25           now.

1 COUNCILMEMBER MATEO: Thank you. Thank you, Chairman.

2 CHAIR MOLINA: Okay. Thank you, Mr. Mateo. Mr. Frampton,  
3 as a follow-up to Mr. Mateo's inquiry regarding the  
4 parking, so you're looking at this charge for  
5 parking as also a potential benefit to -- or the  
6 additional parking that you're putting in, a benefit  
7 to the community by potentially opening up more  
8 parking stalls in the public parking areas as well;  
9 am I correct?

10 MR. W. FRAMPTON: That's right. That's absolutely right.  
11 It -- it just goes to add to the overall -- that  
12 slide 25, the reason we did that parking analysis  
13 for the town was to just sort -- sort of show that,  
14 that this will greatly increase the amount of  
15 parking in all of Paia.

16 So those going to the specific shops will no  
17 longer go use up the stalls in the other areas, and  
18 -- and it works out to be a benefit, we hope.

19 CHAIR MOLINA: Okay. So this parking -- paid parking that  
20 you're proposing, I guess, is more -- for the more  
21 serious shopper, I guess?

22 MR. W. FRAMPTON: That's right.

23 CHAIR MOLINA: Generally those who pay for parking are  
24 more -- they're more for serious business to  
25 patronize the shops as well?

1 MR. W. FRAMPTON: That's right, and then free up the other  
2 areas like your great point you just made.

3 CHAIR MOLINA: Okay. Thank you. Mr. Victorino?

4 COUNCILMEMBER VICTORINO: Yes. It's off the subject matter  
5 in the sense of what we're discussing but really  
6 pertains to this facility.

7 Mr. Frampton, you and I had talked about a  
8 little meeting room for the community, our seniors,  
9 something that would make what I consider the  
10 residents of the area feel that this is more a part  
11 of what they and their community is, you know, just  
12 not strictly commercial, and you said you'd look  
13 into that matter.

14 Have you given that some consideration? Have  
15 you talked to the owner about that? Because I  
16 thought that would be a real true community effort  
17 with the substation and a community meeting room for  
18 those kinds of meetings, and I'm not talking big  
19 public meetings. I'm talking smaller.

20 MR. W. FRAMPTON: Yeah.

21 COUNCILMEMBER VICTORINO: Yeah? And we -- we had discussed  
22 this.

23 MR. W. FRAMPTON: Yeah.

24 COUNCILMEMBER VICTORINO: Have you had a chance to check  
25 into that? Because I think that's something that

1           was really, in my mind, as we do these new  
2           developments, something that really brings the  
3           community to be a part of whatever we do as far as  
4           these small towns.

5   MR. W. FRAMPTON:  That's -- that's -- that's right,  
6           Mr. Victorino.  And, yes, we did discuss this, and  
7           we still are discussing it.

8                   We -- we actually have arranged to talk with  
9           MEO as well to get a sense of some of the needs for  
10          the seniors, like you talked about, the Kaunoa  
11          Senior Center just up the way towards Kahului, a  
12          mile or so away, Paia Community Center is there, but  
13          in the heart right there in the town, an area for  
14          them to hang out or -- or -- or get together.

15                   Whether it's in a specific room of the two new  
16          buildings, that needs to be continued to be  
17          explored.  We did bring up an idea, though, of the  
18          courtyard area, possibly being able to cover part of  
19          the courtyard area.

20   COUNCILMEMBER VICTORINO:  Yeah.

21   MR. W. FRAMPTON:  Include some tables so that, you know,  
22           the guys come and play cards like the old Kahului  
23           Shopping Center.

24   COUNCILMEMBER VICTORINO:  Yes.

25   MR. W. FRAMPTON:  You know, a place where they're -- they



1           feel good and welcome and -- and it's comfortable  
2           for them to go hang out while the grandkids or  
3           whoever go shop.

4                     But that's something that we absolutely are  
5           continuing to pursue because I -- I -- I appreciated  
6           the idea. I think it was a good idea.

7   COUNCILMEMBER VICTORINO: Yeah. And -- and -- and in these  
8           towns, we have many seniors that still reside in  
9           these areas, and I think it's something that our  
10          small towns, whether it's Makawao, Wailuku, Haiku,  
11          Paia, I don't care where, if we have a small town  
12          and there's -- and there's seniors around.

13                    We have places for them to go, the Kaunoa  
14          Senior Center and all that, but what I'm referring  
15          to, Mr. Chair, is something that is commercially  
16          based that they can go there like we used to do at  
17          the old Maui -- at the old Kahului Shopping Center  
18          and, you know -- and they have their little garden  
19          and they get these people together and sell  
20          vegetables.

21                    It was kind of a nice thing, and a lot of  
22          local people would tend to go there and so -- and,  
23          again, we -- that's what the discussion was. And  
24          it's not part of the -- the -- the plan but I think  
25          a very important ambience, if we're going to do

1 things of this nature, to make sure that's inclusive  
2 of our community, especially our small towns like  
3 Paia and thus far, yeah?

4 So thank you, Mr. Chair, and thank you,  
5 Mr. Frampton. You have something else --

6 MR. W. FRAMPTON: Just -- just as a follow-up.

7 COUNCILMEMBER VICTORINO: Yes.

8 MR. W. FRAMPTON: You brought up two other good points.  
9 The historic information board. Working with a  
10 wonderful Member of that community, Mr. Bill Tavares  
11 --

12 COUNCILMEMBER VICTORINO: Yes.

13 MR. W. FRAMPTON: -- was very influential on the design of  
14 our building as well. He helped work with Eric  
15 Taniguchi on the design of that building on Baldwin  
16 to use different materials that were more conducive  
17 to the old -- old days, which was great.

18 The farmer's market concept was brought up as  
19 well, and that was one of the other benefits of this  
20 courtyard by Charley's and Jacque's.

21 There was a kiosk, at one point, placed there.  
22 That was to be a portable sort of kiosk, if you  
23 will. And we thought maybe once a month, twice a  
24 month, we could do a farmer's market-type situation  
25 in those courtyard areas, just another way to help

1 bring in some life and -- and enhance that sense of  
2 place.

3 COUNCILMEMBER VICTORINO: Yeah. Yeah, Mr. Chair -- again,  
4 thank you, Mr. Frampton. And again, Mr. Chair, a  
5 real good example of -- of a developer, as well as  
6 an owner, as well as a community coming together and  
7 making something that's good for all.

8 And I -- I -- I think this is a fresh of -- a  
9 refreshing breath of air coming in that they're  
10 willing to work, you know, and -- and I think this  
11 is something important that -- a lot of times it's  
12 adversarial, everybody's like no; no, I don't want  
13 to do this; yes, I'll do that and -- or forced to do  
14 things. And Mr. Frampton and this owner seem to be  
15 very willing to take any suggestions, look at 'em,  
16 and really try to find a real positive solution.

17 And I want to thank them and -- and on behalf  
18 of -- of the people of Maui County, I want to thank  
19 you, Mr. Frampton, because even though your father's  
20 here, I still like you very much. Thank you very  
21 much.

22 CHAIR MOLINA: Thank you, Mr. Victorino. Members, if there  
23 are no other questions for Mr. Frampton, I'm going  
24 to excuse him at this time. Seeing none, thank you,  
25 Mr. Frampton.

1 MR. W. FRAMPTON: Thank you, Mr. Chair.

2 CHAIR MOLINA: And one last thing before the Chair offers a  
3 recommendation. We finally got somebody from the  
4 Fire Department. Mr. English is here; however,  
5 he -- during the break, he did let the Chair know he  
6 has no comments on the Project at this point;  
7 obviously, I believe, no concerns at this point.

8 And a couple of Members did indicate to me  
9 they don't have any questions for Lieutenant  
10 English. However, for the rest of you, if you have  
11 any questions for the Department, please make it  
12 known now before the Chair offers a recommendation.

13 Seeing no -- no questions, thank you,  
14 Lieutenant English. I know you folks are very busy  
15 today. There's some type of fire in the West Maui  
16 area again, so I know -- I see Member Johnson  
17 shaking her head. I -- I under -- I totally  
18 understand the frustration.

19 So with that being said, Members, the Chair  
20 would like to offer a recommendation for Land Use  
21 Item No. 5. The Chair will entertain a motion to  
22 recommend passage of the revised proposed bill  
23 transmitted by correspondence dated October 8th,  
24 2007, entitled "A BILL FOR AN ORDINANCE TO AMEND THE  
25 PAIA-HAIKU COMMUNITY PLAN AND LAND USE MAP FROM

1 SINGLE-FAMILY TO BUSINESS/COMMERCIAL FOR PROPERTY  
2 SITUATED AT PAIA, MAUI, HAWAII."

3 COUNCILMEMBER VICTORINO: So moved.

4 VICE-CHAIR PONTANILLA: Second.

5 CHAIR MOLINA: Okay. It's been moved by Member Victorino,  
6 seconded by Member Pontanilla. Any discussion?

7 Member Johnson?

8 COUNCILMEMBER JOHNSON: I just didn't know if  
9 Mr. Victorino, who's the maker of the motion, had  
10 any comments first.

11 CHAIR MOLINA: Mr. Victorino, you have any initial comments  
12 on the Community Plan Amendment?

13 COUNCILMEMBER VICTORINO: I will yield to Ms. Johnson. No  
14 problem.

15 CHAIR MOLINA: Member Johnson?

16 COUNCILMEMBER JOHNSON: I just want to thank the developer  
17 for listening to a lot of the issues because I had  
18 an opportunity to visit with him. I -- I like the  
19 architectural sensitivity, I like how he actually  
20 came to the community, worked with the community,  
21 his work with Planning.

22 He's made every effort to try and respect.  
23 Although he's not going to be able to please a  
24 hundred percent of all the people that live and  
25 maybe traverse this area, I think he's done the best

1 job that he possibly can.

2 And I agree with Member Baisa and others  
3 who've expressed the safety issue and security  
4 because I've been in that parking lot myself; and  
5 for handicap people particularly, you really could  
6 not take someone who's in a wheelchair into that  
7 area.

8 It's -- also, I've been approached by people  
9 who are homeless and, you know, they want to eat  
10 like everybody else, but it's an issue that even  
11 goes far beyond this little area because the  
12 homelessness is creating a problem.

13 And I'm glad that our Police Department is  
14 supportive of this as well so I just want to thank  
15 Mr. Frampton for being sensitive to the community  
16 and to listening to the concerns because so many  
17 times we have other people that -- they won't budge,  
18 and they do an end-run around the community, and I'm  
19 glad to see that he has not taken that approach so I  
20 thank him for that.

21 CHAIR MOLINA: Okay. Thank you, Member Johnson. Committee  
22 Members, any other discussion on the proposed  
23 Community Plan Amendment? Seeing none, all those in  
24 favor, signify by saying "aye."

25 COUNCIL MEMBERS: Aye.

1 CHAIR MOLINA: All those opposed?

2 **VOTE: AYES:** Councilmembers Baisa, Johnson, Mateo,  
3 Victorino, Vice-Chair Pontanilla, and  
4 Chair Molina.

4 **NOES:** None.

5 **ABSTAIN:** None.

6 **ABSENT:** None.

7 **EXC.:** Councilmembers Anderson, Hokama, and  
8 Medeiros.

9 **MOTION CARRIED.**

10 **ACTION:** Recommending FIRST READING of revised  
11 proposed bill.

11 CHAIR MOLINA: Thank you. The Chair will mark it six,  
12 zero, with three excusals, Members Anderson,  
13 Medeiros, and Hokama.

14 Next, Members, the other bill we will consider  
15 here, the Chair will entertain a motion to recommend  
16 passage of the revised proposed bill transmitted by  
17 correspondence dated October 8, 2007, entitled "A  
18 BILL FOR AN ORDINANCE TO CHANGE ZONING FROM INTERIM  
19 DISTRICT TO B-CT COUNTRY TOWN BUSINESS DISTRICT  
20 (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT PAIA,  
21 MAUI, HAWAII."

22 COUNCILMEMBER VICTORINO: So moved.

23 VICE-CHAIR PONTANILLA: Second.

24 CHAIR MOLINA: Okay. It's been moved by Member Victorino,  
25 seconded by Member Pontanilla. Any discussion?

1 Mr. Victorino, as the maker of the motion?

2 COUNCILMEMBER VICTORINO: No, Mr. Chair. Everything has  
3 been said, and I think we can act on this with a  
4 very, very clear and good-natured heart.

5 CHAIR MOLINA: Okay, thank you. And by the way, this  
6 motion would also include the filing of the  
7 communication as well.

8 The Chair would like to ask the Members'  
9 consideration. I would like -- there is one  
10 condition that was proposed by the Planning  
11 Commission which was, I guess, titled as "Vehicular  
12 Access from Luna Place Shall be Prohibited."

13 And the Chair would like to call for a  
14 proposed amendment to add -- insert the words --  
15 after the word "access," to insert the words "to and  
16 from Luna place shall be prohibited."

17 And this is based on a November 5th, 2007,  
18 response from the Planning Director, page 2, bullet  
19 point number 4, in which the Director mentions the  
20 intent of proposed Condition No. 1 is to prohibit  
21 all vehicular access to and from Luna place from the  
22 Paia Town Center.

23 Deputy Director Suyama, do you have any  
24 additional comments to Director Hunt's comments on  
25 the November 5th, 2007, document?



1 MS. SUYAMA: No -- no additional comments.

2 CHAIR MOLINA: Okay. So, Members, I would ask for a  
3 consideration to amend Condition No. 1 to add the  
4 words "to and" after the word "access."

5 COUNCILMEMBER JOHNSON: So moved to amend.

6 COUNCILMEMBER VICTORINO: Second.

7 CHAIR MOLINA: Okay. It's been moved by Member Johnson and  
8 seconded by Mr. Victorino?

9 COUNCILMEMBER VICTORINO: That's fine, that's fine.

10 CHAIR MOLINA: All right. Any discussion on the amendment  
11 to Condition No. 1?

12 COUNCILMEMBER VICTORINO: No.

13 CHAIR MOLINA: Seeing none, all those in favor, signify by  
14 saying "aye."

15 COUNCIL MEMBERS: Aye.

16 CHAIR MOLINA: All those opposed?

17 **VOTE: AYES:** Councilmembers Baisa, Johnson, Mateo,  
18 Victorino, Vice-Chair Pontanilla, and  
Chair Molina.

19 **NOES:** None.

20 **ABSTAIN:** None.

21 **ABSENT:** None.

22 **EXC.:** Councilmembers Anderson, Hokama, and  
Medeiros.

23 **MOTION CARRIED.**

24 **ACTION:** APPROVE amendment to the main motion.

25

1 CHAIR MOLINA: Thank you. The Chair will mark it six,  
2 zero, with three excusals, Members Anderson,  
3 Medeiros, and Hokama.

4 Now we are back to the bill as amended. Any  
5 discussion? Seeing none, all those in favor,  
6 signify by saying "aye."

7 COUNCIL MEMBERS: Aye.

8 CHAIR MOLINA: All those opposed?

9 **VOTE: AYES:** Councilmembers Baisa, Johnson, Mateo,  
10 Victorino, Vice-Chair Pontanilla, and  
Chair Molina.

11 **NOES:** None.

12 **ABSTAIN:** None.

13 **ABSENT:** None.

14 **EXC.:** Councilmembers Anderson, Hokama, and  
15 Medeiros.

16 **MOTION CARRIED.**

17 **ACTION:** Recommending FIRST READING of revised  
18 proposed bill, RECORDATION of unilateral  
agreement, and FILING of communication.

19 CHAIR MOLINA: Thank you. The Chair will mark it six,  
20 zero; three excusals, Members Anderson, Medeiros,  
21 and Hokama.

22 The bill passes, congratulations, by a vote of  
23 six, zero. Thank you, Members.

24 **ITEM NO. 52: CONDITIONAL PERMIT FOR THE HALEAKALA RANCH**  
25 **VISITOR'S CENTER (KULA) (C.C. No. 06-101)**

1 CHAIR MOLINA: So with that being said, we will go on to  
2 our next Committee item, which is Land Use Item No.  
3 52, which is a Conditional Permit for the Haleakala  
4 Ranch Visitor's Center.

5 And, Members, the Chair is aware of the time.  
6 It appears we will probably have to reconvene this  
7 afternoon sometime, but the Planner for this  
8 particular item has a flight to catch later this  
9 afternoon to Lanai, that is Mr. Alueta. So I would  
10 just like to --

11 VICE-CHAIR PONTANILLA: Chair?

12 CHAIR MOLINA: -- make -- make that known to you.

13 Mr. Pontanilla?

14 VICE-CHAIR PONTANILLA: Thank you. As far as Land Use 52,  
15 how long will you take this morning --

16 CHAIR MOLINA: Yeah, I was just going to get to that so --  
17 well, typically, we recess at around 12:00. Is that  
18 the pleasure of the body?

19 I wanted to give the applicant an opportunity  
20 to do their PowerPoint presentation and have  
21 Mr. Alueta make his comments before he has to leave  
22 and then after the recess, we could come back and  
23 further deliberate on Land Use Item 52. And --  
24 Member Johnson?

25 COUNCILMEMBER JOHNSON: Yes. And -- and I guess my

1 question is similar to Member Pontanilla's.

2 CHAIR MOLINA: Uh-huh.

3 COUNCILMEMBER JOHNSON: If this is something -- because if  
4 we have any questions to ask Mr. Alueta, you know,  
5 if -- if it's something that we don't have a huge  
6 amount of --

7 CHAIR MOLINA: Uh-huh.

8 COUNCILMEMBER JOHNSON: -- discussion on, then I wouldn't  
9 mind going a little bit into the noon hour. If we  
10 --

11 CHAIR MOLINA: Past 12:00? Sure.

12 UNIDENTIFIED SPEAKER: Yeah (inaudible).

13 COUNCILMEMBER JOHNSON: If we could do that and then that  
14 way, we would only have --

15 CHAIR MOLINA: Sure.

16 COUNCILMEMBER JOHNSON: -- the one item facing us this  
17 afternoon.

18 CHAIR MOLINA: Okay. If -- if that's what the body would  
19 like, the Chair has no problems with going past 12  
20 o'clock. Mr. Pontanilla?

21 VICE-CHAIR PONTANILLA: Yeah, I -- I do have a 12:15 so --  
22 but you'll still have quorum.

23 CHAIR MOLINA: Okay.

24 COUNCILMEMBER BAISA: Chair, I have the similar problem.

25 CHAIR MOLINA: Okay. You have to leave at 12:15?

1 COUNCILMEMBER BAISA: Well, I had planned on 12:00, but I  
2 can stretch it.

3 CHAIR MOLINA: Okay. All right. We'll go as far as we can  
4 go, then.

5 All right, Members, the -- Land Use Item 52.  
6 The Committee is in receipt of County Communication  
7 No. 06-11, from the Planning Director, transmitting  
8 a proposed bill entitled "A BILL FOR AN ORDINANCE  
9 GRANTING HALEAKALA RANCH COMPANY A CONDITIONAL  
10 PERMIT TO CONSTRUCT AND OPERATE THE HALEAKALA RANCH  
11 VISITOR'S CENTER, WITHIN THE COUNTY AGRICULTURAL  
12 DISTRICT, FOR PROPERTY SITUATED AT KULA, MAUI,  
13 HAWAII."

14 The purpose of the proposed bill is to grant a  
15 request from Haleakala Ranch Company for a five-year  
16 Conditional Permit to construct and operate the  
17 Haleakala Ranch Visitor's Center on approximately  
18 14.057 acres at 18303 Haleakala Highway, Kula, Maui,  
19 Hawaii.

20 At this point, the Chair had mentioned that  
21 the applicant does have a PowerPoint presentation.  
22 However, Members, if you would prefer to have  
23 Mr. Alueta give us an overview first and then you  
24 can do your Q and A and then we can excuse  
25 Mr. Alueta, I know he has a flight to catch, if there

1 are no objections to proceeding in that fashion.

2 And after that, we'll go into the presentation  
3 from the Haleakala Ranch, as well as entertain any  
4 public testimony potentially for this item, as well  
5 as Land Use Item 20.

6 So, Members, what we'll do, then, if there are  
7 no objections, I'll go ahead and ask Mr. Alueta to  
8 give us a brief overview; and if you have questions  
9 for him, go ahead and ask him of that and then we'll  
10 go ahead with the applicant's PowerPoint  
11 presentation. Mr. Alueta?

12 MR. ALUETA: Thank you, Mr. Chair. I'll be very brief, and  
13 I'm confident you'll be able to get through this  
14 Project rather quickly.

15 As indicated, they're in -- they're in for a  
16 Conditional Permit within the County Agricultural  
17 District to construct a visitor's centers.

18 At this point, the overall approval from  
19 the -- their request from the State Land Use side  
20 was for a 2,500 square foot Sunrise Market, to  
21 relocate the Sunrise Market, 1,400 square feet of  
22 Protea building, 2,300 square feet of picnic  
23 building and shelters, the ATV building -- center,  
24 which is approximately -- is already on the  
25 property, as well as just under a thousand square

1 foot security cottage and a 7,000 square foot  
2 heritage center and parking and related  
3 improvements.

4 The applicant was granted a State Special Use  
5 Permit from the Maui Planning Commission, subject to  
6 a variety of conditions back in October of 2005.

7 As a result of those conditions, and -- and  
8 given the fact that the -- the plans were  
9 preliminary, in going back, the applicant re -- did  
10 do some redesigns of their Project area and did  
11 get -- get those plans approved by both the Urban  
12 Design Review Board, as well as the Maui Planning  
13 Commission, at their October 10th, 2006, meeting, as  
14 well as amending No. 8 -- Condition No. 18, which  
15 talks about the construction design, as well as  
16 adding two new conditions with regards to Department  
17 of Transportation and drainage.

18 The applicant has been -- has worked well with  
19 the Department as far as design, as well as  
20 addressing its conditions. In talking with the  
21 applicant, they are proposing to do it in a phased  
22 construction and some design modification.

23 We have reviewed the design with the -- the  
24 applicant. We do not feel it's a significant  
25 change. We look at the plans as being draft. They

1           have on overall concept and overall square footage  
2           maximum, kind of like what I call a box, and they're  
3           proposing to shrink that box down at this point  
4           under their current iteration.

5                     They do want to have the ability to, you know,  
6           build to the full extent; but at this time, they --  
7           given their financial considerations for the  
8           Project, they're planning to phase it and not do as  
9           big of a Project as they anticipated.

10                    In going over the amended plans, at least in  
11           their Phase 1, the only issue of concern that -- or  
12           that I brought up with them was there was a bike  
13           access or entry -- back -- back onto the highway,  
14           there was going to be an access point at the bottom  
15           of the property.

16                    I did talk it over with their consultant  
17           and -- and the Haleakala Ranch representatives, and  
18           they'll touch on that during their PowerPoint  
19           presentation, but the only other issue that came up  
20           during Commission that was resolved was the issue of  
21           whether alcohol would be served, and they've already  
22           agreed that there would not be any alcohol served or  
23           sold on the property.

24                    We -- we think this is a -- given -- a good  
25           Project. It consolidates some of the agricultural



1 activity on -- accessory uses within the  
2 agricultural activities that Haleakala Ranch  
3 currently has into one centralized location. It  
4 makes it easier for them to manage those uses for  
5 the Ranch.

6 And, as indicated, they are a large ranch.  
7 They have about 30,000 acres and so this is a  
8 relatively small area that they've -- trying to  
9 accommodate some of the related agricultural  
10 activities, as well as nonagricultural activities,  
11 and we think it's a pretty good Project.

12 CHAIR MOLINA: Okay. Thank you, Mr. Alueta. Committee  
13 Members, questions for Mr. Alueta at this time?  
14 Member Johnson, followed by Mr. Mateo.

15 COUNCILMEMBER JOHNSON: Yes, Joe. They're seeking a  
16 five-year permit, is that correct?

17 MR. ALUETA: That's the recommendations from our  
18 Department. At this point in time, we were able to  
19 support it. That's pretty standard.

20 COUNCILMEMBER JOHNSON: Okay. My question would be, then,  
21 at the State -- you know, the State-issued permit,  
22 how long is that for? I -- you know, I -- I just  
23 didn't -- I apologize. I didn't notice.

24 MR. ALUETA: It's -- they -- they were granted a five-year  
25 permit from 2005 and that is good till 2010 or to

1 expire -- expiration of the Conditional Permit,  
2 whichever is greater. So there is a tie-in.

3 So should you grant them a longer period with  
4 the Conditional Permit, the State Special Use Permit  
5 will run with that date.

6 COUNCILMEMBER JOHNSON: Okay. Because that is really  
7 important. The investment that they are making in  
8 this Visitor's Center is substantial.

9 MR. ALUETA: I did talk over with him, Mr. Chair, and  
10 Council Member, that they -- they will be asking for  
11 a ten-year.

12 COUNCILMEMBER JOHNSON: And -- and that would be my  
13 question and my recommendation as well, at least for  
14 a ten-year permit and -- based on the amount of, you  
15 know, cost that they're going to have to put into  
16 this facility.

17 I know that we've granted periods that even  
18 extend beyond that and because we want to support  
19 Agriculture, Mr. Chair, I think it's really  
20 important that we look at trying to work with the  
21 applicant.

22 And there's other things that they have to  
23 meet, all these conditions, so they can be  
24 questioned at any time, and we have the permit so  
25 I -- I would be looking at a minimum of ten years

1 and possibly longer. Thank you.

2 CHAIR MOLINA: Okay. Thank you, Member Johnson. Member  
3 Mateo, followed by Member Pontanilla.

4 COUNCILMEMBER MATEO: Chairman, thank you very much. And  
5 my question is, in part, linked to what Ms. Johnson  
6 had just asked.

7 Mr. Alueta, the Department's original  
8 recommendation was two years. And I believe through  
9 the Commission discussion, they came out with a  
10 five-year recommendation.

11 Can the Department comment on the -- you  
12 originally recommended two years, and can you  
13 provide additional comment as to why you're --  
14 you're looking at five years at this point?

15 CHAIR MOLINA: Mr. Alueta?

16 MR. ALUETA: Again, the -- the -- it's pretty standard for  
17 the Department, Mr. Chair, and Members, that we come  
18 up with a two-year recommendation. That's pretty  
19 standard for most of our permits.

20 I believe that the -- I'm -- I'm not sure what  
21 the rationale was with the discussions for the  
22 Commissions. I haven't reviewed the minutes  
23 recently. It has been a couple of years since they  
24 made that -- that decision for their  
25 recommendations.

1           I'm assuming it was on the -- the same lines  
2           of your thinking with regards to the amount of  
3           infrastructure costs being proposed by the  
4           applicant. I think also you have to take into  
5           consideration the history of the -- of the -- of who  
6           you're dealing with, the applicants itself.

7           You're dealing with Haleakala Ranch, which has  
8           been around for quite a number of years and -- and  
9           that has a pretty -- I -- I think has a pretty good  
10          record as far as their standings within the  
11          community. That's all.

12        COUNCILMEMBER MATEO: Thank you, Mr. Alueta. Thank you,  
13          Mr. Chair.

14        CHAIR MOLINA: Okay. Thank you, again, Member Mateo.  
15          Member Pontanilla?

16        VICE-CHAIR PONTANILLA: I -- I think Mr. Alueta answered  
17          the question in regards to the recommendation by the  
18          Department of two years and the recommendation by  
19          the Planning Commission of five years. Thank you.

20        CHAIR MOLINA: Okay. Thank you, Mr. Alueta --  
21          Mr. Pontanilla.

22                 Question for Corp. Counsel. With regards to  
23                 the -- this is a first-time issuance of the permit.  
24                 Any comments on -- I guess Member Johnson had  
25                 suggested a ten-year, and Department has -- has

1           stated that five-year is typical. Any comments with  
2           regards to the duration of first-time permittees?

3   MR. GIROUX: I -- I don't think the -- the issue of it,  
4           whether it's first or second or -- they're going to  
5           get an extension.

6           I think Corp. Counsel has always taken the  
7           position that as long as you -- there -- there is a  
8           duration that -- that seems to be reasonable. We  
9           don't want permits that are in perpetuity because  
10          then you're starting to look at -- at zoning.

11          So if the Council sees the facts as they are  
12          to -- to be supportable for a number of years  
13          certain, then Corporation Counsel wouldn't have a  
14          problem with that.

15   CHAIR MOLINA: Okay. Thank you. Okay, Members, if there  
16          are no other questions at this time for Mr. Alueta  
17          or Corporation Counsel, the Chair would like to take  
18          a short recess to prepare the Chambers for the  
19          PowerPoint presentation of LU-52. Any objections?

20   COUNCIL MEMBERS: No objections.

21   CHAIR MOLINA: Okay. Thank you very much, Members. We  
22          shall take a brief recess to set the Chambers up for  
23          a PowerPoint presentation with regards to LU-52.  
24          Meeting in recess. ...(gavel)...

25   **RECESS:           11:39 a.m.**

1     **RECONVENE:     11:40 a.m.**

2     CHAIR MOLINA: ... (gavel)... All right. Okay. Okay,  
3             Members, we're going to go ahead and start.

4                     Land Use Committee meeting for December 19th,  
5             2007, is now back in session. We have for us to do  
6             a PowerPoint presentation on LU-52 Mr. Tom Schnell,  
7             representing the Haleakala Ranch. Mr. Schnell?

8     MR. SCHNELL: Hi. Good morning. Thanks, Council Members.  
9             Good morning. My name's Tom Schnell. I'm with PBR  
10            Hawaii, and we're the consultant that's worked with  
11            Haleakala Ranch on this Project for about six years  
12            now.

13                    With me today is Don Young, President of  
14            Haleakala Ranch, and we're here to seek your  
15            approval on the Conditional Use Permit. But first  
16            Don's going to provide a brief overview of the Ranch  
17            and go through the purpose of the Visitor's Center  
18            and then I'll come back and explain specifics on the  
19            site plan.

20     MR. YOUNG: Good morning, and I'll try to make this brief.  
21            Hopefully, this microphone is on. But as Tom  
22            mentioned, I'd just like to comment before he gets  
23            into the detail of the site plan.

24                    Most of you know Haleakala Ranch has a proud  
25            history on Maui for over a hundred years in terms of

1 cattle ranching and land stewardship. We have  
2 30,000 acres in total; 6,500 of those acres are  
3 dedicated to conservation use.

4 Strategically, the Ranch is committed to  
5 continuing that heritage of cattle ranching and land  
6 stewardship for future generations. And in terms of  
7 the purpose of this Project, if you go to the  
8 next -- and getting into really what's behind us.

9 I've only been with the Ranch a little over a  
10 year now, but this is a Project that the Ranch has  
11 been working on for many, many years.

12 There are a lot of benefits that the Project  
13 provides to the -- the community and to the Ranch,  
14 but the -- the overwhelming objective of this  
15 Project for us is financial.

16 Looking at the goal of continuing our -- our  
17 ranch operations, particularly cattle operations, we  
18 are looking for additional revenue sources, and this  
19 is a Project that we think can provide a significant  
20 opportunity in that regard.

21 It also provides a center for the Ranch's  
22 existing agricultural and eco-tourism activities we  
23 do have on the -- on the site. Those activities  
24 that you may be familiar with, the Skyline Eco-Tours  
25 with Danny Boren who's here who's President of that

1           company, the ATV operation, and our Pony Express  
2           Horseback Riding.

3                    It's also going to provide a marketplace for  
4           the Upcountry and Maui agricultural products,  
5           including those that are grown on the Ranch. And  
6           it's also intended to be a showcase for the Ranch's  
7           paniolo heritage and some of the land stewardship  
8           and conservation programs that we're involved in.  
9           And finally, it's obviously a rest stop for those  
10          visitors that are going to and from the National  
11          Park.

12                   As Tom will show and as was discussed earlier,  
13          we are intending to do this in a phased approach.  
14          It does represent a significant financial investment  
15          for the Ranch.

16                   We are intending to keep the integrity of the  
17          overall plan as something we'd like to build out but  
18          are looking at initially starting with a smaller  
19          initial phase that would allow us to relocate the  
20          existing Sunrise Market and Protea operation to this  
21          site and combine it with some of the elements that  
22          were in the long-term plan for the Ranch.

23                   Before I forget, I'd also like to acknowledge  
24          today we do have Greg Friel here from the Ranch  
25          who's our Vice President and Manager of our cattle



1 and livestock operation, and John Hirashima is here  
2 who's the owner of the Sunrise Market and Protea  
3 property who's in support of this Project.

4 So I'll turn it over to Tom to go through the  
5 site plan.

6 MR. SCHNELL: Okay. Thank you, Don. Let me just briefly  
7 introduce you to where the location is. It's on  
8 Crater Road. It's above the Residential area. It's  
9 at about 4,200 feet. It's on ranch land. This is  
10 about a 9,000-acre ranch parcel.

11 Here's some photos of the site. There's an  
12 existing building on the site and -- actually, three  
13 existing buildings.

14 This photo shows the general area of the site,  
15 and there's an existing driveway off Crater Road,  
16 and the site is somewhat enclosed and defined by a  
17 tree line. It's a Eucalyptus tree line. The  
18 existing buildings are used for various ranch tours  
19 now and activities, and this building is currently  
20 used for ATV tours.

21 This building is used for the zipline  
22 activities, and this is the Pony Express Horseback  
23 Riding Tour Operation Center. This shows a grouping  
24 of the three buildings together and another shot of  
25 the site.

1           And this -- this picture was taken on  
2           Saturday. It's a little bit above the site.  
3           There's the tree line there, and the -- the site is  
4           on the other side of the tree line.

5           Let me walk you through the site plan. This  
6           is our current site plan. We're considering this a  
7           first phase, and right here is the existing activity  
8           building that would stay there. This is where the  
9           ATV currently is, and we would like to consolidate  
10          all of the tour operations to have the zipline and  
11          the Pony Express into one central area there.

12          This would be the Visitor's Center and the  
13          Sunrise Market, and this is meant to be along the  
14          lines of the Ulupalakua General Store or the Honolua  
15          Store. They would sell foods, sandwiches, there  
16          would be an outdoor seating area, but it would also  
17          showcase the history of the Ranch with Ranch  
18          displays and -- on the history and culture.

19          The restroom facility is there. This is the  
20          parking area, and we phased back the parking area  
21          because this would be a first phase. There's space  
22          below that, you can see in the green grass area, for  
23          expanded parking in the future.

24          This is an important site, is the bus parking.  
25          One of the conditions we got from the Planning

1 Commission was to locate the bus parking behind the  
2 buildings and screen it from Crater Road. So we've  
3 done that, and the other aspect about this is that  
4 the buses could pull in the driveway, they go around  
5 this loop, and they pull in, parallel park next to  
6 each other; still going forward, they can unload and  
7 then when they load back up again and pull out, they  
8 still go forward.

9 This was an important consideration for the  
10 Planning Commission because there's easy  
11 maneuverability, and there's no backup with the  
12 annoying beeping sound, and we were conscious of  
13 that.

14 There's a screening of koa trees here. This  
15 could be a future area for -- for maybe a Protea  
16 operation, but we do have a demonstration Protea  
17 garden here.

18 There would be a corral and hitching post  
19 here. And this is a nice spot because as you're  
20 coming up Crater Road, you would see the horse  
21 corral right there. And we've included a  
22 Caretaker's Cottage because we're -- we're conscious  
23 of monitoring at nighttime.

24 This is the -- the full plan that was approved  
25 by the Planning Commission. And you can see there's

1 a larger parking area, there's a couple larger  
2 buildings that would provide a marketplace for maybe  
3 other people that wanted to come in to sell  
4 ag-related value-added kind of products, and there  
5 would also be a Protea packing facility and shipping  
6 facility, which is a bona fide Ag use. But we --  
7 we've scaled back to this, and this is -- this is  
8 what we're considering our first phase.

9 We're here to seek your approval on the -- on  
10 the Conditional Use Permit. I would like to speak a  
11 moment. I would like to thank Councilmember Johnson  
12 for -- for mentioning a longer period of time.

13 We would like to request a longer period of  
14 time for two reasons. There is a financial  
15 consideration and a financial -- significant  
16 financial investment on the Ranch's part and also,  
17 we need time -- we haven't prepared architectural  
18 plans or final engineering plans, although we've  
19 prepared preliminary stuff, but we think we're a  
20 year off the ground before we even get started. So  
21 a five-year permit, we would -- we'd be eating into  
22 that by, you know, one year.

23 But we're here for questions and comments, and  
24 it would be nice to look at the other side of the  
25 podium and be able to see everybody.

1 CHAIR MOLINA: Okay. All right. Thank you, Mr. Schnell.  
2 Members, we're going to take a short recess to put  
3 the screen up and then we'll continue our  
4 deliberations on Land Use Item 52. Meeting in  
5 recess. ...(gavel)...

6 **RECESS: 11:50 a.m.**

7 **RECONVENE: 11:52 a.m.**

8 CHAIR MOLINA: ...(gavel)... Land Use Committee meeting for  
9 December 19th, 2007, is now back in session. Thank  
10 you to Mr. Schnell and the Ranch for that very  
11 informative presentation.

12 Committee Secretary, have we had any sign-ups  
13 for testimony on Land Use Item 52?

14 MS. FRIAS: No, Mr. Chair.

15 CHAIR MOLINA: Okay, Members, so since there have been no  
16 sign-ups and not seeing anyone coming forward to  
17 give testimony on Land Use Item 52, if there are no  
18 objections, the Chair will close public testimony  
19 for Land Use Item 52.

20 COUNCIL MEMBERS: No objections.

21 CHAIR MOLINA: Okay, thank you very much. All right,  
22 Members, we just -- I've -- I've been informed by  
23 two Members that -- of their need to go to some  
24 prior commitments so we have a few minutes for any Q  
25 and A that you may have. And, obviously, we'll be

1 back this afternoon for -- to continue deliberations  
2 on this, as well as another item.

3 So, Members, the floor is open. We have -- as  
4 far as resource personnel available here, we again  
5 have Sergeant Orikasa from the Police Department, as  
6 well as Mr. Miyamoto from Public Works to answer any  
7 questions as it relates to matters there.

8 At this point, I'd like to invite Sergeant  
9 Orikasa from the Police Department to come up and  
10 respond to any questions. I see Mr. Victorino  
11 already with his hand up with a question relating to  
12 traffic along -- I presume along Crater Road.

13 And thank you, Sergeant, for staying with us  
14 throughout this whole day. Do you have any opening  
15 comments to make on this proposal before I open up  
16 the floor to Mr. Victorino?

17 MR. ORIKASA: On the -- the --

18 CHAIR MOLINA: Could you bring -- bring the mike closer to  
19 you? Thank you, Sergeant.

20 MR. ORIKASA: Good morning. The only thing that we saw  
21 with this Project was realigning the roadway outside  
22 is -- creating a left-turn pocket, designated  
23 left-turn pocket into the Visitor's Center and also  
24 a deceleration right-turn pocket coming for the  
25 makai-bound traffic. That was the only

1           recommendations in a response submitted in 2004.

2   CHAIR MOLINA:   Okay.  Thank you, Sergeant.  Mr. Victorino?

3   COUNCILMEMBER VICTORINO:  Yeah.  And thank you.  I mean,  
4           those are some of the subjects I was just going to  
5           bring up.

6           And the other one that I was very concerned  
7           with -- and you have a tremendous mix of vehicle  
8           traffic.  You get bicyclists and other traffic  
9           coming in -- up and down, especially down, and then  
10          the buses.

11          And I'm always concerned about the buses  
12          because buses decelerating and turning in, turning  
13          right, not a problem.  But when they come back out  
14          and they turn left down to -- onto Haleakala Highway  
15          or if they turn -- I should say right onto the  
16          highway or left going up the highway, what happens  
17          then?

18          Because especially big vehicles like that  
19          turning in and out of that facility, I don't see any  
20          really -- at -- at least in the plans, and I don't  
21          know if maybe this would be nominally for Sergeant  
22          Orikasa but maybe even for the developer, how  
23          they're going to mitigate that.

24          Because, again, those big buses swinging  
25          outside of the property either turning back up,

1 turning left back up to Haleakala Highway or turning  
2 right going down Haleakala Highway, really going  
3 pose a real challenge if you look at the roadway the  
4 way it exists right now.

5 So I don't see anything in this plan that  
6 mitigates that. Maybe something needs to be  
7 discussed, but do you think that's a valid concern?

8 MR. ORIKASA: That is a concern, as far as how -- how the  
9 traffic -- ingress and egress of the traffic.

10 What I've heard with other projects, as far as  
11 when it's -- when you're dealing with heavy or large  
12 vehicles, is design the pattern of when these  
13 vehicles come in.

14 COUNCILMEMBER VICTORINO: Uh-huh.

15 MR. ORIKASA: Rather than have them turn into the Visitor's  
16 Center when inbound, have them come in when they're  
17 outbound. Then that way, it's a right turn in,  
18 right turn out, as far as the -- the pat -- the  
19 pattern that the tour bus will follow for the day.

20 COUNCILMEMBER VICTORINO: Okay. That's a good option, you  
21 know, and maybe that's something that we can address  
22 with the developer and Haleakala Ranch at -- at a  
23 later point, but --

24 MR. ORIKASA: Yeah.

25 COUNCILMEMBER VICTORINO: -- thank you for that -- that --



1           that input because, again, that was my concern.

2                   And then the other thing is Mr. Alueta pointed  
3           out that they had put in their -- one of their plans  
4           an exit, and I cannot find -- he showed me there was  
5           a little dotted line on one of their plans to exit  
6           for bikers to go around and then go back out onto  
7           the highway.

8                   And, again, we've had this challenge with  
9           bikers and bike -- bicyclists, yeah, on the highway  
10          itself. Again, do you think that could -- this  
11          could impose or have an impact as far as those  
12          people, especially when they decide to stop in, take  
13          a rest, and then continue down the roadway?

14   MR. ORIKASA: Very likely so, but I apologize. I haven't  
15          had the opportunity to view the updated plans --

16   COUNCILMEMBER VICTORINO: Okay.

17   MR. ORIKASA: -- for this Project.

18   COUNCILMEMBER VICTORINO: Okay. Thank --

19   MR. ORIKASA: I --

20   COUNCILMEMBER VICTORINO: Yeah. No, I not blaming you, but  
21          I'm just saying yeah. You know, I think that's  
22          something to -- you know.

23   MR. ORIKASA: Yeah, it -- it is a consideration when it  
24          comes to the mix of vehicular and bicycle traffic or  
25          pedestrian traffic in the area.

1 COUNCILMEMBER VICTORINO: Yeah. Okay. Well, thank you.

2 Thank you, Mr. Chair. And I think, you know, I'll  
3 have further questions for the developer when we --  
4 when we get to -- to that -- that part of the  
5 questions. Thank you, Mr. Chair.

6 CHAIR MOLINA: Okay. Thank you, Mr. Victorino. Committee  
7 Members, questions for Sergeant Orikasa? Okay,  
8 seeing none, thank you, Sergeant.

9 MR. ORIKASA: Thank you.

10 CHAIR MOLINA: Appreciate you spending time with us to  
11 discuss this matter.

12 Before we take a recess, I'd like to call upon  
13 Deputy Director Miyamoto, if he has any comments on  
14 the Project.

15 And also, we have on Crater Road I believe  
16 it's a State road issue. Maybe Ms. Shibuya, if you  
17 could prepare yourself as well if there are  
18 additional comments. Mr. Director?

19 MR. MIYAMOTO: Mr. Chair, would you prefer to call State  
20 DOT, as we're stationed in the building and she --  
21 she is not, so maybe...

22 CHAIR MOLINA: Okay. Ms. Shibuya, if you'd like to come  
23 up? I'd like to ask for your comments and see if  
24 the Members have any questions. I'm sure  
25 Mr. Victorino already has one.

1 MS. SHIBUYA: I didn't realize I was that short. Charlene  
2 Shibuya again, Construction Engineer with DOT.

3 I'd kind of like to make some comments about  
4 this Project before we get questions. This Project  
5 actually -- we -- we -- we're -- we're kind of  
6 excited about it because you know the existing  
7 location of the Sunrise Market has been somewhat  
8 problematic and, you know, occasionally, we'd  
9 receive complaints. And, you know, I -- I think  
10 Mr. Hirashima in the audience can probably testify  
11 to that.

12 And so, you know, this -- this -- this Project  
13 is actually above the Residential area. It's  
14 actually a ways above the Residential area, and I --  
15 I think, you know, having the Sunrise Market go up  
16 there, as well as the other eco-tourism-type  
17 activities, it -- it kind of will help us to remove,  
18 actually, the -- the -- the complaints that we've  
19 had in the Residential area with the buses and the  
20 bicyclists. But anyway, good morning. And if  
21 you -- I'll entertain questions.

22 CHAIR MOLINA: Okay. Thank you, Ms. Shibuya.

23 Mr. Victorino?

24 COUNCILMEMBER VICTORINO: Yeah. Ms. Shibuya, I think you  
25 heard my questions as far as the egress, regress of

1           this particular property.  Is there plans with the  
2           State and the developer to do left-turn lane,  
3           right-turn deceleration lanes and all that?  And the  
4           bus issue -- again, the bus issue is always real  
5           pivotal in my mind.

6   MS. SHIBUYA:  Yes.  Correct.  You know, the developer did  
7           look at all these issues; and as far as, you know,  
8           we're concerned, Crater Road in itself is -- you  
9           know, it's not really a capacity issue --

10  COUNCILMEMBER VICTORINO:  Uh-huh.

11  MS. SHIBUYA:  -- you know, because obviously, it doesn't  
12           carry the kind of volumes you see like on the West  
13           Maui area.

14  COUNCILMEMBER VICTORINO:  Right.

15  MS. SHIBUYA:  And we look at what we call AASHTO warrants  
16           for, like, left-turn lanes, decel lanes, and also  
17           the posted speed limit.  The posted speed limit in  
18           this area is 30 miles per hour.

19           So the developer did look at, you know, from  
20           the engineering standpoint, you know, the -- the  
21           warrants for left turns and the deceleration lanes,  
22           and they found that the warrants don't meet it; and  
23           then for the deceleration lane, as long as they  
24           design the radius appropriately for -- for the bus  
25           type of traffic.

1           And -- and again, you know, I'd like to stress  
2           that this is a 30 miles per hour posted roadway, and  
3           the advantage of where they're putting their  
4           driveway on the so-called straightaway between  
5           the -- the curves, it offers the almost ideal -- you  
6           know, ideal line of sight for this intersection.

7           So for -- for us, you know, if it's not  
8           warranted, you know, we -- we don't want to put in,  
9           you know, like an overkill type of urban  
10          intersection in this Rural area if it's not  
11          warranted from an engineering standpoint, and they  
12          did go through a warrant analysis.

13        COUNCILMEMBER VICTORINO: Okay. And so, I mean, in your --  
14          in your estimate, then, the turn lanes turning left  
15          off of the highway wouldn't be necessitated, and the  
16          egress, regress as far as the -- the intersection  
17          for buses -- and again, I use the word "buses"  
18          because those large vehicles turning in and out are  
19          the real concern.

20          People -- I wish everybody would do 30 miles  
21          an hour, but you and I both know that's not the real  
22          world we live in, but they have the hardest time  
23          with the radius turning. Even if you're turning  
24          right only, it's still somewhat of a challenge to  
25          turn in and out.

1 MS. SHIBUYA: Yes. Correct. And that's why the -- the  
2 driveway, you know, they -- they've taken -- paid  
3 attention to the design of the driveway to make  
4 sure, you know, that these radiuses are appropriate.

5 And -- and then on the other hand, too, you  
6 don't want to, how you say, design too large  
7 radiuses because then it almost invites speeding,  
8 you know, so --

9 COUNCILMEMBER VICTORINO: Uh-huh.

10 MS. SHIBUYA: -- you know, again, I -- I guess I use  
11 that -- that word "balance." So you -- you got to  
12 find the balance and then pay attention that this is  
13 a rural area, and you don't really want to make it  
14 look like a freeway off-ramp, you know -- you know,  
15 and kind of make it appropriate for the posting so  
16 that yeah, people will speed, maybe, you know,  
17 40 miles an hour, but at least still be appropriate  
18 for the area.

19 COUNCILMEMBER VICTORINO: Okay. Thank you, Ms. --

20 Ms. Shibuya. Thank you, Mr. Chair.

21 CHAIR MOLINA: Thank you, Mr. Victorino. Mr. Mateo?

22 COUNCILMEMBER MATEO: Chairman, thank you. Ms. Shibuya,  
23 thank you very much.

24 The Crater Road area where this Project's  
25 going to be located, this is a downhill area, yeah?

1 MS. SHIBUYA: Correct.

2 COUNCILMEMBER MATEO: So how does the State take such a  
3 nonchalant attitude like, you know, it's okay, it's  
4 a rural area, but yet it's a downhill area that  
5 does -- that does involve, at times, speeding  
6 because -- unless you're going to ride your brake  
7 all the way down.

8 MS. SHIBUYA: Well, it's not that we take a nonchalant  
9 approach because --

10 COUNCILMEMBER MATEO: Well, I'm listening to your -- I  
11 listened to your comments --

12 MS. SHIBUYA: Yeah, yeah, it sounds nonchalant, but --

13 COUNCILMEMBER MATEO: -- and to mean nonchalant,  
14 Ms. Shibuya.

15 MS. SHIBUYA: But to be honest, we look at it seriously,  
16 you know, with -- that they have the engineering  
17 basis for -- for all their designs because we often  
18 get pulled in lawsuits, and we have to answer. And  
19 that's why, you know, we -- kind of like a standard,  
20 we ask for this engineering warrants.

21 And then even if it is downhill, you -- you  
22 know, it's -- probably the passenger cars, yeah,  
23 they will -- they will speed and stuff. You know,  
24 I -- I think they speed more than the buses.

25 The buses, they -- they look large so they

1 appear, you know, almost intimidating, but they do  
2 use their brakes, the buses. And for them to make  
3 the turns, it would behoove them to slow down  
4 appropriately, and these buses are trained.

5 And, you know, I've seen them operate. And as  
6 I said, they look intimidating, but they -- I -- I  
7 think it's the local drivers that are the worst ones  
8 to -- to speed because -- simply because they're  
9 more familiar with the highways versus like your  
10 visitors or even your bus drivers because they do  
11 have an obligation to keep their passengers safe.

12 COUNCILMEMBER MATEO: Thank you. Thank you, Chairman.

13 CHAIR MOLINA: Okay. Thank you, Mr. Mateo. Any other  
14 questions for Ms. Shibuya from the State DOT? Okay,  
15 seeing none, thank you very much, Ms. Shibuya.

16 Members, it's just after 12 o'clock. The  
17 Chair would like to offer to you we take a recess  
18 and we come back at 1:30, being that we have a  
19 couple of Members that have some commitments at this  
20 point.

21 So if there are no objections, we shall recess  
22 this meeting and 1:30, Members, 1:45?

23 COUNCILMEMBER VICTORINO: 1:30.

24 CHAIR MOLINA: 1:30 is sufficient? Okay, Members, this  
25 meeting is in recess until 1:30. Meeting in recess.



1           ...(gavel)...

2   **RECESS:**           **12:05 p.m.**

3   **RECONVENE:**       **1:35 p.m.**

4   CHAIR MOLINA: ...(gavel)... Land Use Committee meeting for  
5           December 19th, 2007, is now back in session. Thank  
6           you for that recess, Members.

7                       We last left on Land Use Item 52, a  
8           Conditional Permit request for the Haleakala Ranch  
9           Visitor's Center up in Kula. And earlier, we had  
10          State Department of Transportation personnel -- or  
11          person Charlene Shibuya responding to questions.

12                      I believe Ms. Shibuya is gone for the day so  
13          at this point, I'd like to call upon the applicant's  
14          representative, I believe Mr. Young or otherwise  
15          Mr. Schnell, either of you, if you'd like to  
16          approach the podium to respond to questions from the  
17          Committee.

18                      And for the record, we have in attendance for  
19          the afternoon session at this point we have Members  
20          Mateo, Johnson, Medeiros, Victorino, and Molina. I  
21          believe Mr. Pontanilla and Ms. Baisa are on their  
22          way.

23                      Good afternoon, Mr. Schnell. Can you give us  
24          just a brief -- I guess some opening comments? And  
25          as far as Q and A from the Members, I'll go ahead

1 and open the floor after you're -- you're done.

2 MR. SCHNELL: Okay. Thank you, Chair. Nice lunch break.

3 Thank you. Just a few issues that we thought about  
4 at lunch -- or that I thought about at lunch is I  
5 neglected to mention that the Sunrise Market would  
6 move from its current location in the Residential  
7 area to the Visitor's Center, and they would vacate  
8 their Conditional Use Permit at that location. So a  
9 lot of the residents in that area view that as a  
10 very positive thing.

11 As far as the history of the permit timing,  
12 there was a discussion with Joe about the length of  
13 time and -- and how long and -- and why the -- the  
14 Planning Department recommended that amount of time.

15 I think Joe's correct. It was kind of a  
16 standard condition for two years. We had gone into  
17 the Planning Commission, and we had actually asked  
18 for a longer period of time, but they compromised on  
19 five years at that point so we'd be open to a longer  
20 condition.

21 CHAIR MOLINA: Okay. Thank you very much for giving the  
22 Committee the background on that particular matter.

23 Committee Members, questions for Mr. Schnell  
24 from Haleakala Ranch? Mr. Mateo?

25 COUNCILMEMBER MATEO: Chairman, thank you. Can you tell me

1           what your -- your request actually was in terms of a  
2           duration for your -- for your permit request?

3   MR. SCHNELL:   Yeah.   The -- the actual request was for  
4           20 years.

5   COUNCILMEMBER MATEO:   Twenty years?

6   MR. SCHNELL:   Yeah.

7   COUNCILMEMBER MATEO:   Thank you.   Thank you, Chairman.

8   CHAIR MOLINA:   Okay.   Thank you very much, Mr. Mateo.  
9           Committee Members, any other questions for  
10          Mr. Schnell?

11   COUNCILMEMBER VICTORINO:   Chair?

12   CHAIR MOLINA:   Mr. Victorino?

13   COUNCILMEMBER VICTORINO:   Yes.   Mr. Schnell, you've heard  
14          me ask this question time in and time out, but I'll  
15          ask it of you because you are the representative for  
16          the development or for this Project.

17                 The -- the turn lanes and the parking -- not  
18          the parking but the -- the traffic situation.   Do I  
19          have assurances from you folks that that will be  
20          continuously worked on so that we can prevent -- and  
21          again, I wish I could say that people went 30 miles  
22          an hour, but I think we all know better in that  
23          area, even though site distance is one of the better  
24          areas but still not enough, especially when you  
25          talking big vehicles, bikes, as well as regular

1 vehicles all in the same area at the same time.

2 So will you guys continue to work on this  
3 problem and make sure that it's addressed before we  
4 get to that final stage?

5 MR. SCHNELL: Yes, we will. We'll -- we'll continue to  
6 work with DOT. Actually, we have a condition from  
7 the Special Use Permit that DOT reviews all  
8 construction plans and, you know, all ingress and  
9 egress to the site. So we will continue to do -- to  
10 do that.

11 COUNCILMEMBER VICTORINO: Well, I was kind of concerned  
12 because just like Member Mateo mentioned, you  
13 know -- and -- and I know Ms. Shibuya wasn't being  
14 nonchalant but, you know, that, oh, 30 miles an  
15 hour, I don't think we have anything to worry about,  
16 but that's not the real world we work -- we live in  
17 and -- and that's what I'm concerned about, is  
18 vehicles, especially buses, coming in and out and  
19 regular vehicle traffic, as well as bikers coming  
20 through that area.

21 It's a bad mix, all in all, and it could be  
22 even worse once you have something that people are  
23 wanting to stop in and -- and -- and partake in. So  
24 as long as, you know, I have reassurances that you  
25 will continue to work on that, I'm comfortable with

1           -- at -- at where you are with your plan at this  
2           point in time. Thank you.

3 MR. SCHNELL: Yeah, thank you. We'll continue to work with  
4           them.

5 COUNCILMEMBER VICTORINO: Thank you, Mr. Schnell.

6 CHAIR MOLINA: Okay. Thank you, Mr. Victorino.

7           Councilmember Johnson?

8 COUNCILMEMBER JOHNSON: Yes. Thanks very much for your  
9           presentation. Because I've -- I've gone through, I  
10          think, most of the minutes of the Planning  
11          Commission meeting, there were some issues that were  
12          raised, I guess, at that initial meeting.

13                 The bike tours were one of them, another one  
14          is noise associated with the ATV operation, also the  
15          zipline, and then the safety aspect, which you've  
16          been addressing, and I believe dust from the ATV  
17          operation also.

18                 So could you address those points? Because I  
19          want to -- I want to make certain that -- oh, and I  
20          guess amplified music was another issue.

21                 So have you been able to adequately address  
22          those issues? And I -- I just want to read,  
23          Members, from the minutes in one specific area where  
24          Ms. Freitas is talking.

25                 She's -- this is -- Ms. Freitas is a Planning

1 Commissioner. I'm -- I just want to be real clear  
2 on something from Director Foley. So he described  
3 that they -- and that would mean the developer --  
4 going to work on this bike path and entrance and  
5 access.

6 So, again, my point is that -- so he says he's  
7 going to do that and that's -- it's going to come to  
8 you. We're never going to see what he came up with.

9 And then Mr. Foley, who is then-Planning  
10 Director, replies, well, normally, it wouldn't come  
11 back to the Commission. It is going to go on to the  
12 Council and maybe that analysis can occur before it  
13 goes on to the Council because we don't know when  
14 that will be scheduled.

15 And then Ms. Freitas says, can we somehow let  
16 the Council know on this particular issue. So --  
17 and then Mr. Foley replies that we're getting the  
18 minutes of the meeting and talking about these  
19 compliance issues and specifically the bike path.

20 So if you could just address that because they  
21 did make special emphasis on this one area because  
22 those were the -- their concerns at the Commission  
23 level.

24 MR. SCHNELL: Great. Thank you for the question. Yeah,  
25 thanks for the opportunity to explain.

1                   The first time we went to the Planning  
2                   Commission was October 2005 and that's when most of  
3                   the conditions were applied.

4                   And just about your concern about amplified  
5                   music, one condition is no amplified music, and  
6                   we've agreed to that. That's fine.

7   COUNCILMEMBER JOHNSON: Okay.

8   MR. SCHNELL: But there were a lot of concerns about the  
9                   bike tour groups. And one of the conditions was  
10                  that we meet with the bike tour group companies to  
11                  figure out a solution, which we did in December of  
12                  2005. And as a result of that, we redesigned the  
13                  plan, and there were four other conditions that  
14                  required a redesign to the plan.

15                  And in the following October 2006, we went  
16                  back to the Planning Commission with this redesigned  
17                  plan, and the Planning Commission unanimously  
18                  approved that plan.

19                  But I can explain more about the bike  
20                  situation. When we talked to the tour companies, we  
21                  talked to a couple of the big ones. One was Maui  
22                  Downhill.

23   COUNCILMEMBER JOHNSON: Uh-huh.

24   MR. SCHNELL: And their proposed solution was that it would  
25                  actually be better for them if they would stop their

1           tour maybe on the switchback above the Visitor's  
2           Center, and they would load up everybody in the  
3           vans, including the bicycles, and they would drive  
4           it into the Visitor's Center at that point and then,  
5           you know, visit the center, have lunch or whatever,  
6           and then further down the road when they came out,  
7           they would stage the bikes again and start going.

8                   And the reason for that was to avoid any kind  
9           of bikes crossing the driveway entrance with the  
10          concern with buses there. And then we further  
11          redefined the plan or redesigned the plan to --  
12          actually, if you look on the PowerPoint presentation  
13          that I provided on the printout, there's one that  
14          shows the Visitor's Center Site Plan, it says Phase  
15          1 with the labels on it, that's our current plan.  
16          If you look at the one after that, it's Visitor's  
17          Center Site Plan, PC Approved Plan.

18   COUNCILMEMBER JOHNSON: Uh-huh.

19   MR. SCHNELL: You'll see that's a more elaborate plan, and  
20          we had a little bit of a turnaround on the  
21          cul-de-sac on the -- on the left side --

22   COUNCILMEMBER JOHNSON: Uh-huh.

23   MR. SCHNELL: -- and then there was a path that continues  
24          down there. And the purpose of that path was to  
25          allow the -- the vans to unload on this cul-de-sac,



1 walk the bikes down to a safe entrance point on the  
2 highway, and then the bikes could start there, and  
3 the van will join them so that avoided that  
4 conflict.

5 COUNCILMEMBER JOHNSON: Okay. I -- I really appreciate  
6 your explaining that because it's one thing to read  
7 the minutes, but it's another thing to be present in  
8 the situation where you're actually understanding,  
9 you know, what is going on.

10 One of the things that I would also ask you,  
11 because some of the initial concerns that were  
12 raised by some of the area residents that I already  
13 went through, noise, dust, I guess -- you know, some  
14 of the things that -- lighting was another one,  
15 trespass lighting and the beep, beep, beep from the  
16 buses, do you believe that that has been adequately  
17 addressed to the satisfaction or to as good a  
18 satisfaction as possible to those individuals that  
19 first testified explaining those concerns?

20 MR. SCHNELL: I hope it's to their satisfaction. We  
21 haven't gone back and asked them if it's to their  
22 satisfaction, but what we did do is -- for example,  
23 I explained the bus situation, where the buses won't  
24 be backing up.

25 There's also a condition where the buses will

1 not be idling while the passengers unload. We also  
2 have another condition where there will be an  
3 employee on the site to manage buses if that's  
4 necessary so that they're not, you know,  
5 unreasonably noisy. And we sited the buses behind  
6 the building and put a screening in front.

7 As far as the concerns about noise, it -- it  
8 was the amplified music --

9 COUNCILMEMBER JOHNSON: Uh-huh.

10 MR. SCHNELL: -- that we've agreed not to have. Concerns  
11 about dust and the ATV tours I think will be  
12 satisfied because the Visitor's Center grass area in  
13 front will be more grassed in than it currently is.  
14 So I think the dust situation will go down.

15 COUNCILMEMBER JOHNSON: And -- and it will also provide a  
16 little bit of a buffer, the way that you've  
17 redesigned it?

18 MR. SCHNELL: I think so, yeah.

19 COUNCILMEMBER JOHNSON: Yeah. And -- and the only reason I  
20 ask is because, you know, whenever I look at  
21 potential conflicts and, of course, there's always  
22 seeming to be conflicts when you have people that  
23 are living in a Residential or a Rural setting that  
24 are not actually involved in farming sometimes  
25 because it's more of a Residential use and then you

1 put an agricultural use nearby and it sometimes  
2 creates these conflicts.

3 But I really believe that the longer period we  
4 can give you, the more beneficial it will be to your  
5 Ag operation. So if I make the amendment to go to  
6 15 years, do you believe that that is something -- I  
7 know you asked for 20 originally, but do you believe  
8 that that would be something that would be agreeable  
9 to you?

10 MR. SCHNELL: We'd be agreeable to that. That would be  
11 great. Thank you.

12 COUNCILMEMBER JOHNSON: Okay. Thank you very much.

13 CHAIR MOLINA: Okay. Thank you, Member Johnson. Committee  
14 Members, any other questions for the applicant?  
15 Mr. Medeiros? And welcome to our proceedings today.

16 COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. And -- and  
17 -- and thank you. I'm sorry I missed your  
18 presentation in the morning session.

19 So I have some questions, and I'm not too sure  
20 if I can get up to speed right away, but the -- your  
21 plan shows a coral -- corral and hitching post so  
22 you're going to have horseback tours?

23 MR. SCHNELL: Yes. There's actually already -- the Pony  
24 Express Horseback Tours are already at the site  
25 operating from that area.

1 COUNCILMEMBER MEDEIROS: Okay.

2 MR. SCHNELL: So this would just be a -- you know, a place  
3 for them to stage their horses.

4 COUNCILMEMBER MEDEIROS: And do they ever traverse the  
5 highway?

6 MR. SCHNELL: I think they have to traverse the highway to  
7 get to this site. Their -- their corrals are on the  
8 makai side of the highway. Is that correct, Don?  
9 Yeah?

10 COUNCILMEMBER MEDEIROS: So --

11 MR. SCHNELL: So they do -- once -- once a day, they'd  
12 bring the horses up, and that's why we would have  
13 the corral here and once a day, they would take 'em  
14 back to the stables.

15 COUNCILMEMBER MEDEIROS: Okay. So when they cross the  
16 roads, they're crossing with the horses being  
17 handled by people, or they come across on trailers?

18 MR. SCHNELL: I'm not certain. We have representatives --

19 MR. FRIEL: They cross (inaudible).

20 CHAIR MOLINA: Oh, hang on, hang on, yeah. If you -- you  
21 want to come up and clarify, please -- please come  
22 up to the podium and -- and you can state your name  
23 just so we can get it on public record.

24 And, sir, if you can just state your name for  
25 the record and then we'll have Mr. Medeiros ask you

1 the question again.

2 MR. FRIEL: Yeah. I'm Greg Friel with Haleakala Ranch.

3 CHAIR MOLINA: Okay. Okay, Mr. Medeiros?

4 COUNCILMEMBER MEDEIROS: Yeah, I -- I just wanted to know

5 because it's been described that the stables where

6 the horses are before coming to this facility are on

7 the makai side of the road. And so when you bring

8 them across to this facility, it's with handlers or

9 it's on trailers?

10 MR. FRIEL: It's with handlers. It's the employees from --

11 they're a separate concession from the Ranch.

12 COUNCILMEMBER MEDEIROS: I see.

13 MR. FRIEL: Pony Express, and they -- they lead 'em across.

14 Probably prior to 7 o'clock in the morning, they

15 lead 'em across and then after they're done with

16 their rides in the afternoon, they lead them back

17 across.

18 COUNCILMEMBER MEDEIROS: And has there been any concerns or

19 conflicts with traffic? How many horses you talking

20 about when you cross?

21 MR. FRIEL: From what I see, they run five to six horses,

22 and they have several handlers, and I've never seen

23 any problems with them or heard of any problems

24 happening on the highway.

25 COUNCILMEMBER MEDEIROS: Okay. So is traffic given -- it's

1           yield to or -- if you see traffic coming up? And  
2           the only reason I ask is, you know, I drove tour  
3           buses for many years as a second job. And tour  
4           buses, once they pick up their momentum, they don't  
5           like to slow down or stop because they can't gain  
6           that same momentum after that going up the Crater  
7           Road.

8                        So I was wondering, you know, if you folks see  
9           buses coming up if you cross and slow them down,  
10          or...

11   MR. FRIEL: We're not -- it's not the Ranch employees that  
12          do it. They're a concession.

13   COUNCILMEMBER MEDEIROS: Oh, okay. But -- but they're  
14          going to this Visitor's Center, right, as a service?

15   MR. FRIEL: There would still be a concession that runs it.

16   COUNCILMEMBER MEDEIROS: Okay.

17   MR. FRIEL: But we can -- you know, that will be something  
18          that's stated to them as far as safety --

19   COUNCILMEMBER MEDEIROS: Uh-huh.

20   MR. FRIEL: -- that -- and, you know, if -- if it ever got  
21          to the -- the point in time where traffic was too  
22          much -- because they do have the vehicles to haul  
23          them because they -- they haul their horses up to  
24          the crater for the -- for those rides.

25   COUNCILMEMBER MEDEIROS: Okay. Okay, thank you for that

1 clarification. I have some more questions,

2 Mr. Chairman, for the --

3 CHAIR MOLINA: Yeah. Go ahead.

4 COUNCILMEMBER MEDEIROS: -- applicant. And so your  
5 restroom facilities, do you have sewer system there,  
6 or is that going to be septic tanks?

7 MR. SCHNELL: Septic.

8 COUNCILMEMBER MEDEIROS: Septic tanks. And the  
9 amplified -- amplified music they were talking about  
10 is outside of the buildings?

11 COUNCILMEMBER JOHNSON: Eliminated.

12 MR. SCHNELL: There's no amplified music.

13 COUNCILMEMBER MEDEIROS: Yeah, but what was it going to be  
14 --

15 MR. SCHNELL: Well, there was -- there was thought that  
16 there might be a gathering place for people, or they  
17 might have pau hana kind of stuff, or they might  
18 have events there once every so often or something  
19 and there would be entertainment.

20 COUNCILMEMBER MEDEIROS: I see.

21 MR. SCHNELL: So we decided no. Or no to the amplified  
22 music --

23 COUNCILMEMBER MEDEIROS: And what would be the hours of  
24 operation for this facility?

25 MR. SCHNELL: I think it was set from 7:00 a.m. to 6:00

1 p.m., but I could look at the conditions of the  
2 permit.

3 COUNCILMEMBER MEDEIROS: Okay. And then you mentioned the  
4 bike tours, that they possibly are considering plans  
5 to stop their tour above the facility and load onto  
6 their trailers and then come down to -- to this  
7 Visitor's Center.

8 Above -- above this Visitor's Center where  
9 they would do that, is that -- is there ample space  
10 for them to do that without affecting traffic going  
11 both up and down that highway?

12 MR. SCHNELL: There is space. There's space where they  
13 turn off regularly for -- for -- you know, for the  
14 tourists to take pictures or, you know, get things  
15 out of the vans or something like that.

16 And we talked to Rich Goodenough, who's the  
17 owner of Maui Downhill, and he's the one that  
18 suggested this, and he knows the road very well.

19 COUNCILMEMBER MEDEIROS: I see. Okay. Thank you very much  
20 for your answers and thank you, Mr. Chairman.

21 CHAIR MOLINA: Okay. Thank you very much, Mr. Medeiros.  
22 Committee Members, any other questions for the  
23 applicant? Member Johnson?

24 COUNCILMEMBER JOHNSON: I'm sorry, I missed this one  
25 earlier. With regard to the lighting and the



1           Caretaker Cottage that's going to be now there so  
2           I'm assuming that's going to be a residential-type  
3           unit.

4   MR. SCHNELL:   Right.

5   COUNCILMEMBER JOHNSON:   So because in some of the  
6           documentation it basically says the hours of  
7           operation are from, you know, 7:00 until 6:00;  
8           therefore, the lighting would not be a problem.   But  
9           for security purposes, how will you be addressing  
10          the issue of lighting in the evenings?

11   MR. SCHNELL:   Well, of course we'll comply with the Maui  
12          Ordinance on the dark sky requirements.   I forget  
13          the -- the Code number, but of course -- and we'll  
14          also consult with Haleakala National Park and the  
15          observatories there because one of the comments we  
16          originally did get was the glare from lights could  
17          affect the observatories.

18                 So we'll comply with the Maui County Code, and  
19          we'll also consult with them, but I would imagine  
20          that caretaker would just -- it's -- it's -- it's  
21          about a thousand square foot.   It's a little  
22          cottage.

23                 And the reason we have the caretaker there is  
24          because we need somebody to watch the site at night.  
25          We don't -- and, you know, I don't think that the

1 site has to be illuminated at night at all.

2 MR. ALUETA: Mr. Chair?

3 COUNCILMEMBER JOHNSON: Yeah --

4 MR. ALUETA: Mr. Chair?

5 CHAIR MOLINA: Hang on. Member Johnson?

6 COUNCILMEMBER JOHNSON: That's fine.

7 CHAIR MOLINA: Okay, good. Mr. Alueta, you're going to add  
8 to the --

9 MR. ALUETA: Yeah, Mr. Chair. I just wanted to add on  
10 Condition 20 of the State Special Use Permit that  
11 they currently have is that any outdoor lighting  
12 shall be fully shielded, directed downward, and in  
13 conformance with the County Outdoor Lighting  
14 Ordinance; further, that the University of Hawaii  
15 Astronomy Department be consulted in the lighting  
16 plan.

17 COUNCILMEMBER JOHNSON: Yeah. And -- and my only reason in  
18 asking that, because I did see reference to that  
19 condition, was because it just says that you would  
20 consult with them.

21 If they said, look, this is not adequate, I  
22 mean, is there a chance that you would not agree  
23 with them or pretty much are you going to follow  
24 what their recommendations would be as long as  
25 they're within reason?

1 MR. SCHNELL: I can't see too many conflicts there. I  
2 don't think that they would be unreasonable. There  
3 is a Residential area --

4 COUNCILMEMBER JOHNSON: Uh-huh.

5 MR. SCHNELL: -- below us a little bit, and we're -- we're  
6 not increasing the amount of light substantially,  
7 especially with one cottage. So, yeah, of course  
8 we'll -- we'll work with them.

9 COUNCILMEMBER JOHNSON: Yeah. And -- and I -- I don't know  
10 if the shearwater go up that high, you know, the --  
11 when -- certain times of the year, you know, you've  
12 got your birds that are attracted to the lights so I  
13 think that was another concern from the  
14 environmental community as well. That's fine.  
15 Thank you, Mr. Chair.

16 CHAIR MOLINA: Okay. Thank you, Member Johnson.  
17 Mr. Schnell, what is your hours -- what is the  
18 proposed hours of operation?

19 MR. SCHNELL: Let me just double check. It's in the  
20 conditions.

21 CHAIR MOLINA: Uh-huh.

22 MR. ALUETA: Madam -- Mr. Chair, it's --

23 CHAIR MOLINA: Okay. Mr. Alueta?

24 MR. ALUETA: -- 7:00 a.m. to 6:00 p.m.

25 CHAIR MOLINA: 7:00 a.m. to 6:00 p.m.

1 MR. ALUETA: Yeah.

2 CHAIR MOLINA: Okay, thank you.

3 MR. ALUETA: I just wanted to add for Mr. -- Councilmember  
4 Medeiros, it may not show well on your site plan;  
5 but if you turn to the Staff report, there is a  
6 scale that shows the distances, and you'll see that  
7 this straightaway is -- is several -- several  
8 hundred feet long.

9 So the site distance in this area is -- where  
10 the horses are crossed is quite substantial. So  
11 it's not like it's -- a bus driver or any vehicle  
12 coming up or down would not be able to see the --  
13 the crossing.

14 It's a -- on my site visit to the area and the  
15 access road, I did notice where the horses do cross,  
16 and it is -- there is -- as far -- as far as sight  
17 distance, it seems quite substantial.

18 And you -- if you look on the scale, you'll  
19 see that that whole straightaway is several hundred  
20 feet long.

21 CHAIR MOLINA: Okay. Thank you, Mr. Alueta. Mr. Medeiros,  
22 you want to respond to that?

23 COUNCILMEMBER MEDEIROS: Yeah. Thank you, Mr. Alueta, for  
24 that information. Yeah, I haven't looked at what's  
25 in the binder, being that it's, you know, a fair

1 amount of pages. But I was looking at their site  
2 plan, and it shows the -- you know, that turn, that  
3 curve in the road right at the start of that  
4 Visitor's Center and I just was concerned about  
5 that.

6 And then also I wanted to ask the applicant,  
7 Mr. Chairman, your drainage and runoff water, where  
8 does it go?

9 MR. SCHNELL: It will -- it will stay on site. It would be  
10 retained on site.

11 COUNCILMEMBER MEDEIROS: So you'll have a retention basin?

12 MR. SCHNELL: There'll be retention basins, yeah. The --  
13 the grass area in front would -- is the proposed  
14 area for retention or just a swale so it doesn't  
15 come off the highway.

16 And there's -- with the amount of pavement of  
17 -- on this first phase, it's really minimal impact  
18 so we -- on drainage, I think.

19 COUNCILMEMBER MEDEIROS: Okay. So -- so you don't have any  
20 on-site drainage, just a retention basin?

21 MR. SCHNELL: It will just -- it's -- it's a natural area  
22 now. It's -- there's no facilities like drains  
23 or -- or, you know, grates or anything on the site  
24 now.

25 Of course it might be required for parking

1 lot, but those would vent to the site and not flow  
2 off the site.

3 COUNCILMEMBER MEDEIROS: Okay. I'm just concerned with our  
4 last rains and what happened in the Kula area that  
5 provisions are made for such a storm as a 50-year  
6 storm and that, you know, it doesn't end up across  
7 the road in other people's property.

8 MR. SCHNELL: Right. We -- we have done a drainage report.  
9 Unfortunately, our engineer, Stacy Otomo, couldn't  
10 be here this afternoon. He was here this morning,  
11 but we -- we will comply with all standards for  
12 drainage.

13 And if I could just mention about the horse  
14 corral, I can see your -- your concern. The horse  
15 crossing would not be directly where that horse  
16 corral is located. It would be more over by the  
17 driveway, by -- where the Caretaker's Cottage is and  
18 then they would follow a path.

19 There's a pathway on the mauka side of the  
20 road to get to the corral so the -- it's not a  
21 direct on the curve.

22 COUNCILMEMBER MEDEIROS: Okay. Thank you for that  
23 clarification. And finally, just so that I'm kind  
24 of sure where this property is, is this close by, or  
25 is this where the zipline is?

- 1 MR. SCHNELL: Yes.
- 2 COUNCILMEMBER MEDEIROS: Okay. Thank you, Mr. Chairman.
- 3 CHAIR MOLINA: Okay. Thank you, Mr. Medeiros. And,  
4 Members, I believe for the record the State Land Use  
5 Commission, they have to abide by 20 conditions and  
6 another six from the Maui Planning Commission.
- 7 Am I correct, Mr. Alueta?
- 8 MR. ALUETA: I believe it's more like 28 conditions.
- 9 CHAIR MOLINA: Is it 28 from the State Land Use Commission?
- 10 MR. ALUETA: Yeah. From the State Land Use Special Use  
11 Permit, there is --
- 12 CHAIR MOLINA: Is it 28? I guess I'm looking at --
- 13 MR. ALUETA: -- 20 -- 28 conditions.
- 14 CHAIR MOLINA: Is it 28?
- 15 MR. ALUETA: Yes.
- 16 CHAIR MOLINA: Okay, not 20. And six from the Maui  
17 Planning Commission as well. An additional six,  
18 right?
- 19 MR. ALUETA: There are -- no, there's -- there's six, I  
20 believe, proposed for the Conditional Permit --
- 21 CHAIR MOLINA: Uh-huh.
- 22 MR. ALUETA: -- that is before you for the -- for the 19.40  
23 Conditional Permit. So there's six additional  
24 conditions.
- 25 CHAIR MOLINA: Okay. So this wasn't -- this didn't come

1 from the Maui Planning Commission, then, this is  
2 just from -- from the Department here at this point?

3 MR. ALUETA: Yes. Well, the recommendations from the Maui  
4 Planning Commission is for -- for the Conditional  
5 Permit, there's six.

6 CHAIR MOLINA: Six, right?

7 MR. ALUETA: Yes.

8 CHAIR MOLINA: Okay. All right, thank you.

9 MR. ALUETA: Those are the ones you're dealing with. Yes.

10 CHAIR MOLINA: Okay. Members, any other questions for the  
11 applicant before the Chair makes a recommendation?  
12 Councilmember Johnson?

13 COUNCILMEMBER JOHNSON: I'm sorry, you know, but I -- I --  
14 I flipped to these little parts in here, and there  
15 was just one thing that caught my eye.

16 This is from Melanie Chinen, who was  
17 then-Administrator for State Historic Preservation  
18 Division.

19 MR. SCHNELL: Uh-huh.

20 COUNCILMEMBER JOHNSON: And I'm assuming that this has been  
21 completed because I didn't find it in our report.  
22 She writes, in order to determine the effect on the  
23 proposed undertaking on historic sites, we recommend  
24 that no action be taken on the subject permit  
25 application until an archaeological inventory survey



1           has been conducted of the proposed Project area to  
2           determine whether significant historic sites are  
3           present.

4                    An acceptable report documenting the findings  
5           of the survey will need to be submitted to this  
6           office for review and then possibly they -- you  
7           know, there might be a mitigation plan. So you've  
8           done that?

9   MR. SCHNELL: We have done the report --

10 COUNCILMEMBER JOHNSON: Okay.

11 MR. SCHNELL: -- and it has been submitted to Historic  
12           Preservation, and Historic Preservation has accepted  
13           it.

14 COUNCILMEMBER JOHNSON: Okay. I just wanted to verify  
15           because I -- I don't think that's a part of our  
16           record.

17 MR. SCHNELL: Okay.

18 COUNCILMEMBER JOHNSON: You know, I didn't find it in here  
19           anyway.

20 MR. SCHNELL: Actually, I can provide the Historic  
21           Preservation acceptance letter if you want it for  
22           your files or records.

23 COUNCILMEMBER JOHNSON: Yeah. Well, I'm just -- you know,  
24           and -- and that's fine, as long as I'm assured that  
25           we have it somewhere in our file because when I'm

1 looking at this particular document, I reviewed all  
2 the ones after that, and it -- it didn't seem to be  
3 there, but thank you very much. I just want to make  
4 sure we don't have problems that are similar to  
5 other applications.

6 MR. SCHNELL: Understand.

7 COUNCILMEMBER JOHNSON: Thank you.

8 CHAIR MOLINA: Okay. Thank you, Member Johnson. Members,  
9 any other questions? Mr. Pontanilla?

10 VICE-CHAIR PONTANILLA: Thank you. Thank you for being  
11 here this afternoon.

12 The question that I have is in regards to  
13 drainage. The previous Project that came before us  
14 in regards to their drain plan noted that they were  
15 going to put in some catch basins with inserts that  
16 would capture the oil and -- and the debris.

17 Your drain, the way I understand it, like you  
18 say, it's going to be confined to the parking area.  
19 Are you going to do the same thing as what the  
20 previous developer had proposed?

21 MR. SCHNELL: We haven't looked into exactly the same thing  
22 that they did. I mean, the -- Haleakala Ranch would  
23 like to be as environmentally and eco-friendly as  
24 possible.

25 I don't know if that's the correct solution

1           for here, but we would like to, you know, comply  
2           with all requirements and also exceed those  
3           requirements in an environmentally sensitive way.

4 VICE-CHAIR PONTANILLA: Yeah. If you could, you know, I --  
5           I -- I think what was proposed previously would make  
6           good sense in -- in regards to protecting the  
7           environment.

8                   And, you know, as the first developer had  
9           mentioned that we'll be having -- or they'll be  
10          having some meetings with the people that do the  
11          manufacturing of these things here. So I would kind  
12          of encourage that you folks take a look at that in  
13          -- in regards to providing environmental friendly  
14          drain -- drainage.

15 MR. SCHNELL: We can look at that. Thank you.

16 VICE-CHAIR PONTANILLA: Thank you.

17 CHAIR MOLINA: Okay. Thank you, Mr. Pontanilla. Members,  
18          any other questions before a recommendation is made?

19 COUNCILMEMBER VICTORINO: Recommendation.

20 CHAIR MOLINA: Okay. Members, if you'll permit the Chair,  
21          Mr. Young, the President of the company, would like  
22          to offer a statement or a clarification. Mr. Young?

23 MR. YOUNG: Thank you, Chairman Molina. And for  
24          Councilmember Medeiros' benefit, I'm Don Young,  
25          President of Haleakala Ranch. I was asked to

1 comment on the financial commitment for this Project  
2 relative to the request for a longer time period.

3 And almost a year ago when we looked at the  
4 original plans, which are the full build-out, the  
5 cost estimate at that point was between 8 to  
6 \$9 million.

7 The phased approach, which we're presently  
8 looking at, is estimated to be approximately  
9 \$4 million. So it's still, you know, in both cases,  
10 a very substantial investment for a company like  
11 ours. Thank you.

12 CHAIR MOLINA: Okay. Thank you, Mr. Young. With that  
13 being said, Members, the Chair will offer a  
14 recommendation at this point.

15 I will entertain a motion for a bill for an  
16 ordinance granting Haleakala Ranch Company a  
17 Conditional Permit to construct and operate the  
18 Haleakala Ranch Visitor's Center within the County  
19 Ag District for property situated at Kula, Maui,  
20 Hawaii, and the permit application is for  
21 five years.

22 COUNCILMEMBER VICTORINO: So moved.

23 CHAIR MOLINA: Okay.

24 COUNCILMEMBER MATEO: Second.

25 CHAIR MOLINA: Moved by Member Victorino, seconded by

1 Member Mateo. Discussion? Mr. Victorino, as the  
2 maker of the motion, you have the floor.

3 COUNCILMEMBER VICTORINO: Well, Mr. Chair, I was -- I was  
4 under the impression, and I'd like to make an  
5 amendment if -- if it's appropriate at this point,  
6 to extend that Conditional Permit to ten years with  
7 the resolve of this company and their commitment to  
8 this as a phased build-out and to make sure that  
9 they have adequate time to do all of the necessary  
10 permitting and other things that they've been  
11 talking about.

12 I -- I would like to propose an amendment to  
13 the main motion to give the Conditional Permit a  
14 ten-year life.

15 CHAIR MOLINA: Is there a second to the proposed amendment  
16 from Mr. Victorino?

17 COUNCILMEMBER BAISA: Second.

18 CHAIR MOLINA: Okay. There's been a second by Member  
19 Baisa. Mr. Victorino, if you'd like to continue?

20 COUNCILMEMBER VICTORINO: Well, I -- I think I -- I've  
21 listened, and some of my fellow colleagues did  
22 express the same idea, and I -- and Mr. Alueta did  
23 mention that -- that in the past, we've given out  
24 longer Conditional Permits, and -- and I think this  
25 would not be -- this would be one of the times that

1 I would like to see that extended period given to  
2 this for their ability to be a phased build-out and  
3 as well as their ability to work with the various  
4 agencies, permitting, both State and County, to give  
5 them the time to do this in what -- what I consider  
6 to be a very friendly environmentally and  
7 aesthetically correct Visitor's Center that I think  
8 Maui can be proud of -- Maui County can be proud of.

9 So I think that's what I would like to give  
10 them that opportunity because I -- it was also  
11 mentioned that even from this point, once we get  
12 this part of it done, there'd still be another year,  
13 maybe 18 months before they get their final permits  
14 to get even started.

15 So, I mean, if you eat at that five years,  
16 that five years can go pretty quick, now, so that's  
17 my rationale, and I -- and I'll yield the floor to  
18 other Members to speak their mind. Thank you,  
19 Mr. Chair.

20 CHAIR MOLINA: Okay. Thank you, Mr. Victorino. Before the  
21 Chair opens up the floor for additional comments  
22 from the Members, the Chair has one question from --  
23 for Corporation Counsel.

24 Can you comment on the proposal to extend from  
25 five to ten years? I know the Planning Department

1 recommended five years, which I think was more than  
2 what was originally recommended. Initially, I  
3 guess, it was two, then it went to five.

4 Corporation, can you -- Counsel, can you  
5 comment? Any concerns?

6 MR. GIROUX: I -- I think the only concern is that the body  
7 make it clear about what -- what it's rational basis  
8 is for this length of time and based on what  
9 evidence was put into the record and -- and supports  
10 that decision.

11 CHAIR MOLINA: Okay. Being that we don't -- I guess it  
12 doesn't come by a lot in which we get ten-year  
13 Conditional Use Permit requests, yeah? Standard,  
14 you looking at two to five years on average, right?  
15 So -- so as long as the body can establish a  
16 rationale for the ten years.

17 Okay. Members, the floor is open. Mr. Mateo?

18 COUNCILMEMBER MATEO: Chairman -- thank you, Mr. Chair.

19 I -- I think at this point I would have difficulty  
20 in supporting ten years.

21 I think when we -- when I take a look at the  
22 submissions or the materials that's been provided to  
23 us, and I -- and I read the Department's original or  
24 their standard -- standard recommendation of  
25 two years and then it was extended to five years.

1           I think we got to be cognizant of the fact  
2           that as we heard today, the Police Department still  
3           had some concerns over the mixed traffic in the  
4           area. This is a phased project.

5           I think five years for now is adequate.  
6           Five years will give them the opportunity to  
7           initiate the program, it will give the County the  
8           opportunity to see that compliance is met, it gives  
9           us the opportunity to see that what they said is  
10          going to -- what they represented will in fact come  
11          to fruition.

12          And at the next phase, when they need to  
13          reapply, they can ask for their 20 years, their  
14          50 years, their 100 years, whatever it is, but I  
15          think the initial get-go, I think it's important for  
16          us to retain consistency in being able to look at  
17          how we're dispensing or approving of these permit  
18          requests.

19          And I believe the Planning Commission had done  
20          their due diligence, they've asked their appropriate  
21          questions, they have held the applicant responsible  
22          and accountable to responding to their own concerns  
23          and issues regarding the Project, so I would have,  
24          at this point, a little difficulty in being able to  
25          support a ten-year term. Thank you, Chairman.



1 CHAIR MOLINA: Okay. Thank you, Mr. Mateo. Additional  
2 comments? Councilmember Baisa?

3 COUNCILMEMBER BAISA: Thank you, Chair. I'd like to ask  
4 Corp. Counsel a question.

5 CHAIR MOLINA: Okay. Proceed.

6 COUNCILMEMBER BAISA: Is it that we have the right to  
7 revoke the permit if they don't abide by the  
8 conditions?

9 MR. GIROUX: Right. A -- well, a Conditional Permit  
10 would -- it would carry basically the same process  
11 as a -- what would be considered a notice of  
12 violation.

13 They -- they would be in violation of their --  
14 the terms of their conditions and so the Planning  
15 Department would then, you know, enact certain  
16 processes to start the process of fines and -- and  
17 so forth.

18 COUNCILMEMBER BAISA: Thank you. Chair, the -- I want to  
19 explain why I did second the motion, and that is,  
20 you know, I have quite a bit of experience with  
21 trying to get Capital Improvement Projects going,  
22 and it's been my experience that they always take  
23 longer than you think. And we, of course, here are  
24 very familiar with how things drag on for  
25 five years, six years, and on into the night.

1           The other thing is the financing aspect of it.  
2           You know, if you don't have a fairly long  
3           opportunity to -- to operate and to develop, this  
4           could have a negative impact on their ability to get  
5           financing for the Project and for them to project.

6           And with the right to, you know, intervene  
7           should things not go well, I can feel comfortable in  
8           supporting ten years, although I do understand the  
9           cautions, and everybody's a little nervous about  
10          every time we try something new, and this is totally  
11          new.

12          But I think it's a very wonderful opportunity  
13          for that area. Activities are rather limited. I am  
14          looking at new ways to keep our tourists entertained  
15          and our visitors happy. You know, after a while,  
16          you can only go to see the sunrise so many times,  
17          and you can only go to Iao Valley so many times.  
18          And I think we need to start developing other things  
19          for people to do.

20          And I'm also very concerned about the future  
21          of the -- the cattle industry here on Maui. And  
22          it's my understanding that diversifying their  
23          operations is very essential to the health of that  
24          industry. And I would certainly hate to lose the  
25          cattle industry here on Maui, particularly

1 Upcountry, because it is such a big part of the  
2 ambience of what you and I have grown up looking up  
3 at those hills and seeing those beautiful cattle on  
4 those green pastures.

5 And, you know, things are getting tough all  
6 over. And I think that unless these people are  
7 allowed to diversify some, that, you know, we're  
8 going to lose that. And I would very much hate to  
9 see those hills all covered with homes, which would  
10 be the likely alternative, so thank you very much.

11 CHAIR MOLINA: Okay. Thank you, Member Baisa.

12 MR. GIROUX: Chair, can I clarify my answer on the issue of  
13 revocation?

14 CHAIR MOLINA: Proceed, Mr. Giroux, and then we'll have  
15 Member Johnson who has a question after comment.

16 MR. GIROUX: Yeah. Member Baisa, there -- there also is a  
17 clause within the permit itself that says that if  
18 it -- if the development isn't developed in  
19 accordance to their representations, that it can be  
20 revoked pursuant to 19.40.80.

21 In 19.40.80, Section C, it says that the  
22 Commission, on the request or on its own initiative,  
23 may recommend action to revoke any Conditional  
24 Permit or amend or delay any terms, conditions, and  
25 time stipulations of such Conditional Permit if such

1           action is deemed necessary to effectuate the purpose  
2           and intent of this Chapter.

3   COUNCILMEMBER BAISA:   Thank --

4   MR. GIROUX:   So it -- it would -- it would be kind of like  
5           what -- what we would look at as an order to show  
6           cause and so there's a due process that would be --  
7           go through the Commission that that would be their  
8           hearing to -- to show whether or not it -- that  
9           they've met those conditions in order to not get  
10          their permit revoked.

11   COUNCILMEMBER BAISA:   Thank you very much.   That's very  
12          clear.

13   CHAIR MOLINA:   Okay.   Thank you, Member Baisa.   Member  
14          Johnson?

15   COUNCILMEMBER JOHNSON:   Yes.   And -- and I guess I can  
16          count, so I guess my 15-year amendment, which I'm  
17          perfectly happy to support, is not going to pass.

18                 But my justification -- and -- and I will  
19          support the ten-year as a minimum, but I would  
20          prefer 15 years, and I'll tell you why.

21                 The capital investment that they are making is  
22          huge, not to mention the period of time that this  
23          application has actually been in the mill.   That is  
24          ka-ching, ka-ching, ka-ching.   Every time they come  
25          before a Board, a Commission, anybody, time is

1 money.

2 Our Agriculture industry is really under a lot  
3 of financial pressure. We have granted other  
4 applications, even on the first time, for longer  
5 periods than ten years. And so my justification  
6 would be for supporting it even beyond the ten-year  
7 period would be that it's defensible.

8 And it -- if you amortize the cost that  
9 they've already expended, if you look at the cost to  
10 actually operate an Agriculture operation with all  
11 of the overhead that they have, not to mention just  
12 the cost of the capital that they're putting in and  
13 you amortize that, it's easily over 15 years.

14 And as Member Baisa pointed out, when you look  
15 at going to financing to any banking institution,  
16 they're going to look at a minimum -- and I think we  
17 ran into this with some other leases -- minimum  
18 15 years. So that's my rationale for supporting  
19 15 years.

20 If this is not something that's agreeable to  
21 the other Members, you know, I -- I understand, but  
22 I really think that many times, we give lip service  
23 to supporting Agriculture.

24 And for me, this is something that when we had  
25 these items in my Parks and Economic Development

1           Committee or Parks and Agriculture, it's so critical  
2           to support Agriculture, and you do need these other  
3           associated activities in order to really make the  
4           farming operation viable.

5                    Look at the pressure that Maui Tropical  
6           Plantation has been under. I mean, it was just  
7           sold. And what they're going to do to sustain the  
8           agricultural portion of that operation is they're  
9           cannibalizing a lot of the land that was attached to  
10          that.

11                   Now, this Ag operation is basically trying to  
12          do it without doing that. So I think they should be  
13          rewarded and applauded for trying because this is  
14          not a good market.

15                   So if I hear from other Members that they're  
16          willing to support my -- you know, a different time  
17          period, so be it, but I really believe I can justify  
18          easily 15 years because of the capital and all of  
19          the other concerns that I've mentioned. Thank you,  
20          Mr. Chair.

21   CHAIR MOLINA: Okay. Thank you, Member Johnson. The Chair  
22          has a question for Director Suyama.

23                    Has -- I guess the -- from your recollection,  
24          has the Department had any prior approvals for  
25          ten-year Conditional Use Permits for activities of

1           this sort?

2   MS. SUYAMA:   The only one that comes to mind is the Akina  
3           one.  And in that situation, the Akinas were in  
4           operation for a number of years; and when they came  
5           before this body, there wasn't any protest from the  
6           neighbors.

7                   And I think they probably because they showed  
8           that their impacts were not affecting the  
9           neighborhood, and I think the -- the Council at that  
10          time determined that they would give them the -- the  
11          ten years, rather than the normal recommendation of  
12          the Department and the Commission.

13   CHAIR MOLINA:  Okay.  I guess the difference between this  
14          and that, the Akinas were already in operation,  
15          whereas this is a first time, in essence?

16   MS. SUYAMA:  Right.  The Akinas had been in operation in  
17          Kihei for a number of years until -- you know, until  
18          they were notified that -- which they weren't aware  
19          that you needed to get a Conditional Permit to  
20          continue the operation; and at that point, they came  
21          in for the Conditional Permit.

22   CHAIR MOLINA:  I see.  Thank you.  Mr. Pontanilla?

23   VICE-CHAIR PONTANILLA:  Thank you, Chairman.  You know,  
24          ten years is -- is good, but I'm going to be  
25          supporting the Planning Department recommendation of

1 five years.

2 And I think this will give, you know, the --  
3 the -- the operations, as well as the surrounding  
4 neighborhood, a chance to -- you know, to see if --  
5 you know, how the operation runs.

6 I have a question, though, for Planning  
7 Department in regards to complaint that are driven  
8 because of the operation. How do we handle that?

9 CHAIR MOLINA: Director Suyama?

10 MS. SUYAMA: Sorry. Could you repeat your question?

11 VICE-CHAIR PONTANILLA: Whenever we give a Conditional  
12 Permit, there's conditions that is set. And because  
13 of, you know, public testimony, sometimes we have  
14 people in the surrounding area that object to a  
15 proposed Project.

16 When a complaint comes in, how does the  
17 Department handle a complaint in regards to any  
18 Conditional Permit, not specifically this one here?

19 MS. SUYAMA: Oh. If -- if a complaint comes in, it's  
20 referred to our Zoning Enforcement and admin -- you  
21 know, and Administrative Enforcement.

22 They will do the initial investigation as to  
23 if there's any merit to the complaint that was  
24 filed. If there is, then normally, the Department  
25 will write to the applicant, saying that, you know,



1 we've received this complaint. We want you to  
2 comply with whatever the conditions, if there are  
3 specific conditions that require you to do certain  
4 things like it may be hours of operation, it may  
5 have been noise mitigation, etc., or providing  
6 parking that you haven't provided.

7 We will, you know, write back to you saying --  
8 you know, to the applicant, saying you are not in  
9 compliance. We'll give you a time period in which  
10 to comply.

11 If you do not comply, there's several avenues.  
12 You may get your notice of warnings that you're in  
13 violation of zoning because the condition -- I mean,  
14 the permit is a condition of zoning, and you are  
15 given -- you know, if you fail to meet -- to meet  
16 the notice of warning, you may then get a notice of  
17 violation.

18 Once the notice of violation is filed by the  
19 Department, from day one of the notice, filing of  
20 the notice of violation, you are subject to fines  
21 that are established by either the Code or  
22 regulations of the County of Maui.

23 And at that point, you know, it's -- it's in  
24 the matter of each day of the violation the fines  
25 are accumulating. In most cases, people try to

1           comply, you know, once -- if -- you know, the -- the  
2           final thing is based upon, you know, the Conditional  
3           Permit procedures.

4                     If you really continue to fail to meet the  
5           conditions, then the Department can go back to the  
6           Commission and say, you know, we tried working it  
7           out, you know, we have no cooperation from the  
8           applicant and, therefore, we want to initiate the  
9           revocation of the permit.

10                    And at that time, we would notify the  
11           applicant that we are proceeding with them, give  
12           them the opportunity to be heard at the hearing with  
13           the Commission, and that would be sent up to the  
14           Council to revoke the permit.

15   VICE-CHAIR PONTANILLA: Thank you. Thank you for that  
16           explanation. Thank you, Chairman.

17   CHAIR MOLINA: Okay. Thank you, Member Pontanilla. Any  
18           other comments before the Chair gives his comments?  
19           Mr. Medeiros?

20   COUNCILMEMBER MEDEIROS: Yes. Mahalo, Mr. Chairman. And I  
21           respect Member Baisa's remarks and justifications  
22           for supporting the ten-year permit and, you know,  
23           that's her district, but I -- I'd like to say, you  
24           know, I -- I come from an Ag District also and  
25           ranching in Hana.

1           And I'm thinking, you know, if there was an  
2           application in Hana and the Planning Department and  
3           Planning Commission recommended two or five years,  
4           how would we answer the applicant if we gave the  
5           same kind of permit a longer duration?

6           So my concern is for the ten years. The  
7           five years, listening to Corp. Counsel and the  
8           Planning Department, that there is a potential to  
9           revoke the permit for noncompliance.

10          But what brings up the red flags when we do  
11          that is we invite legal proceedings and lawsuits,  
12          which we're seeing too many of. And it involves a  
13          lot of cost for the County.

14          I would prefer giving a permit and let them --  
15          with that duration of time, which I would support  
16          what the Planning Department and Planning Commission  
17          recommends.

18          And the reason I support that is that they're  
19          the agencies and departments charged with the more  
20          in-depth review of this application. And after they  
21          review, if they're recommending -- well, they  
22          recommended two years, then five years, I -- I have  
23          to think that they did, as Member Mateo remarked,  
24          due diligence in reviewing the application and the  
25          request.

1                   And I -- I'm still not real satisfied with the  
2                   answers about the transportation and highway users  
3                   and the mixed use in that area because looking at  
4                   the site plan and also what's in our binder and  
5                   knowing, you know, that area from driving buses up  
6                   that road, that corner that buses will be coming  
7                   around going uphill doesn't leave too much time for  
8                   traffic to maneuver out of the way.

9                   And so I -- I have too many concerns now to go  
10                  -- to support a ten-year permit, but I will support  
11                  what is recommended by the Planning Department and  
12                  the Planning Commission for a five-year permit.

13                 Thank you, Mr. Chairman.

14   CHAIR MOLINA:   Okay.   Thank you very much, Member Medeiros.  
15                   Member Baisa?

16   COUNCILMEMBER BAISA:   Chair, with your indulgence, I would  
17                   like to ask the applicant a question.

18   CHAIR MOLINA:   Okay.   Members, any objections to the  
19                   applicant coming up?

20   COUNCIL MEMBERS:   No objections.

21   CHAIR MOLINA:   Okay.   Seeing no objections, Mr. Young?

22   COUNCILMEMBER BAISA:   Thank you.

23   COUNCILMEMBER VICTORINO:   Mr. Chair, after that is done,  
24                   could we ask Mr. Alueta, I'd like to ask him a  
25                   question, please?

1 CHAIR MOLINA: Sure. Okay.

2 COUNCILMEMBER BAISA: Mr. Young, question on your timetable  
3 for your Project. I'm sure you have one.

4 In five years, where do you think you'll be  
5 in -- and I know we're guesstimating because of  
6 permits and all kinds of unknowns, but you must be  
7 forecasting somewhat -- some -- something.

8 Where do you think you would be in the Project  
9 at that point?

10 MR. YOUNG: Well, we're -- we tend to be conservative, and  
11 --

12 COUNCILMEMBER BAISA: That's a good idea.

13 MR. YOUNG: -- from a -- from a financial planning, we've  
14 tried to -- to take that approach and that's why  
15 we're -- we're focused on the -- the phased  
16 approach, which in -- in no way is saying that our  
17 intent and goal would not be to continue on.

18 But -- but looking at the time frame that  
19 we're dealing with, assuming we have approval today,  
20 would be to then go forward, spend more money on  
21 the -- the engineering, you know, the -- the  
22 architectural drawings, the rest of the planning.

23 A lot of that planning is subject to further  
24 governmental agency review. Assuming that we can  
25 get through all that and end up with a building

1 permit from the County at some point, maybe by the  
2 end of next year, we would then have to go to bid,  
3 start the construction, and hopefully have a Project  
4 that would be completed by the end of 2009, starting  
5 the beginning of 2010, which isn't a pessimistic  
6 scenario. So we have a challenge just in terms of  
7 how quickly we could start.

8 The reason we're proposing a phased approach  
9 is certainly to -- to protect us in a number of  
10 ways. One, we're -- we're not a rich company. We  
11 don't have a lot of cash, and we're -- and we're  
12 trying to find a balance here with the commitment to  
13 the cattle operation and to ranching and the  
14 stewardship and all that.

15 To me, this is a safe approach to -- to make  
16 sure this works. A lot of people said, you know,  
17 this -- this is a no-brainer, you know. It's a  
18 great opportunity, you've got all these people  
19 driving by.

20 If it turns out to be terrific, we open, we've  
21 got a great place, everybody's happy with it,  
22 there's no reason we wouldn't want to go forward  
23 sooner, rather than later, for the full Project to  
24 add the -- you know, the heritage center, the  
25 paniolo museum, all those good things which

1           initially don't have the economic direct benefit  
2           that -- that the Phase 1 approach does have.

3   COUNCILMEMBER BAISA: Thank you. You've answered my  
4           question. What I was trying to put my finger on was  
5           in five years, would we have an opportunity to  
6           monitor the effects of the operation actually, you  
7           know, operating? And I just wanted to be sure that  
8           we would be at that point, but -- or more or less we  
9           would hope to be at that point.

10                    But, you know, it kind of scares me because  
11           I've been tied up in these permitting processes, and  
12           I know how long they can take. And many times, it's  
13           not planned; but for whatever reason, things get  
14           stalled and hung up and that can last five, six,  
15           eight years. I've seen it happen over and over.

16   MR. YOUNG: Right.

17   COUNCILMEMBER BAISA: So that's -- that's what I was trying  
18           to get a handle on.

19   MR. YOUNG: Well, I understand your concerns relative to  
20           the time frame, and I appreciate your consideration  
21           from our side.

22                    A couple of points to add, John Hirashima,  
23           who's here and is a major factor in terms of what  
24           this initial Project is in relocating the operations  
25           that exist today at his location in a Residential

1 area to relocate up here, he has a ten-year permit  
2 that was what was granted to that operation before.  
3 So that's one -- one perspective.

4 I can tell you from my perspective in terms of  
5 dealing with our Board and saying here's, you know,  
6 a \$9 million Project and, by the way, we have a  
7 five-year permit that -- you know, I don't think the  
8 County would spend money that way.

9 But if that's what it takes, you know, knowing  
10 who we're dealing with from the County and what we  
11 hope you feel about the Ranch, you know, worse case,  
12 we're willing to try to make it work.

13 But it would help a lot for us, I can just  
14 tell you, to -- to -- to have the assurances that we  
15 have the -- you know, the appropriate time frame to  
16 make this work and not be faced with -- you know,  
17 although it's hopefully remote, the risk that in --  
18 you know, five years from now after only maybe  
19 three years of operation, we could have a problem.

20 So --

21 COUNCILMEMBER BAISA: Thank you very much for your answers.

22 I appreciate the information. Thank you, Chair.

23 CHAIR MOLINA: Okay. Thank you, Member Baisa. I believe,

24 Mr. Victorino, you had a question for Mr. Alueta?

25 COUNCILMEMBER VICTORINO: Yeah. Mr. Alueta, you've been



1 very closely connected with -- with what's been  
2 happening both from the Planning Department, you  
3 know, the -- the Planning Commission and all that.

4 Our proposal for ten years, taking all the  
5 factors into consideration, would you consider that  
6 a reasonable request for this type of setup, for  
7 this type of operation knowing that Haleakala Ranch,  
8 being a long-time kamaaina operation that's been  
9 here for over -- over a century, you know, giving  
10 them the time frame that I think they need and they  
11 should be afforded, do you think that's a reasonable  
12 request?

13 MR. ALUETA: I -- I really don't know. I -- all I can tell  
14 you is that from past history, we like to give  
15 permits so that we can see how the operation  
16 functions and long enough period.

17 And I think that the only time that we have  
18 granted longer permits for ten years has been either  
19 on -- on subsequent rounds of time extensions.

20 And I think that the -- the Commissions, past  
21 -- the past Planning Commissions, as well as the  
22 Council, has granted enough time to feel that the  
23 permit can be constructed and operated for at least  
24 a year before they can -- so that when they come  
25 back for a time extension, they can say I've seen

1           your operation for a year; I'm comfortable.

2                       And that's why I -- I think you've seen,  
3           coming out of the Planning Commissions, longer  
4           periods beyond the two-year or -- or even one year  
5           because the time frame for a Project, especially a  
6           larger Project like this, construction phases take  
7           longer.

8   COUNCILMEMBER VICTORINO:   Right.

9   MR. ALUETA:   And I think that is the reason that they sort  
10           of went with the five-year as opposed to the  
11           standard two-year because we've been finding a lot  
12           of our Projects, they don't even get completed or  
13           maybe they don't even pull a permit, and they're  
14           seeing a lot of time extension requests to initiate  
15           the construction.   And I think that's the reason  
16           that they went with the five-year on this Project.

17                       I'm not -- I -- but I don't -- for ten years  
18           on the initial go-around, I'm not going to say it's  
19           reasonable or unreasonable, it's just unusual, and  
20           it's -- I've -- I have not seen it for -- for any of  
21           my Projects.

22                       I think you did have one for some other  
23           Conditional Permits; but for new construction and  
24           for an operational construction, it's a -- it's --  
25           it's new as far as I'm concerned.

1 COUNCILMEMBER VICTORINO: Well -- and, again, sometimes,  
2 you know, when you look at how we've done business,  
3 sometimes we step out of the box and do things a  
4 little differently. And I've always been a  
5 proponent of looking at how we can help our local  
6 businesses continue what I consider good business  
7 practices.

8 And I agree with Member Baisa. I don't want  
9 to see Haleakala mountainside, like I'm beginning to  
10 see on the west side, built out and homes being  
11 built all over -- all -- all over the place where  
12 our prime Ag land or some of our great pasture land  
13 no longer can be used because the business no longer  
14 can survive.

15 I mean, you know, something that's very  
16 important is survivability in this whole equation,  
17 and it's been said so, you know, I -- I don't think  
18 we have the votes to get it passed, but I wanted  
19 people to understand the rationale, and I think  
20 Member Baisa really explained it real well as far as  
21 what the rationale was, to help a local community or  
22 a company that has long-standings in our community  
23 continue to -- to move along.

24 So, Mr. Chair, as we call for the question,  
25 we'll see how it all works out, but I thank you,

1 Mr. Alueta, and I thank you, Mr. Chair, for that  
2 opportunity.

3 CHAIR MOLINA: Okay. Thank you, Mr. Victorino. Member  
4 Baisa -- Member Johnson? Excuse me. I'm sorry.

5 COUNCILMEMBER JOHNSON: Yes. I have a question also of  
6 Mr. Alueta.

7 Because this is a rather unique application in  
8 as much as they're giving up an -- you know, a  
9 permit that they've had for an ongoing operation  
10 that's been there in a Residential area for a while,  
11 I mean, isn't there some consideration that this is  
12 a unique situation?

13 MR. ALUETA: Those are the things that the Commission was  
14 aware of. The -- I can only speak for what they  
15 deliberated on.

16 They did deliberate -- I mean, that was an  
17 issue that was raised, and they were aware of John  
18 Hirashima's -- would -- would -- he would withdraw  
19 or turn in his Conditional Permit.

20 And those are the same kind of considerations  
21 that this body needs to deliberate on; but as far as  
22 from our Staff's --

23 COUNCILMEMBER JOHNSON: Uh-huh.

24 MR. ALUETA: -- standpoint and past history, we -- we tend  
25 to be on the conservative side with the initial

1 permit, and the -- and we have -- we try to be  
2 reasonable because we understand the -- the lag time  
3 between financing and getting to construction.

4 And the most important thing for -- from  
5 Planning Department, as well as the Planning  
6 Commission, has been is when they grant a use-type  
7 permit is they want to see the operation in  
8 operation.

9 And so that's why they probably granted a  
10 longer period because they knew this is a new  
11 construction and that there would have to be some  
12 time for -- for operation.

13 COUNCILMEMBER JOHNSON: Yeah. And -- and I appreciate  
14 that, Mr. Alueta, because usually -- you're right  
15 about your recommendations to us, but we sometimes  
16 don't follow your advice.

17 MR. ALUETA: Right.

18 COUNCILMEMBER JOHNSON: And so it's us, as a body, that  
19 have granted deviations from your original  
20 recommendation. I didn't mean to imply that it was  
21 your recommendation, and I apologize if I misspoke.

22 Mr. Chair, I -- I, once again, you know, ask  
23 the Members to really think about this because  
24 Agriculture is fighting for its very existence.  
25 Five years is just not enough time.

1           And I don't know -- I mean, I guess we can  
2           count, but not all the Members are here so to me, I  
3           guess I could propose another amendment when this  
4           comes forward, assuming that it will come forward at  
5           the full Council and hope that we have sufficient  
6           votes to pass, but I really do believe in this case  
7           a minimum of ten years is appropriate.

8           And I'd be willing to split the difference and  
9           say seven years because it's better than five, but I  
10          just believe that it's really important that we  
11          support the Agriculture industry. It's in our State  
12          Constitution.

13          We know what's going on in the Ag market. The  
14          cattle industry is barely hanging on by a thread.  
15          So instead of looking at providing more residential  
16          opportunities, these people are really trying to  
17          make a go of the Ag.

18          So I -- I'll just -- I've said enough and, you  
19          know, I'm -- I'm kind of disappointed that we can't,  
20          as Mr. Victorino said, just once in a while, make an  
21          exception in favor of people that are actually  
22          working the land and trying to make a living off of  
23          what we really love, which is the beauty of the open  
24          spaces. Thank you, Mr. Chair.

25   CHAIR MOLINA: Okay. Thank you, Member Johnson. The Chair

1           would like to offer his comments before the Chair  
2           calls for the question on the proposed amendment,  
3           which is to extend the duration of the permit from  
4           five years to ten years.

5                     Again, I -- I can fully support this  
6           application as recommended by the Planning  
7           Department for the five years.

8                     The ten years, I -- I have some reservations  
9           because as, I guess, Mr. Alueta had put it, there is  
10          construction involved, and this is not, you know,  
11          for lack of a better term, a small mom-and-pop  
12          proposal here.

13                    We're looking at some structures being  
14          developed, as well as a parking lot, and -- so  
15          there's going to be some potential noise issues that  
16          could occur and traffic as well.

17                    And because you have these unknowns sort of  
18          lingering out there, the Chair's personal feeling,  
19          yeah, I would like to just err on the side of  
20          caution at this point.

21                    And, as Mr. Alueta had mentioned earlier, the  
22          initial recommendation was for two years, then they  
23          received the recommendation for five. So I think at  
24          this point, five is, I guess, a -- I guess a good  
25          middle ground for me to support.

1           And should everything be going according to  
2           plan after five years, the applicant can come back  
3           to a new Council and then maybe at that point might  
4           be the time when, you know, the applicant could get  
5           something more significant than five years.

6           And, again, the Kula area is a very rural,  
7           quiet area, but its citizens are very vocal about  
8           issues like this. So I think we have to, you know,  
9           balance the -- the -- the needs of the Agriculture  
10          industry, as well as the resident -- surrounding  
11          residents who may be impacted and hopefully not in a  
12          negative way.

13          And with five years, it gives the community an  
14          opportunity to respond sooner to any concerns that  
15          could possibly arise with this. So the Chair will  
16          support the five years as recommended by the  
17          Planning Department.

18          Chair will call for the question for the  
19          proposed amendment to extend the permit duration  
20          from five years to ten years.

21          The question has been called. All those in  
22          favor of the amendment signify by saying "aye."

23   COUNCIL MEMBERS: Aye.

24   CHAIR MOLINA: All those opposed?

25   COUNCIL MEMBERS: No.



1 CHAIR MOLINA: Okay, Chair votes no.

2 **VOTE: AYES:** Councilmembers Baisa, Johnson, and  
Victorino.

3 **NOES:** Councilmembers Mateo, Medeiros,  
4 Vice-Chair Pontanilla, and Chair Molina.

5 **ABSTAIN:** None.

6 **ABSENT:** None.

7 **EXC.:** Councilmembers Anderson and Hokama.

8 **MOTION FAILED.**

9 CHAIR MOLINA: The ayes are, for the record, Members Baisa,  
10 Johnson, and Victorino; noes are Molina, Mateo,  
11 Medeiros, and Pontanilla. The proposed amendment  
12 fails to move on.

13 We're back now down -- back to the main  
14 motion. Any other considerations, Members? Okay.  
15 And this also will include the filing of the motion  
16 [sic] as well. Thank you, Committee Secretary. I  
17 was -- I was just about to get there.

18 So any other considerations before the Chair  
19 calls for the vote? Member Johnson?

20 COUNCILMEMBER JOHNSON: Mr. Chair, I move to amend the  
21 period for the permit to seven years.

22 CHAIR MOLINA: Okay. There's a motion to amend the permit  
23 duration from five years to seven years. Is there a  
24 second?

25 COUNCILMEMBER BAISA: Second.

1 CHAIR MOLINA: Okay. There's a second from Member Baisa.  
2 Member Johnson, you have the floor.

3 COUNCILMEMBER JOHNSON: I'll give it one final college try.  
4 My justification is that because construction will  
5 be going on and there will be no operation, as  
6 Mr. Young pointed out, for a minimum of two years in  
7 order to fully gauge.

8 And looking at the recommendation that was  
9 made by the Planning Department, best case scenario  
10 is you would have five years of actual operations  
11 for this particular activity.

12 And I would at least like to try to split the  
13 difference to see if they are given a full  
14 opportunity to at least operate. Because every year  
15 that we go beyond the five years, at least  
16 financially, they have a little bit better  
17 opportunity to make it a viable operation.

18 Financially, it's going to be very difficult  
19 for them, given the five years, because, I mean,  
20 frankly, banks are just not going to look at this  
21 very favorably.

22 When you've got five years -- even giving them  
23 the seven is really minimal so that's why I'm making  
24 that amendment to seven years to split the  
25 difference between the ten and the five. Thank you,

1 Mr. Chair.

2 CHAIR MOLINA: Okay. Thank you, Member Johnson. Any other  
3 comments for the proposed amendment to extend the  
4 duration from five years to seven years?  
5 Councilmember Baisa?

6 COUNCILMEMBER BAISA: Thank you, Chair. I think  
7 Ms. Johnson did an excellent job of summing up the  
8 reasons so I have nothing to add. Thank you.

9 CHAIR MOLINA: Okay. Thank you. Member Medeiros?

10 COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Can -- can  
11 I ask Corp. Counsel and the Planning Department a  
12 question?

13 CHAIR MOLINA: Proceed.

14 COUNCILMEMBER MEDEIROS: Corp. Counsel, when -- when would  
15 the Conditional Permit be effective if it's, you  
16 know, past whatever duration? I'm not asking you  
17 for a date but -- maybe I can clarify my question.

18 When would -- could it be effective after  
19 approval of all permits so that part of the duration  
20 of the permit is not included in them trying to get  
21 all their approvals?

22 MR. GIROUX: I don't think -- I don't think they're going  
23 to be able to get their permits without a  
24 Conditional Permit.

25 COUNCILMEMBER MEDEIROS: I see.

1 MR. GIROUX: They're going to be -- when they go to the  
2 agencies, they're going to be, oh, we can't give you  
3 this permit because you don't have a Conditional  
4 Permit --

5 COUNCILMEMBER MEDEIROS: Okay.

6 MR. GIROUX: -- so you're inconsistent with zoning.

7 COUNCILMEMBER MEDEIROS: Okay.

8 MR. GIROUX: Those -- those types of things, so -- you --  
9 you might want to confirm that with Planning, but I  
10 -- I believe that usually, you -- you need to have  
11 that Conditional Permit in place.

12 It's kind of how like variances work. You --  
13 you need to have your variance before you can  
14 proceed with your -- your other permits.

15 COUNCILMEMBER MEDEIROS: Even though the Council may say we  
16 have approved this Conditional Permit, but we would  
17 like to make the effective date when all their  
18 approvals are completed? Planning Department, would  
19 you like to add comments?

20 CHAIR MOLINA: Director?

21 MS. SUYAMA: Normally, the effective date is the final  
22 approval of the ordinance in which the Mayor signs  
23 it, and it's sent back to the Clerk's Office. So  
24 from that -- that's the effective date, and that's  
25 the date that the permit runs through. So if you

1 say five years, it's from that effective date.

2 And Corporation Counsel is correct in the  
3 sense that without an effective Conditional Permit,  
4 you are not in compliance with zoning and the  
5 Community Plan; and, therefore, your building  
6 permits will not be approved.

7 COUNCILMEMBER MEDEIROS: Okay. That shuts down my option.

8 My -- my next question is what would be the  
9 applicant's other options as far as conducting and  
10 constructing this kind of operations on Ag land?  
11 Would that be a Change in Zoning? Is that an  
12 option? What other options do they have?

13 MS. SUYAMA: They have the options of changing zoning; but,  
14 however, because the property is designated as  
15 Agriculture, they need to do several things.

16 They need to do a Community Plan Amendment,  
17 which requires them to also comply with Chapter 343.  
18 So at the minimum, they need to do an environmental  
19 assessment.

20 They also need to do a State District Boundary  
21 Amendment, taking it out of the State Agriculture  
22 District to the Urban District, and then they would  
23 need to change the zoning of the property to an  
24 appropriate County zoning. And in this case, it  
25 probably would be the B-2 Community Business

1 District.

2 COUNCILMEMBER MEDEIROS: Uh-huh.

3 MS. SUYAMA: They also have the issue that because you are  
4 in the State Ag District and its location, the issue  
5 of spot-zoning. And what makes spot-zoning unique,  
6 that it can be supported not only by the County but  
7 also by the State Land Use Commission.

8 COUNCILMEMBER MEDEIROS: Okay. Thank you for that -- those  
9 remarks, Planning Department. So I guess we're just  
10 down to a Conditional Permit. Mahalo, Mr. Chairman.

11 CHAIR MOLINA: Thank you, Mr. Medeiros. So in a nutshell,  
12 I guess if they were to go that route, a lot more  
13 time and a lot more money, in essence.

14 COUNCILMEMBER MEDEIROS: And -- and one final thing on  
15 that. Yes, it would be a more longer and -- and --  
16 and more intensive process for the applicant, but  
17 once -- if that was gotten, then there wouldn't be a  
18 need to come back, right, for other permits? I  
19 mean, that would be final. Okay. Thank you,  
20 Mr. Chair.

21 CHAIR MOLINA: Okay. Thank you, Mr. Medeiros. And it's --  
22 it's unfortunate we don't have someone here from the  
23 banking industry to lend their thoughts on this, I  
24 guess, request.

25 So anyway, we're on the proposed amendment to

1 extend the duration from five years to seven years.

2 Mr. Pontanilla?

3 VICE-CHAIR PONTANILLA: Yeah, just a fast question for  
4 Planning Department.

5 So if the permit is granted for five years or  
6 whatever years it is, and if the developer for this  
7 particular Project feels that they're going to come  
8 back within a specific time frame for a renewal,  
9 then they have the option to go through the process  
10 as far as changing the zoning, changing the  
11 Community Plan, going to the State Land Use  
12 Commission for redesignation. That would -- is  
13 another option that they can follow?

14 MS. SUYAMA: That is the -- the choice that the applicant  
15 has. It's another choice the applicant has, rather  
16 than continuing with -- with the Conditional Permit  
17 and the State Special Use Permit process.

18 VICE-CHAIR PONTANILLA: Thank you.

19 CHAIR MOLINA: Okay. Thank you, Member Pontanilla.  
20 Committee Members, any other questions or comments  
21 as it relates to the proposed amendment on the  
22 floor?

23 Otherwise, the Chair will call for the  
24 question. All those in favor of amending the permit  
25 duration from five years to seven years, signify by

1 saying "aye."

2 COUNCIL MEMBERS: Aye.

3 CHAIR MOLINA: All those opposed?

4 COUNCIL MEMBERS: No.

5 CHAIR MOLINA: Okay, Chair votes no.

6 **VOTE: AYES:** Councilmembers Baisa, Johnson, and  
Victorino.

7

8 **NOES:** Councilmembers Mateo, Medeiros,  
Vice-Chair Pontanilla, and Chair Molina.

9 **ABSTAIN:** None.

10 **ABSENT:** None.

11 **EXC.:** Councilmembers Anderson and Hokama.

12 **MOTION FAILED.**

13 CHAIR MOLINA: We have three ayes, Members Baisa, Johnson,  
14 and Victorino; four noes, Mateo, Medeiros,  
15 Pontanilla, and Molina. The amendment fails.

16 So we're once again back to the main motion.

17 Any comments before the Chair calls for the vote of  
18 the main motion?

19 COUNCILMEMBER MATEO: Chairman?

20 CHAIR MOLINA: Mr. Mateo?

21 COUNCILMEMBER MATEO: Chairman, thank you very much. Yeah,  
22 I have -- I have a few comments.

23 I think I'd like to make it really clear that  
24 the vote for five years is not a vote against  
25 Haleakala Ranch's project.



1           And I think I need -- need to make that really  
2           clear because, you know, yeah, I don't want to see  
3           houses up there as well. But the idea is we're  
4           looking -- I'm looking at consistency. I'm looking  
5           at issues that the community needs to get acclimated  
6           with the Ranch's project. I need -- you know, we  
7           have issues that still needs to be worked out.

8           Planning Department has indicated that usually  
9           the two to five years is the period of acclimation  
10          where they're sure that -- that compliance is met.

11          You know, I seconded this motion so it's not  
12          an idea that I don't support the Ranch. You know  
13          what, the Ranch, when they got their determining --  
14          determination from the Planning Commission that says  
15          five years, it was their choice to withdraw if it  
16          was too costly for them.

17          So I'm kind of listening to some of this, I  
18          guess, comments from, you know, the President of the  
19          company who talked about the \$9 million and, yes,  
20          that is a big investment for the full build-out, but  
21          he was here a minute ago saying they're going to  
22          spend 4.5 for the first phase. So, yeah, it's a big  
23          Project, but they're moving forward with the first  
24          phase.

25          I still support the Project. And there is no

1           indication that I do not support Agriculture because  
2           I -- I voted for a five-year tenure. So just to set  
3           the record straight, this vote has nothing to do  
4           with us supporting Agriculture because we're looking  
5           at individual -- at an individual project. We're  
6           looking at the survivability of their company.

7                        So, you know, I'm going to stay with my  
8           five years, I think I'm very comfortable with it,  
9           and I think that's the responsible thing to do at  
10          this point. Thank you, Mr. Chairman, for my  
11          opportunity.

12   CHAIR MOLINA: Thank you, Mr. Mateo. Members, any other  
13          comments towards the main motion before the Chair  
14          calls for the vote?

15   COUNCILMEMBER BAISA: Chair?

16   CHAIR MOLINA: Member Baisa?

17   COUNCILMEMBER BAISA: Yes. I'd like to have my final  
18          remarks, and that is that I'm not trying to imply  
19          that anyone is against Haleakala Ranch. However, I  
20          am, and had hoped, that we could give them a more  
21          likely opportunity to get the financing they need.

22                        I suspect that because they are such a pillar  
23          of the community and have survived as long as they  
24          have, that they'll probably figure out how to make  
25          this work.

1                   But I do -- I -- I think it's a great Project.  
2                   I think it's a great idea. I will support the  
3                   five-year permit. My mother taught me that half a  
4                   loaf is better than none; but, again, I would have  
5                   liked the longer period if we could have got it.

6                   But I appreciate the support of the Council  
7                   Members for the Project, and I hope -- I wish  
8                   Haleakala Ranch well with the Project, and I'm sure  
9                   that they'll be successful and will be able to find  
10                  the financing, although it would have been easier,  
11                  of course, with a much longer period. Thank you.

12 CHAIR MOLINA: Okay. Thank you, Member Baisa. Member  
13                  Medeiros, followed by Member Johnson.

14 COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. I -- I,  
15                  too, would like to express that, you know, I support  
16                  Ag because I come from an Ag District, Ranching  
17                  District, and it's important for our District to  
18                  remain Ag as much as possible. And we've been able  
19                  to do that up to this point.

20                  And I -- I think, in my deliberations and  
21                  listening to the information presented to us from,  
22                  you know, all perspectives, that I -- I'd like to  
23                  consider myself like the blindfolded lady in front  
24                  of the courthouse, you know. I'm not looking at  
25                  Haleakala Ranch as being the applicant. I'm looking

1 at the application without a name on it. And with  
2 that, I think I can deliberate and -- and be fair.

3 And for me, I do support Ag, I do support  
4 ranching, and I support the five-year for reasons  
5 that have been already expressed. And one of the  
6 main reasons I think is that five years, I think,  
7 will give enough time for the operation to start and  
8 for the community, the different industries, to give  
9 their remarks on what they feel and how they feel  
10 about the operations.

11 And -- and so that's why I'm remaining with  
12 the five-year because as I mentioned before, the  
13 Planning Department, Planning Commission, they are  
14 charged with reviewing these applications in depth  
15 and then they're charged with making their  
16 recommendations to us.

17 If we had, you know, enough time to do what  
18 the Planning Department and Planning Commission  
19 does, then maybe, you know, we wouldn't need their  
20 recommendations, but we do need their  
21 recommendations.

22 So with that, Mr. Chair, I -- I will continue  
23 to support the Project and support the five-year  
24 permit. Mahalo.

25 CHAIR MOLINA: Thank you, Member Medeiros. Member Johnson?

1 COUNCILMEMBER JOHNSON: Yes. And I just want to note that  
2 as I said earlier, the Planning Department has been  
3 consistent usually in their recommendations and the  
4 Administration and even the Commission, but I  
5 believe that under several circumstances where there  
6 was new construction, Boys and Girls Club was one of  
7 them that was very odd, both the Central and also I  
8 believe the Special Use Permit for Lahaina. They  
9 were kind of unusual circumstances so I believe this  
10 body has always taken into consideration the  
11 extenuating circumstances, and we make judgments  
12 based on each application.

13 The judgment I'm making on this application is  
14 because I was raised in farm country. I have been  
15 surrounded by cows and dairy farming all my life.  
16 I'm a cheese head. What can I say?

17 So, you know, for me, I -- I know what's been  
18 lost in the State of Wisconsin to development. I  
19 see what's happening here that's lost, beautiful  
20 land to development to more McMansions.

21 And, you know, I -- I just feel very strongly  
22 that if we give a little bit more to the farming  
23 community -- and right now, there's very few small  
24 farmers that are able to make it financially.

25 The large farmers are also going to be having

1 a huge impact because a lot of the financing that  
2 was previously given under the Federal Farm Bill is  
3 not going to be there any more. So a lot of the Ag  
4 supports that would ordinarily be able to bolster  
5 Agriculture operations are no longer there. They  
6 cannot count on them.

7 So I -- that is why I'm very passionate about  
8 farming and wanting to see that it continues to  
9 survive. So whatever little help I can give by  
10 giving a couple years more, that's my point. It's  
11 not to denigrate other people.

12 And people can read into my comments whatever  
13 they want. I'm just saying I am passionate about  
14 the issue, and this is what I would like to do.  
15 Whether people agree with me or not, that's their  
16 perception, but we each do what we believe is in the  
17 best interest.

18 And you live Upcountry, Mr. Molina; Ms. Baisa  
19 lives Upcountry. I just enjoy it from afar. So to  
20 me, it's not about that I'm a better supporter of Ag  
21 than anybody else. I'm a businessperson also, and I  
22 know what it takes. And the more burden you do  
23 place on business, the more challenges there are.  
24 That's why I suggested a longer period of time and  
25 only for that reason. Thank you.

1 CHAIR MOLINA: Okay. Thank you, Member Johnson. Member  
2 Pontanilla?

3 VICE-CHAIR PONTANILLA: I guess you coming right down the  
4 line, right?

5 You know, I -- I -- I think all of us, we do  
6 support Ag, Agriculture. And for me, you know, when  
7 I look at Agriculture, be it, you know, pineapple,  
8 sugar cane, ranching, and the farmers that, you  
9 know, plant the necessary food stuff that we eat,  
10 some of 'em need to diversify, and I think Haleakala  
11 Ranch is going in a direction to -- to help out  
12 their agriculture, raising animals.

13 And -- and my reason for the five years is  
14 that, you know, the five years will give Haleakala  
15 Ranch time to -- to get their financing -- hopefully  
16 they got already some discussion going as -- as far  
17 as the \$4.5 million.

18 And I also was reading the testimony that was  
19 given at the Planning Commission. And there were  
20 several neighbors in the surrounding area that, you  
21 know, were kind of concerned in regards to traffic,  
22 fumes, and all of those things. And the five years  
23 would get -- give an opportunity for those neighbors  
24 to -- to look at this operation and -- and if it's  
25 good for their community.

1                   So you got to look at both sides. One, to  
2                   diversify so that they can continue their ranching  
3                   activities; and on the other side, you got to take a  
4                   look at the neighborhood themselves, the people that  
5                   live around the area.

6                   And for them to -- to testify in regards to  
7                   this particular development, you know, is good.  
8                   Give us both perspective. And I think the  
9                   five years will -- will give us more answers to  
10                  that. Thank you.

11 CHAIR MOLINA: Okay. Thank you, Mr. Pontanilla. Chair  
12                  calls for the -- no, I'm just kidding.

13                  Mr. Victorino. Go ahead.

14 COUNCILMEMBER VICTORINO: If you want to call for --

15 CHAIR MOLINA: I'm just giving you a hard time today. Go  
16                  -- go ahead, Mr. Victorino.

17 COUNCILMEMBER VICTORINO: Ah, shucks. You started on that  
18                  end, you got to end on this end. Sorry.

19                  And, you know, first of all, I'll say that my  
20                  amendment was not in any way, shape, or form to  
21                  belabor or to keep this discussion going further.  
22                  It was a way I felt that was very important to help  
23                  Haleakala Ranch, a long-term kamaaina business --  
24                  and I say kamaaina because they've been here over a  
25                  hundred years and, you know, that, to me, is



1 kamaaina as you're going to get.

2 But more importantly, I think they have a  
3 proposed idea to help with their continuance of  
4 their business, which is the ranching business and  
5 other entities that they're into.

6 And I'm not a cheese head. I no live in a  
7 district -- well, you know what, get cattle -- I get  
8 goats now in my area. Used to be cattle, now they  
9 put goats up there. That's okay.

10 But I was born and raised. These hands have  
11 tilled the soil and raised cattle, pigs, and  
12 everything else. As much as anybody in this darn  
13 room, I am as local as local can get.

14 But more importantly, the ten years was not to  
15 make everybody feel guilty about this or that. You  
16 vote your conscience, you vote what you think is  
17 right, and it's nothing against Haleakala Ranch. I  
18 don't -- I didn't insinuate that, and I -- I am  
19 sorry that some people may have taken it in that  
20 manner.

21 The discussion was our rationale while we --  
22 we believe so highly in what they're doing and  
23 giving them the extended time. I'll support the  
24 five years, no problem. I just hope they don't run  
25 into financial snags or permitting snags that's

1           then -- makes them come back for extensions because  
2           that's time and effort.

3                   I'm a businessperson also, and I've done  
4           business many, many years. And I've said in many  
5           cases that I wish government could be run more like  
6           a business in many sense. But as it is, the process  
7           is what it is.

8                   And, Mr. Chair, I'll support the motion -- I  
9           mean, I'll support the Conditional Permit for five  
10          years. I thank all my colleagues for their manao  
11          for what they've said today.

12                   Again, we all have our own hearts, we all have  
13          our own ideas, and that's what makes this Council  
14          very, very different in that sense. We can  
15          disagree, we can even sometimes get downright testy  
16          about our disagreements; but once it's said and  
17          done, it's the business of the people, we vote, and  
18          we walk out, and our heads can be held high because  
19          we've done the best we can. Thank you, Mr. Chair.

20   CHAIR MOLINA: Okay. Thank you, Mr. Victorino. Before the  
21          Chair makes his comments and calls for the vote,  
22          Staff, I believe, is there any nonsubstantive  
23          revisions we need to consider?

24   MS. NAKATA: Oh, yes. Staff would just like leave to make  
25          nonsubstantive revisions such as changing the year

1 of the bill.

2 CHAIR MOLINA: Okay. Members, you heard the bill is  
3 currently listed at 2006 so the nonsubstantive  
4 change would be 2007, should this matter pass.

5 So -- anyway, the Chair would like to thank  
6 the applicant for being here for a while to do a  
7 presentation and responding to questions. And I can  
8 speak safely for all the Members that we all do  
9 support Agriculture, and I think this is a very  
10 exciting Project, and I wish you all nothing but  
11 success.

12 So with that being said, the Chair will call  
13 for the vote. All those in favor of the bill,  
14 please signify by saying "aye."

15 COUNCIL MEMBERS: Aye.

16 CHAIR MOLINA: All those opposed?

17 **VOTE: AYES:** Councilmembers Baisa, Johnson, Mateo,  
18 Medeiros, Victorino, Vice-Chair  
Pontanilla, and Chair Molina.

19 **NOES:** None.

20 **ABSTAIN:** None.

21 **ABSENT:** None.

22 **EXC.:** Councilmembers Anderson and Hokama.

23 **MOTION CARRIED.**

24 **ACTION:** Recommending **FIRST READING** of revised  
25 proposed bill, and **FILING** of  
communication.

1 CHAIR MOLINA: Thank you. The Chair will, mark it seven,  
2 zero, with two excusals, Members Anderson and  
3 Hokama. The bill passes and will move on to the  
4 Council for first reading. Congratulations.

5 Members, it is 3 o'clock. The -- we have one  
6 more item to address; but before that, the Chair  
7 would like to call for a ten-minute recess. This  
8 meeting is in recess until 3:10. ...(gavel)...

9 **RECESS: 3:00 p.m.**

10 **RECONVENE: 3:17 p.m.**

11 CHAIR MOLINA: ...(gavel)... The Land Use Committee meeting  
12 for December 19th, 2007, is now back in session.

13 **ITEM NO. 20: CONDITIONAL PERMIT TIME EXTENSION FOR "MAUI BY**  
14 **THE SEA" (PAIA) (C.C. No. 07-217)**

15 CHAIR MOLINA: Members, we are on our last agenda item for  
16 today, which is Land Use Item 20, a Conditional  
17 Permit Time Extension for Maui by the Sea over in  
18 Paia.

19 Before we proceed any further, is there anyone  
20 that would like to testify on Land Use Item 20?  
21 Committee Secretary, have we had any requests for  
22 testimony on this particular item?

23 MS. FRIAS: No, Mr. Chair.

24 CHAIR MOLINA: Okay. Thank you. Seeing no one  
25 approaching, the Chair will close public testimony

1 for Land Use Item 20. Any objections?

2 COUNCIL MEMBERS: No objections.

3 CHAIR MOLINA: Okay. Thank you, Members. The Committee is  
4 in receipt of County Communication No. 07-217 from  
5 the Planning Director, transmitting a proposed bill  
6 to grant a request for Valerie Lewis Okamura for a  
7 five-year time extension for her existing  
8 Conditional Permit to continue to operate a  
9 transient vacation rental business in a one-bedroom  
10 second dwelling on approximately 14,321 square feet  
11 in the R-1 Residential District, situated in Kuau,  
12 Paia, Maui.

13 A correspondence was also received dated  
14 November 5th, 2007, from the Department of the  
15 Corporation Counsel's Office, transmitting a revised  
16 proposed bill entitled "A BILL FOR AN ORDINANCE  
17 AMENDING ORDINANCE NO. 3299 (2005), PERTAINING TO  
18 THE GRANTING OF A CONDITIONAL PERMIT TO VALERIE  
19 LEWIS OKAMURA TO ALLOW FOR THE OPERATION OF MAUI BY  
20 THE SEA, A TRANSIENT VACATION RENTAL SITUATED AT 523  
21 HANA HIGHWAY, KUAU, PAIA, MAUI, HAWAII."

22 The purpose of the revised proposed bill is to  
23 grant the request, while correcting the street  
24 address to 523 Hana Highway.

25 Today, we have before us from the Planning

1 Department, we have Robyn Loudermilk, joined of  
2 course by Deputy Director Colleen Suyama, as well as  
3 Corporation Counsel James Giroux.

4 At this point, I would like to ask  
5 Ms. Loudermilk to give us a brief overview of the  
6 application.

7 MS. LOUDERMILK: Good afternoon, Members. As indicated  
8 earlier, Valerie Lewis Okamura is in for a time  
9 extension for an existing Conditional Permit to  
10 operate the Maui by the Sea, a TVR.

11 The property is located in the Paia, Kuau  
12 area. It's in the State Urban District, Community  
13 Plan Single-Family, zoned Residential, and located  
14 in the Special Management Area.

15 And the applicant would like to continue the  
16 operation of a vacation or short-term rental in a  
17 one-bedroom second dwelling in the Residential  
18 District.

19 The public hearing was held by the Maui  
20 Planning Commission on January 23rd, 2007, and there  
21 was no testimony, and the Commission recommended  
22 approval, subject to a number of conditions.

23 And Staff would like to note that  
24 approximately one year ago, I did go on a site visit  
25 of the property, and the applicant has been in

1 compliance with all of the conditions of the  
2 existing Conditional Permit.

3 And that concludes the Department's  
4 recommendation -- Department's report. Thank you.

5 CHAIR MOLINA: (Inaudible). Okay. All right. Thank you  
6 very much, Ms. Loudermilk.

7 Members, at this time, if you have questions  
8 for the Planner, now's the time to ask. Also, we  
9 have -- the applicant is available here to give us  
10 some brief overview if you'd like to proceed in that  
11 manner.

12 The Chair's preference is to give the  
13 applicant an opportunity to do a brief presentation,  
14 or what have you, and then we'll go on to the  
15 Q-and-A phase of our deliberations.

16 Any objections to proceeding in that fashion?

17 COUNCIL MEMBERS: No objections.

18 CHAIR MOLINA: Okay. Thank you. I'd like to call upon  
19 Ms. Lewis Okamura to come up to the podium and give  
20 us a brief overview of her TVR and request for  
21 extension. Good afternoon.

22 MS. LEWIS OKAMURA: Good afternoon, Council Members. I'm  
23 Valerie Lewis Okamura, and I represent my vacation  
24 rental that is in Kuau, and it's 14,000 square feet  
25 property where I build a house and a cottage.

1                   And then this is a vacation rental that I  
2                   started in the year 2000 -- the end of the year  
3                   2000, 2001. And it's a one-bedroom cottage that I  
4                   rent for \$195 a night, plus taxes, and I rent it  
5                   about three weeks per month, average. And I'm not  
6                   sure what -- what else you want to know. I'll be  
7                   happy to answer your questions.

8 CHAIR MOLINA: Okay. Thank you, Ms. Lewis Okamura.  
9                   Committee Members, questions for either Ms. Okamura  
10                  or the Planning Department?

11                  We'll start with Member Johnson, followed by  
12                  Member Medeiros.

13 COUNCILMEMBER JOHNSON: Yes. Thank you. And I vaguely  
14                  remember a couple of years ago that you were before  
15                  us. Because one of the issues that I -- I always  
16                  have is --

17 MS. LEWIS OKAMURA: Uh-huh.

18 COUNCILMEMBER JOHNSON: -- the GET and the TAT, and you've  
19                  provided that evidence to the Planning Department to  
20                  their satisfaction?

21 MS. LEWIS OKAMURA: Uh-huh.

22 COUNCILMEMBER JOHNSON: That they're all current, and you  
23                  don't owe any --

24 MS. LEWIS OKAMURA: No, I don't owe. I don't, no. I've  
25                  been paying -- paying all my GET and TAT taxes on



1 time, and --

2 COUNCILMEMBER JOHNSON: Okay, great.

3 MS. LEWIS OKAMURA: -- I forwarded all the copies of the  
4 papers that I've been filing to Mrs. -- the Planning  
5 Department.

6 COUNCILMEMBER JOHNSON: Okay. And just one question, which  
7 has -- you know, it's just more curiosity than  
8 anything.

9 When you get your annual tax bill because,  
10 obviously, you have a Conditional Use Permit, have  
11 you noticed that because you have that Conditional  
12 Use Permit, that your taxes have actually gone up  
13 substantially in terms of your real property  
14 assessment?

15 MS. LEWIS OKAMURA: The property tax you -- you mean?

16 COUNCILMEMBER JOHNSON: Yeah, what you're actually -- if  
17 you look at the valuation on your property, if it  
18 was a million dollars before and now it's 1.2  
19 million, you know, are you getting an escalation in  
20 terms of the rise in your real property assessed  
21 value?

22 MS. LEWIS OKAMURA: Oh, it has gone up a lot. I think it  
23 has doubled in the past since the house has been  
24 built and since I owned the property, but I don't  
25 know if it's related to the vacation rental.

1 COUNCILMEMBER JOHNSON: Uh-huh.

2 MS. LEWIS OKAMURA: I think it's related to other houses  
3 being built --

4 COUNCILMEMBER JOHNSON: Nearby?

5 MS. LEWIS OKAMURA: -- million dollar houses being  
6 built next door --

7 COUNCILMEMBER JOHNSON: Okay. And -- and the only reason I  
8 ask that is because in a lot of situations what  
9 we're looking at is because many people are  
10 operating vacation rentals, albeit they don't have  
11 permits like you do --

12 MS. LEWIS OKAMURA: Uh-huh.

13 COUNCILMEMBER JOHNSON: -- some of them, some of them do,  
14 we -- we kind of are looking at what are the trends  
15 in adjacent properties because many of the other  
16 area residents are saying, oh, it's because you're  
17 operating a transient vacation rental my taxes are  
18 going up, but, you know, so is everybody else's, is  
19 -- is that your understanding of your neighbors in  
20 the area, that everybody's been getting comparable  
21 increase in terms of their assessments?

22 MS. LEWIS OKAMURA: I -- I think so. I think so, yes, that  
23 everybody's been increased. It's not just me or --  
24 and I can't -- I'm not sure. I can't explain why  
25 it's going up if it's because, you know, someone who

1 owns vacation rental and property sells at for a lot  
2 of money or if it's because someone who built  
3 \$3 million house, built -- sells it and the property  
4 tax goes up. I think it's both of them, but...

5 COUNCILMEMBER JOHNSON: I really appreciate that, and thank  
6 you very much.

7 CHAIR MOLINA: Thank you, Member Johnson. Member Medeiros?

8 COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. And -- and  
9 thank you for your testimony.

10 I just have a few questions, and it may have  
11 already been said by the Chair or -- or the Planning  
12 Department, but your current permit is for  
13 two years, is that correct, the -- the one you're --  
14 you're using -- you're existing on --

15 MS. LEWIS OKAMURA: It's one year.

16 COUNCILMEMBER MEDEIROS: Oh, it's for one year?

17 MS. LEWIS OKAMURA: And I -- I reapplied in June just  
18 one month before the end of the permit and so that  
19 was one of my concern, is that if you are willing to  
20 give -- to grant me the permit, the five years right  
21 now, then I would have to reapply in  
22 three-and-a-half years.

23 And I was wondering if it would be possible to  
24 make it -- I don't -- I'm not sure how to verbalize  
25 that, but to make it so it would be five years as of

1           -- we talked about it 2008 -- 2007, so that would be  
2           the --

3 COUNCILMEMBER MEDEIROS: Okay, we understand you're --  
4           you're applying for five years, right.

5 MS. LEWIS OKAMURA: Yes.

6 COUNCILMEMBER MEDEIROS: We don't need the year. But  
7           you -- you currently were on a one-year permit?

8 MS. LEWIS OKAMURA: Yes.

9 COUNCILMEMBER MEDEIROS: Okay.

10 MS. LEWIS OKAMURA: Yes. I've been here before.

11 COUNCILMEMBER MEDEIROS: And on the property are two  
12           residential structures, a main house and a cottage?

13 MS. LEWIS OKAMURA: Yes.

14 COUNCILMEMBER MEDEIROS: And you rent the cottage?

15 MS. LEWIS OKAMURA: Yes. And I live in the house.

16 COUNCILMEMBER MEDEIROS: And you live in the main house?

17 MS. LEWIS OKAMURA: Yes.

18 COUNCILMEMBER MEDEIROS: Okay. And the parking for your  
19           tenants or your guests are on property?

20 MS. LEWIS OKAMURA: It's on the property. It's underneath  
21           the cottage. It's a two-story building. The living  
22           area is upstairs, and the -- the parking for the  
23           tenants are underneath the cottage.

24 COUNCILMEMBER MEDEIROS: Okay.

25 MS. LEWIS OKAMURA: And there is lots of parking for -- for

1           us, the family.

2   COUNCILMEMBER MEDEIROS:   And is your property on the makai  
3           or the ocean side of Hana Highway?

4   MS. LEWIS OKAMURA:   Ocean side.

5   COUNCILMEMBER MEDEIROS:   Okay.   So are you on the ocean,  
6           or...

7   MS. LEWIS OKAMURA:   Yes.

8   COUNCILMEMBER MEDEIROS:   Your property is right alongside  
9           the ocean?

10   MS. LEWIS OKAMURA:   Yes.

11   COUNCILMEMBER MEDEIROS:   Okay.   Thank you, Chair.   I just  
12           have questions for the Planning Department, but I'll  
13           let colleagues ask questions of the applicant.

14   CHAIR MOLINA:   Okay.   Thank you, Mr. Medeiros.   And just to  
15           follow up with a -- the brief history of the  
16           application can be found on the Planning  
17           Department's docket, the report which is about  
18           several pages in your binder, and it references the  
19           January 23rd, 2007, meeting.

20           And if you look on pages 4 and 5, there's a  
21           brief history of the application.   On November 13th,  
22           2001, the Maui Planning Commission voted to  
23           recommend Council approval and then effective  
24           July 5th, 2005, the Maui County Council granted a  
25           Conditional Use Permit for a period of one year.

1                   And then under the heading of -- the analysis  
2                   heading on page 5, the applicant filed for a  
3                   five-year time extension on June 1st, 2006, and the  
4                   request for a time extension was filed in a timely  
5                   manner so I just wanted to add that for the Members'  
6                   information.

7                   Okay. Members, questions for the applicant or  
8                   the Department? Member Baisa?

9                   COUNCILMEMBER BAISA: Thank you, Chair. Good afternoon.

10                  Thank you for being here.

11                  MS. LEWIS OKAMURA: Thank you.

12                  COUNCILMEMBER BAISA: I wanted to ask the question that  
13                  comes up every time we look at this kind of an  
14                  operation, and that is how do you fit in your  
15                  neighborhood, and what kind of relationship do you  
16                  have with your neighbors? Are there problems?

17                  MS. LEWIS OKAMURA: No, I've never had any problems. And  
18                  as you probably know, there is vacation rental all  
19                  along the coast, so I'm probably one of -- the only  
20                  one that's really legal that came forward so they  
21                  can't really complain about me anyway.

22                  But -- but we're very quiet. We live on the  
23                  property so we can control our guests with -- you  
24                  know. We -- we don't have any problem. The -- the  
25                  -- I think the price of the cottage is high enough

1           that the people are very respectful when they come  
2           here, and they know how to take care of the place  
3           and behave.

4                    And we have -- the owner on my left is --  
5           live -- lives on the property, and we get along very  
6           well, and we have -- on my right, it's some kind of  
7           condominium, and I don't see the owner very often.

8   COUNCILMEMBER BAISA:  You -- your area of your lot is  
9           almost an acre, yeah?

10  MS. LEWIS OKAMURA:  It's 14,000 square feet.

11  COUNCILMEMBER BAISA:  Oh, 14,000.  I'm sorry, I thought I  
12           heard 40.

13  MS. LEWIS OKAMURA:  Fourteen.  Sorry, my accent.  English.

14  COUNCILMEMBER BAISA:  Okay.  Okay.  No, because it makes a  
15           big difference in terms of how close people are to  
16           you.  And so you're on about a little more than a  
17           quarter of an acre.

18  MS. LEWIS OKAMURA:  Uh-huh.  Yeah, and relatively close to  
19           each other.

20  COUNCILMEMBER BAISA:  No, that's very good that -- you  
21           know, I think it's really important, as we look at  
22           vacation rentals, the way they fit into a community.

23  MS. LEWIS OKAMURA:  Uh-huh.

24  COUNCILMEMBER BAISA:  And it's very disconcerting to us  
25           when the neighbors are upset because, you know, it

1           is a Conditional Permit, it is a special use, and we  
2           have to make sure that we're not upsetting our  
3           neighborhoods. And it appears that you're not in  
4           that situation.

5   MS. LEWIS OKAMURA: No. I think I hear my neighbors more  
6           than they hear us.

7   COUNCILMEMBER BAISA: Most of us have that issue. Anyway,  
8           thank you very much.

9   MS. LEWIS OKAMURA: Thank you.

10   CHAIR MOLINA: Thank you, Member Baisa. Member Mateo?

11   COUNCILMEMBER MATEO: Chairman, it's not for the applicant,  
12           it would be for the Department so I'll yield.

13   CHAIR MOLINA: Okay. Members, any other questions for the  
14           applicant before we turn matters over to the  
15           Planning Department?

16           Okay, seeing none, you -- you're excused for  
17           now, Ms. Lewis Okamura. You can have a seat. And  
18           if there's a need for any more questions from me or  
19           answers from you, we'll call you back up.

20   MS. LEWIS OKAMURA: Okay. Thank you.

21   CHAIR MOLINA: Thank you. Okay. Proceed, Mr. Mateo.

22   COUNCILMEMBER MATEO: Chairman, thank you very much.

23           Deputy Director Suyama, how could the new TVR bill  
24           affect this applicant?

25   MS. SUYAMA: The way that the Department had originally



1 proposed the TVR bill, they would not qualify -- the  
2 applicant would not qualify; however, I'm not up to  
3 date on all of the recommendations of the three  
4 Planning Commissions.

5 For the Council's information, the three  
6 Planning Commissions have held the hearings, and  
7 they have made their recommendations. So we're  
8 looking at trying to get the TVR/B&B bill to the  
9 Council by next -- next month, which is January.  
10 We're trying to fine tune all of the recommendations  
11 together.

12 There are some changes that are being proposed  
13 by the various Commissions that we need to go  
14 through. One of the changes is that I know for the  
15 Lanai Planning Commission, they still wanted the  
16 options of Conditional Permits to be given. You  
17 know, we had originally recommended no Conditional  
18 Permits would be granted for TVR businesses.

19 I think most of them supported the B&B -- you  
20 know, streamlining the B&B process, the Bed &  
21 Breakfast process; but right now, based upon what we  
22 had proposed originally in which we mapped the areas  
23 that transient vacation rentals would be permitted,  
24 the Paia/Haiku area was not one of those areas that  
25 were mapped.

1                   So if our version gets approved, then the  
2                   Okamuras' transient vacation rental would not be one  
3                   of those that would qualify.

4   COUNCILMEMBER MATEO:   And because -- because for the last  
5                   number of years we have allowed it to operate, then,  
6                   you know, are -- are we sitting with a potential  
7                   suit?

8                   Because they've been -- we've allowed them to  
9                   operate all these years, and we're even -- have the  
10                  opportunity today of providing an extension for her  
11                  permit.

12   MS. SUYAMA:   I -- I don't -- I -- I don't believe that you  
13                  are because you have to realize that the Conditional  
14                  Permit is for a certain length of time.   And when  
15                  conditions within the community changes, like, you  
16                  know, we didn't have a bill specifically for the  
17                  transient vacation rental, you know, the situation  
18                  now.

19                  Once you enact an ordinance that governs  
20                  transient vacation rentals, as well as bed &  
21                  breakfasts, it does not necessarily mean that this  
22                  -- this body needs to continue the use.

23                  You know, I mean, if they continue to meet the  
24                  qualifications of the Conditional Permit and that  
25                  option is still available, then the -- the Council

1           would have to analyze it based upon the Conditional  
2           Use -- Permit procedures and, you know, standards so  
3           it's on a case-by-case basis.

4                        But just because you grant a Conditional  
5           Permit today does not necessarily mean that you  
6           forever must grant that permit or must extend --

7   COUNCILMEMBER MATEO:  No, I -- no, I understand that, thank  
8           you very much.  It just seems kind of disingenuous  
9           for us to say, okay, we'll give you five years,  
10          knowing that even before five years is up, we're  
11          going to come up with a potential bill that will  
12          say, unless your TVR is located in the Resort area,  
13          you're illegal --

14  MS. SUYAMA:  Right.

15  COUNCILMEMBER MATEO:  -- and you got to shut down.  So, you  
16          know, I don't know how to look at that and feel  
17          comfortable.

18                        So I will ask Ms. Loudermilk.  In -- in --  
19          being the Planner working on this particular -- with  
20          this particular applicant, has she been advised that  
21          -- of the potential bill that's, you know, coming to  
22          us soon and its potential impact on her operation?

23  MS. LOUDERMILK:  Yes.  We have talked about the -- the  
24          chance that legislation could be passed and that the  
25          operation, as it is today, may not be legal in the

1 future. So she is aware of that.

2 COUNCILMEMBER MATEO: Thank you. Thank you, Chairman.

3 CHAIR MOLINA: Okay. Thank you, Mr. Mateo. Member  
4 Medeiros?

5 COUNCILMEMBER MEDEIROS: Yes. For the Planning  
6 Department -- well, first of all, for -- for the  
7 Corp. Counsel to follow -- follow up on Member  
8 Mateo's question.

9 If the five-year Conditional Permit is granted  
10 and the new TVR ordinance is passed, what -- what  
11 happens to the remainder of years on that permit?  
12 Does it get revoked?

13 MR. GIROUX: No. If -- in this situation, if -- if this  
14 permit gets a certain term of years and then  
15 subsequently, the law changes, if the law doesn't  
16 have something that clearly makes it retroactive,  
17 then this would be a prior nonconforming -- or, no,  
18 it would actually be -- it would be grandfathered in  
19 to continue out its terms and then at its  
20 expiration, then the -- it would -- there would be  
21 an inability to renew it.

22 COUNCILMEMBER MEDEIROS: I see.

23 MR. GIROUX: So it would -- it would continue as a lawful  
24 use --

25 COUNCILMEMBER MEDEIROS: Uh-huh.

1 MR. GIROUX: -- unless --

2 COUNCILMEMBER MEDEIROS: Is there a potential for the  
3 wording in the ordinance to be effective the date of  
4 the ordinance and all Conditional Permits in there?

5 MR. GIROUX: Yeah, but then that raises certain issues of,  
6 basically, canceling out -- if -- if somebody's had  
7 a legal permit and then you pass a law that then  
8 makes it illegal, then you -- you start kind of  
9 walking on shaky ground as far as --

10 COUNCILMEMBER MEDEIROS: Uh-huh.

11 MR. GIROUX: -- because people then have been following the  
12 law, now you're changing the law on them while  
13 they're under a lawful permit, and then that becomes  
14 a little shaky.

15 COUNCILMEMBER MEDEIROS: So most likely, the permit would  
16 be allowed to run the duration of the permit?

17 MR. GIROUX: That's how I would foresee it.

18 COUNCILMEMBER MEDEIROS: I see. Okay. And for the  
19 Planning Department, have you received any  
20 registered complaints about the applicant?

21 MS. LOUDERMILK: There have been no complaints with the  
22 Planning Department.

23 COUNCILMEMBER MEDEIROS: Okay. Thank you, Planning  
24 Department. Mahalo, Mr. Chair.

25 CHAIR MOLINA: Okay. Thank you, Mr. Medeiros. Quick

1 question for the Department. The -- has it always  
2 been five years is considered the standard for  
3 extensions for, I guess, people who have already  
4 been through the process? Is that normal -- the  
5 norm, I guess, if you will? Five years is the  
6 time --

7 MS. SUYAMA: In many instances we have, you know, supported  
8 the five years. There has been instances that we  
9 have supported longer terms --

10 CHAIR MOLINA: Uh-huh.

11 MS. SUYAMA: -- you know, especially if there has been no  
12 impacts by the use, you know, like they are in  
13 compliance, there hasn't been any, you know,  
14 complaints against the applicant that we have  
15 supported longer terms, but we've generally left it.  
16 When the renewals come in, we usually come in  
17 at -- saying five years is a reasonable time, and we  
18 leave it up to the Council whether they want to  
19 extend it beyond the five years.

20 But at that point, you know, the applicant has  
21 shown compliance, the applicant has shown that their  
22 operations have not impacted the community and,  
23 therefore, you know, it's reasonable to continue the  
24 use.

25 CHAIR MOLINA: Okay. Thank you very much. Committee

1 Members, any other questions? If not, the Chair's  
2 going to offer a recommendation. Mr. Medeiros?

3 COUNCILMEMBER MEDEIROS: Just one final question. Mahalo,  
4 Mr. Chairman.

5 Corp. Counsel, being that this is a  
6 Conditional Permit granted by the County, does the  
7 County get indemnified against anything occurring on  
8 the property?

9 MR. GIROUX: If you look at the permit, I believe Condition  
10 No. 3 requires that the person go through all of the  
11 requires of -- requirements of insurance and  
12 indemnity.

13 COUNCILMEMBER MEDEIROS: Okay. I -- I -- I see where you  
14 are, but I don't see indemnity, but it is there?

15 I -- I see the million-dollar policy liability  
16 insurance, and does it also said -- has an  
17 indemnifying condition, or...

18 MR. GIROUX: I believe it says insuring and defending  
19 Valerie Lewis Okamura and the County of Maui against  
20 --

21 COUNCILMEMBER MEDEIROS: Okay.

22 MR. GIROUX: -- any and all claims or demands for property.

23 COUNCILMEMBER MEDEIROS: Okay.

24 MR. GIROUX: That's the language we look for.

25 COUNCILMEMBER MEDEIROS: Okay. Thank you, Corp. Counsel.

1 Mahalo, Mr. Chair.

2 CHAIR MOLINA: Okay. Thank you, Mr. Medeiros.

3 Mr. Pontanilla, followed by -- do -- was -- Member  
4 Johnson, was -- is that your hand going up for a  
5 question?

6 COUNCILMEMBER JOHNSON: No, just scratching my head.

7 CHAIR MOLINA: Oh, okay (inaudible) or something. Okay,  
8 sorry.

9 COUNCILMEMBER JOHNSON: Physical --

10 CHAIR MOLINA: Okay. Member Pontanilla, followed by Member  
11 Victorino.

12 VICE-CHAIR PONTANILLA: Yeah, I was going scratch my back  
13 (inaudible).

14 Corporation Counsel, so once -- if we approve  
15 this extension here for the next five years, it --  
16 it's going to be from the -- this date going forward  
17 for five years?

18 MR. GIROUX: I -- I think that's the discussion I was  
19 having with Council Services, but --

20 VICE-CHAIR PONTANILLA: Yeah. Right.

21 MR. GIROUX: -- yeah, with the language that it -- it's  
22 now, I -- I think that a easier language that we  
23 were looking at is just putting the date certain  
24 that you want and then we can change the language to  
25 clean it up, as far as it would be that -- that the



1           Conditional Permit shall be valid until and then  
2           date certain --

3 VICE-CHAIR PONTANILLA: Uh-huh.

4 MR. GIROUX: -- and then provided that the extension of  
5           this Conditional Permit beyond this period may be  
6           permitted -- well, may be granted pursuant to  
7           Section 19.

8                   So I -- to make it easier, you -- you would  
9           just pick a date certain that you want it. And --  
10          and if it -- it's five or four-and-a-half or three,  
11          we -- you don't have to do the calculation. Just  
12          give it a date certain.

13 VICE-CHAIR PONTANILLA: Okay. Okay, thank you.

14 CHAIR MOLINA: Okay.

15 VICE-CHAIR PONTANILLA: Thank you, Chair.

16 CHAIR MOLINA: Thank you, Mr. Pontanilla. Mr. Victorino,  
17          followed by Mr. Medeiros.

18 COUNCILMEMBER VICTORINO: I think the -- the question I  
19          have or -- well, the question and -- and -- and the  
20          comment I have is first to the Department.

21                   I think I heard you say that whatever we  
22          approve, if you talking for five years, and I think  
23          you, Mr. Giroux, mentioned that then if the new  
24          regulations come -- are enacted, they're  
25          grandfathered in for whatever period of time from

1           whenever the new enactment takes effect to whenever  
2           this Conditional Permit runs out?

3 MR. GIROUX: Yeah. Just to make it clear --

4 COUNCILMEMBER VICTORINO: Yes, please.

5 MR. GIROUX: -- when -- when you -- if this -- if -- if you  
6           grant this --

7 COUNCILMEMBER VICTORINO: Uh-huh.

8 MR. GIROUX: -- let's say today --

9 COUNCILMEMBER VICTORINO: Uh-huh.

10 MR. GIROUX: -- and it -- it's basically going to run for  
11           another five years; three years from now, you pass  
12           a bill that would basically map this area as a  
13           nonConditional Permitting, nontransient vacation  
14           rental area --

15 COUNCILMEMBER VICTORINO: Right.

16 MR. GIROUX: -- the -- the transient vacation rental would  
17           continue to run its course of its permit until the  
18           end of that five-year period.

19           So there would be two years where that permit  
20           would be -- would continue to be effective and then  
21           at the end of its -- its permit time, if that law  
22           was enacted in the meantime, you would not be able  
23           to renew it.

24 COUNCILMEMBER VICTORINO: See, that becomes my concern,  
25           then. Because if we grant somebody five years and

1 the law or the ordinance or the TVR ordinance comes  
2 out next year or the year after and this person then  
3 doesn't have to comply until their permit becomes  
4 completed or expires, then would that be fair?

5 Because haven't we just tried to be fair with  
6 others but giving 'em only two years or one year and  
7 with the premise that we are trying to help them  
8 until the new TVR ordinance became a reality?

9 So I think -- and I'm making comments. I'm  
10 not asking questions. I'm really making comments so  
11 I know everybody getting jumping all over the place,  
12 know, like you said that. No, you didn't say  
13 anything. I'm saying.

14 MS. LOUDERMILK: Is that what he's saying?

15 COUNCILMEMBER VICTORINO: No, that's not what he's saying.  
16 I'm saying.

17 MS. LOUDERMILK: Okay.

18 COUNCILMEMBER VICTORINO: Did I use anybody's name in vain?

19 CHAIR MOLINA: Okay.

20 COUNCILMEMBER VICTORINO: Okay, good. So I -- I -- I --  
21 I'm concerned with that. You know, we have been  
22 fair with others, we've gone as much as two years  
23 with a recent one from Hana to make sure that we  
24 gave them an ample time to make the necessary  
25 corrections when the new law or the new ordinance

1 takes effect, whenever that might be.

2 CHAIR MOLINA: Uh-huh.

3 COUNCILMEMBER VICTORINO: So to grant somebody five years

4 would be, in my mind, very, the point of being -- I

5 won't say it. I would be worried about later on

6 being -- coming -- somebody coming back and saying

7 why did you give them five years and gave me only

8 two years or only gave me one year when, you know, I

9 should have gotten the same thing?

10 So I think fairness, again, becomes an issue,

11 Mr. Chair.

12 CHAIR MOLINA: Uh-huh.

13 COUNCILMEMBER VICTORINO: And I -- I think I'm -- I'm not

14 comfortable with the five years, you know? Again,

15 existing business, has paid her taxes, has

16 demonstrated to be a good neighbor. That's not the

17 issue.

18 The issue becomes if we say five years for

19 this one, then that opens up for everybody else that

20 comes before us. So I'm not sure, but I'll leave my

21 colleagues to make up and to listen to your

22 recommendation, Mr. Chair.

23 CHAIR MOLINA: Okay.

24 COUNCILMEMBER VICTORINO: Thank you.

25 CHAIR MOLINA: Mr. Victorino, if I could add some

1 clarification with the assistance of the Planning  
2 Department.

3 Now, because this is a time extension rather  
4 than a first-time application -- I think the others  
5 were first-time applications, that's why we were  
6 very conservative with the one or two years, whereas  
7 this person has already received prior approval from  
8 the Council in 2005.

9 And as Ms. Suyama had verified earlier,  
10 five years is the typical, I guess, amount of time  
11 they give for extensions, provided there are no  
12 other concerns.

13 So, I guess, Director, do you want to add to  
14 my comments?

15 MS. SUYAMA: I -- I was going to say the same thing. I  
16 think the -- the ones that you were talking about  
17 were those that were initially getting the first  
18 approval, and it was not where they were being  
19 extended.

20 And the reason for the one or two years was to  
21 get them into operation, analyze what happens as  
22 part of the operation and whether they should be  
23 continued at some later date.

24 COUNCILMEMBER VICTORINO: Even with that in mind, I'm still  
25 not comfortable. You know, extension or first time,

1           it doesn't make a darn difference because to me,  
2           the -- the key right here is we are in the process  
3           of changing. And once we give an extension and for  
4           -- for, say, five years, whatever changes we  
5           constitute or we change to, they don't have to  
6           comply with. And I'm not comfortable with that, I  
7           mean, even with an existing situation.

8                   And some of these others existed but never got  
9           approvals, never got past point A, point B, whatever  
10          it might have been, and finally got to us. That's  
11          not the point.

12                   The point I'm trying to make to everybody here  
13          is that if we let it go for five years and we change  
14          the rules and they're grandfathered in or they get  
15          an opportunity to continue business as is for the  
16          next three years or two years or whatever it might  
17          be beyond our change, is that fair to the others out  
18          there?

19                   Whether they're first time or being renewed,  
20          it doesn't make a difference in my mind. Fairness  
21          is fairness. We got to make sure that we do it  
22          right because when we get a new law in the books or  
23          when we -- we put something there that's supposed to  
24          be correcting the problems that exist, then I'd like  
25          everybody to comply as soon as possible, not have

1 another three years to -- to wait.

2 So anyhow, that's my take on the whole matter.  
3 It wasn't a matter of renewal, it wasn't a matter if  
4 was new, it's a matter of fairness. And I hear out  
5 there that they think being five years for renewal  
6 is fair because we've done it.

7 Again, earlier, we've done things differently,  
8 and I try to go ten years, and they said well, no,  
9 we never did it that way. So it doesn't make a  
10 difference in my mind. Fairness, okay, and that's  
11 what I'm trying to say.

12 So if the -- the -- the -- I'll wait for your  
13 recommendations, but I'm not comfortable, especially  
14 when we're in a transitional period where -- where  
15 TVRs has been a very contentious and, at times, a  
16 real challenge in our community, and we allow  
17 somebody to go for another five years, renewal or  
18 not, and -- let it be at that. Thank you,  
19 Mr. Chair.

20 CHAIR MOLINA: Okay. Thank you for your comments,  
21 Mr. Victorino. Mr. Medeiros?

22 COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. I just  
23 wanted to follow up on my previous question to Corp.  
24 Counsel on indemnification or holding the County  
25 harmless.

1 Will that be only up to the one -- \$1 million  
2 mark?

3 MR. GIROUX: Yeah.

4 COUNCILMEMBER MEDEIROS: So anything beyond that, the  
5 County may have to defend and pay any court orders  
6 or court results?

7 CHAIR MOLINA: Mr. Giroux?

8 MR. GIROUX: Yeah, that would be -- well, the -- the  
9 defend, you know, would cover the -- the cost of the  
10 lawsuit.

11 COUNCILMEMBER MEDEIROS: Okay.

12 MR. GIROUX: And then if there's damages over the million,  
13 then that's when you would start to see, I guess,  
14 what your concern is, is that it wouldn't be covered  
15 --

16 COUNCILMEMBER MEDEIROS: Right.

17 MR. GIROUX: -- over the million.

18 COUNCILMEMBER MEDEIROS: So that would be true, then, in  
19 any of our Conditional Permits?

20 MR. GIROUX: I believe so. Yeah.

21 COUNCILMEMBER MEDEIROS: Okay. Okay, that -- that just  
22 gives me some concern because of recent, you know,  
23 deliberations we've had on -- on liability and  
24 stuff. So mahalo, Mr. Chairman.

25 CHAIR MOLINA: Okay. Thank you, Mr. Medeiros. Committee



1 Members, any other questions for the Department or  
2 recommendations?

3 VICE-CHAIR PONTANILLA: Recommendation.

4 CHAIR MOLINA: Recommendations from the Members, okay. All  
5 right. We're ready to go.

6 At this point, guys, the Chair would like to  
7 recommend that the -- recommend passage of a bill  
8 for an ordinance amending -- amending Ordinance No.  
9 3299 (2005), which pertains to the granting of a  
10 Conditional Permit to Valerie Lewis Okamura to allow  
11 for the operation of Maui by the Sea, a transient  
12 vacation rental situated at 523 Hana Highway, Kuau,  
13 Paia, Maui, Hawaii, for five years along with the  
14 filing of the communication.

15 VICE-CHAIR PONTANILLA: So moved.

16 COUNCILMEMBER MEDEIROS: Second.

17 CHAIR MOLINA: Okay. It's been moved by Member Pontanilla,  
18 seconded by Member Medeiros. Members, any comments?

19 VICE-CHAIR PONTANILLA: Chair?

20 CHAIR MOLINA: Okay. Mr. Pontanilla, followed by Member  
21 Johnson.

22 VICE-CHAIR PONTANILLA: I'd like to make an amendment.

23 CHAIR MOLINA: Okay. Proceed, Mr. Pontanilla.

24 VICE-CHAIR PONTANILLA: What we were talking earlier, that  
25 the date certain would be the day that we approve

1 and moving five years forward.

2 CHAIR MOLINA: Okay. Is there a second to that amendment?

3 Mr. Pontanilla, could you bring your mike a little

4 closer and then restate your proposed amendment?

5 VICE-CHAIR PONTANILLA: Sorry.

6 CHAIR MOLINA: Sorry.

7 VICE-CHAIR PONTANILLA: My amendment is to -- to go to a

8 date certain. The date is December 19, 2011,

9 replacing until July 5th, 2011.

10 CHAIR MOLINA: Okay. Is there -- there is a second to your

11 motion. I believe -- who made the second? I think

12 --

13 COUNCILMEMBER MEDEIROS: I second --

14 CHAIR MOLINA: Was it seconded by Mr. Medeiros? Okay.

15 That is to amend the date certain from -- Joe, what

16 is it? July --

17 VICE-CHAIR PONTANILLA: From -- December 19, 2011, would be

18 the new date.

19 CHAIR MOLINA: Right.

20 VICE-CHAIR PONTANILLA: Removing July 5th.

21 CHAIR MOLINA: July 5th, 2010?

22 VICE-CHAIR PONTANILLA: And 11, 2011.

23 CHAIR MOLINA: Oh, 2011?

24 VICE-CHAIR PONTANILLA: As -- as shown.

25 COUNCILMEMBER MEDEIROS: Wait.

1 CHAIR MOLINA: Okay. So basically, we're adding five  
2 months? Okay. From July 5th, 2011, to  
3 December 19th, 2011. That is the proposed  
4 amendment, Members. Discussion, Mr. Pontanilla?

5 VICE-CHAIR PONTANILLA: No. No discussion.

6 CHAIR MOLINA: Okay. Member Johnson?

7 COUNCILMEMBER JOHNSON: I -- I thought it was appropriate,  
8 and I guess I'll just make my -- my comments at this  
9 point.

10 We're looking at consistency. And if Members  
11 will review their binder for Friday's meeting, we  
12 have a transient vacation rental for ten years.

13 Now, we're all over the map; so to me, you  
14 know, it doesn't matter about, you know, this  
15 application or that application. Every one should  
16 be taken on its own merits.

17 I certainly support this for a five-year  
18 period. I personally, if we're going to be  
19 consistent and because this woman has really been  
20 operating since 2000, she's been complying with  
21 every rule, every regulation, she has no complaints,  
22 it's not in an Agricultural area, it's a low impact.

23 We have granted other permits for other people  
24 for longer periods of time. And irrespective of any  
25 legislation that we pass, if you will recall, we

1           actually filed the previous TVR bill, and we didn't  
2           pass anything.

3                        So for me, I have no problem approving this;  
4           but if we're going to approve applications for  
5           transient vacation rentals, then I say if we want to  
6           be consistent, then why not ten years and make --  
7           add five years on to the 2011?

8                        And basically, for me, she has been doing  
9           everything. She should be held up as an example of  
10          somebody that is really trying to move through the  
11          process.

12                       So I don't have a problem, you know, either  
13          way, but I just want to make a point that when we're  
14          looking at where we, as a Council, are consistent,  
15          we have to be looking at what we've actually done.

16                       And Friday, I hope people will remember this  
17          because it's not fair, again, to hold one person  
18          who's going to get ten years, and there may be no  
19          ordinance to pass, even though that might be in a  
20          Resort area that would be more agreeable.

21                       There have been many people that have made  
22          arguments that we had to cancel some of the -- I  
23          guess the surfing event over in -- on the North  
24          Shore. So to me, if we're going to permit some kind  
25          of use, then why not just at least let the people

1           that are trying to come into compliance, at least  
2           give them some incentive for doing so.

3                        So I'll support the five years, but I really  
4           would prefer that it be ten years to be consistent  
5           with the issue that we're going to take up on  
6           Friday. Thank you.

7 CHAIR MOLINA: Okay. Thank you, Member Johnson. I think  
8           you gave us some interesting food for thought, and  
9           I'm sure that that particular matter for Friday will  
10          receive a lot of discussion as well.

11                       Members, any other discussion as it relates to  
12          the proposed amendment from Member Pontanilla to  
13          change the date from July 5th, 2011, to  
14          December 19th, 2011?

15 MS. NAKATA: Excuse me, Mr. Chair. Staff wasn't clear  
16          whether there was a second to that motion to amend.

17 CHAIR MOLINA: Yes. There was a second made by Member  
18          Medeiros.

19 MS. NAKATA: Thank you.

20 CHAIR MOLINA: Okay? Seeing no other discussion, the Chair  
21          will call for the vote. All those in favor of the  
22          amendment, signify by saying "aye."

23 COUNCIL MEMBERS: Aye.

24 CHAIR MOLINA: All those opposed?

25 COUNCILMEMBER VICTORINO: No.

1 VOTE: AYES: Councilmembers Baisa, Johnson, Mateo,  
2 Medeiros, Vice-Chair Pontanilla, and  
Chair Molina.

3 NOES: Councilmember Victorino.

4 ABSTAIN: None.

5 ABSENT: None.

6 EXC.: Councilmembers Anderson and Hokama.

7 MOTION CARRIED.

8 ACTION: APPROVE amendment to the main motion.

9 CHAIR MOLINA: Okay, we have one no. We have six ayes,  
10 Mateo, Baisa, Johnson, Medeiros, Pontanilla, Molina,  
11 and one no, Mr. Victorino. The amendment passes.

12 We're now back to the bill as amended.

13 Members, any additional discussion? Okay.

14 Seeing --

15 MS. NAKATA: Mr. Chair?

16 COUNCILMEMBER JOHNSON: Does this include the filing?

17 CHAIR MOLINA: Yes. I think we mentioned the filing as  
18 well.

19 MS. NAKATA: Could Staff please clarify the wording of the  
20 first condition, then, under -- under the bill?

21 I think based on what Deputy Corporation  
22 Counsel Giroux recommended, it would also be a  
23 deletion in Line 2 of the phrase "for a period," as  
24 well as a deletion in Line 5 of the wording  
25 "five-year."

1                   So the reading would be that the Conditional  
2                   Permit shall be valid until December 19, 2011,  
3                   provided that an extension of this Conditional  
4                   Permit beyond this period may be granted pursuant to  
5                   Section 19.40.090, Maui County Code.

6 CHAIR MOLINA: Corporation Counsel or Department, comments  
7                   to Staff's request or inquiry?

8 MR. GIROUX: That looks consistent with -- with my previous  
9                   comment.

10 CHAIR MOLINA: Okay. Staff, did you get that? Okay. Any  
11                   other considerations before the Chair calls for the  
12                   vote? Seeing none, all those in favor, signify by  
13                   saying "aye."

14 COUNCIL MEMBERS: Aye.

15 CHAIR MOLINA: All those opposed?

16 **VOTE: AYES:**               **Councilmembers Baisa, Johnson, Mateo,**  
17                               **Medeiros, Victorino, Vice-Chair**  
                              **Pontanilla, and Chair Molina.**

18                   **NOES:**               **None.**

19                   **ABSTAIN:**           **None.**

20                   **ABSENT:**           **None.**

21                   **EXC.:**               **Councilmembers Anderson and Hokama.**

22 **MOTION CARRIED.**

23                   **ACTION:**           **Recommending FIRST READING of revised**  
24                               **proposed bill, and FILING of**  
                              **communication.**

25 CHAIR MOLINA: The Chair will mark it seven, zero, with two

1           excusals, Members Anderson and Hokama. The measure  
2           passes. Congratulations on your Conditional Permit  
3           extension, Ms. Okamura.

4                   I believe that concludes our agenda items for  
5           today, Members. Wow, we did -- we had the  
6           equivalent of two meetings here today. I guess it  
7           makes up for our canceled December 5th meeting.  
8           Good job, Members.

9   UNIDENTIFIED SPEAKER: Thank you.

10   CHAIR MOLINA: Any announcements, Members, before we  
11           adjourn for today? Seeing none, the Chair would  
12           just like to thank all of you for your hard work.

13                   This is the last Land Use meeting for this  
14           year. I know some of you wish it was the last  
15           meeting for the term, but we still got another year  
16           left, Members, and I want to thank all of you for  
17           your hard work and the majority of you who came to  
18           all -- just about all of our Land Use Committee  
19           meetings, and I -- I definitely appreciate it. And  
20           --

21   COUNCILMEMBER VICTORINO: Mr. Chair?

22   CHAIR MOLINA: Yes, sir. Mr. Victorino?

23   COUNCILMEMBER VICTORINO: I would like to thank you, sir,  
24           on behalf of all of us for your leadership. I know  
25           at times you've taken a lot of heat out there in the



1 community; and justifiably or not, that's just the  
2 way the Chair works, right?

3 CHAIR MOLINA: That's right.

4 COUNCILMEMBER VICTORINO: And I've got to admire you for  
5 that. And for the public at large, you know,  
6 they -- they only see one side of this whole  
7 equation. They don't see the other.

8 I wish some days they could sit in this seat  
9 just to see how the seat heats up in the course of a  
10 day or in a course of a meeting.

11 And to my fellow colleagues, I wish nothing  
12 but the best in the holiday season, and we'll have  
13 all the announcements come Friday; but again, I -- I  
14 will say this. Today's been a very interesting day.

15 And like I say, when you believe in something  
16 strong enough, it's nothing against anybody else.  
17 It's what you believe in, you speak your mind, your  
18 heart is clear, and you can walk the day with your  
19 head up. Thank you, Mr. Chair.

20 CHAIR MOLINA: All right. Thank you, Mr. Victorino.  
21 Nothing wrong with that.

22 And I -- I do also want to acknowledge Staff  
23 for their great work throughout this year. I think  
24 no one can argue with this Staff or this body itself  
25 for the amount of work.

1                   We got a heck of a lot accomplished in  
2                   one year, Members. I've been characterized as both  
3                   being lenient and nice, as well as being a slave  
4                   driver, too, so I guess I'm a nice slave driver.

5                   But anyway, we've tackled a couple of major  
6                   issues that have been languishing in Committee for a  
7                   long time; and thanks to all of you collectively,  
8                   we've managed to get some things rolling here.

9                   So I look forward to next year with all of  
10                  your efforts, and I thank you. And also the  
11                  Administration, thank you for being here to respond  
12                  to our questions and sometimes the crossfire that we  
13                  put you through. Thank you -- thank you so -- so  
14                  very much.

15                 And, again, the Chair is always open to  
16                 suggestions as to help expedite -- expediting the  
17                 process. I know we've had some very long meetings  
18                 but, of course, Land Use, you have some items that  
19                 are very contentious, very controversial, and  
20                 sometimes we need to spend the time to thoroughly go  
21                 through all of these considerations so that's why,  
22                 you know, things take a little longer than they  
23                 normally do.

24                 Compared to other Committees where things can  
25                 sometimes fly real fast, sometimes things move a

1           little longer or a little slower here in Land Use,  
2           but thank you so very much. I believe, Member  
3           Johnson, you had a comment?

4 COUNCILMEMBER JOHNSON: No, I just wanted to thank the  
5           Administration. That's it. You did.

6 CHAIR MOLINA: Oh, okay. All right. Thank you very much,  
7           Members. So we will conclude our events for today.  
8           Thank you so much for your professionalism and  
9           dedication, all of you. It was a very productive  
10          day. We got a lot done.

11                    So, Members, have a very good evening, and we  
12          shall see all of you next -- this Friday for our  
13          Council meeting at 9:00 a.m. right here in the  
14          Chambers. This meeting -- Land Use meeting for  
15          December 19th, 2007, is now adjourned. ...(gavel)...

16 **ADJOURNED:     3:57 p.m.**

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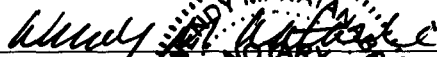
C E R T I F I C A T E

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

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

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

DATED this 8th day of January, 2008, in Honolulu, Hawaii.

  
Wendy M. Watanabe, CSR NO. 401  
Notary Public - State of Hawaii  
My Commission Expires 04/07/2010  
