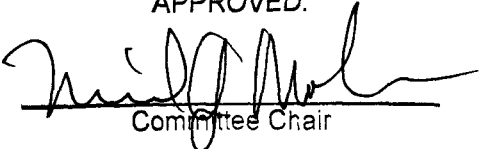


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M I N U T E S
LAND USE COMMITTEE
Council of the County of Maui
Council Chamber
March 12, 2008

APPROVED:

Committee Chair

1 **CONVENE:** 1:35 p.m.

2

3 **PRESENT:** VOTING MEMBERS:

4 Councilmember Michael J. Molina, Chair

5 Councilmember Joseph Pontanilla, Vice-Chair

6 Councilmember Michelle Anderson

7 (Arrive 1:39 p.m.)

8 Councilmember Gladys C. Baisa

9 (Leave 4:38 p.m.)

10 Councilmember G. Riki Hokama

11 (Arrive 1:47 p.m.)

12 Councilmember Jo Anne Johnson

13 (Arrive 1:36 p.m.)

14 Councilmember Bill Kauakea Medeiros

15 Councilmember Michael P. Victorino

16

17 **EXCUSED:** Councilmember Danny A. Mateo

18

19 **STAFF:** Tammy M. Frias, Committee Secretary

20 Carla M. Nakata, Legislative Attorney

21

22 **ADMIN.:** Jeffrey Hunt, Director,

23 Department of Planning

24 Francis Cerizo, Planner,

25 Department of Planning (Item No. 10)

1 Ann Cua, Planner,
2 Department of Planning (Item No. 65)
3 Cheryl Okuma, Director, Department of
4 Environmental Management (Item No. 10)
5 Tracy Takamine, Chief, Solid Waste
6 Division, Department of
7 Environmental Management
8 (Item No. 10)
9 Michael Miyamoto, Deputy Director,
10 Department of Public Works
11 (Item No. 65)
12 James A. Giroux, Deputy Corporation
13 Counsel, Department of the
14 Corporation Counsel
15
16 **OTHERS: Item No. 10:**
17 Kelly King, Vice President,
18 Pacific Biodiesel, Inc.
19 Larry Zolezzi, Operations Manager,
20 Pacific Biodiesel, Inc.
21 Thomas Pawlish, Vice President, Pacific
22 Biodiesel, Inc. and President,
23 EKO Systems, Inc. d.b.a. Maui EKO
24 Systems
25

1 Rubens Fonseca, Plant Manager,
2 EKO Systems, Inc. d.b.a. Maui EKO
3 Systems
4 Edward F. Zwick, Sustainable Biodiesel
5 Alliance
6 Matt Daniells
7 Dave Mackwell
8 Tamara Koller
9 Kelly King, Vice President,
10 Pacific Biodiesel, Inc.
11 Andrew Carson, Maui Community College -
12 Sustainable Construction Technology
13 and Sustainable Living Institute of
14 Maui
15 Helen Nielsen
16
17 **Item No. 65:**
18 Ryan Churchill, Senior Vice President,
19 Kapalua Land Company
20 Warren Suzuki, Senior Vice President,
21 Maui Land & Pineapple Company, Inc.
22 Karl Bossert, Development Manager,
23 Maui Land & Pineapple Company, Inc.
24 Keith Niiya, Chief Traffic Engineer,
25 Austin Tsutsumi & Associates, Inc.

1 Tom Schnell, PBR Hawaii
 2 Wes Nohara, Vice President and General
 3 Manager, Maui Ag Partners
 4
 5 Tamara Paltin
 6 Cosco Carlbom
 7 Dick Mayer
 8 David Rockett
 9 Keith Hertz
 10 Michelle Kauhane, Executive Director,
 11 Hawaiian Community Assets
 12 Daniel San Miguel
 13 Kimokeo Kapahulehua, Na Kupuna O Maui
 14 Wayne Nishiki
 15 Additional attendees (10)

16
 17 **PRESS:** Chris Hamilton, *The Maui News*
 18 Akaku--*Maui County Community Television, Inc.*

19

20 CHAIR MOLINA: (Gavel.) Land Use Committee meeting
 21 for March 12th, 2008 is now in session. For
 22 the record, we have in attendance the
 23 Vice-Chair of the Committee, Joseph
 24 Pontanilla, Committee Members Mike Victorino,
 25 Bill Medeiros, and Gladys Baisa. Excused are

1 Members Michelle Anderson, Riki Hokama, Jo
2 Anne Johnson, and Danny Mateo. So we have
3 bare quorum here for the time being, and my
4 understanding is Member Johnson as well as
5 Member Anderson will be on their way and
6 Member Hokama. Mr. Mateo, I believe, is off
7 island. He had a flight to catch.

8 Welcome, Members, and members of the
9 public. Thank you for being here. We have
10 two Land Use items to discuss today, which is
11 Land Use Item 10 and Land Use Item 65. Land
12 Use Item 10 is a use variance for Pacific
13 Biodiesel and Land Use 65 is a Community Plan
14 Amendment for the Pulelehua project in West
15 Maui.

16 But before that, the Chair would also
17 like to recognize individuals here who are
18 present from Staff. We have Committee Analyst
19 Carla Nakata, as well as Committee Secretary
20 Tammy Frias, and from the Corporation
21 Counsel's Office we have Mr. James Giroux.

22 We'll start first with public testimony.
23 We have at this point about ten people signed
24 up to testify on both of our items today. But
25 before we do that, the Chair would like to go

1 over a few ground rules as it relates to
2 public testimony. We are under some time
3 constraints, ladies and gentlemen. We will
4 probably lose quorum about 4:30 today, so in
5 order to give the Committee a little bit more
6 time to deliberate on these two items, the
7 Chair is going to throw out the option to the
8 Committee Members -- typically we go three
9 minutes with a minute to conclude; however, in
10 order to give the Committee a little bit more
11 time, and because of time constraints, the
12 Chair is going to recommend three minutes for
13 public testimony for today.

14 So I believe we can all get our thoughts
15 out in three minutes. Just for the public's
16 information, the Honolulu City Council gives
17 the members of the public one minute to
18 testify, so we're quite generous here in Maui
19 County.

20 With that being said, the Chair is going
21 to, again, go over a few ground rules with our
22 testifiers. Please, first of all, turn off
23 all cell phones and pagers so as not to
24 disrupt our proceedings, and please state your
25 name and any organization that you may be

1 representing. First to testify we have Edward
2 Zwick, followed by Matt Daniells.

3 And before we begin testimony, Chair
4 would like to recognize Member Johnson to our
5 proceedings this afternoon.

6 **...BEGIN PUBLIC TESTIMONY...**

7 MR. ZWICK: Thank you, Mr. Chair.

8 Honorable Council Members, my name is Ed
9 Zwick. I'm a resident of Pukalani, and I'm
10 here to testify today as Secretary and a
11 member of the Board of Directors of the
12 Sustainable Biodiesel Alliance, a 501(c)(3)
13 non-profit based here in Maui. Four of our
14 nine Directors are Maui residents. The
15 Sustainable Biodiesel Alliance, a non-profit
16 organization, created to promote sustainable
17 biodiesel practices, including the harvesting,
18 production, and distribution of biodiesel
19 fuels.

20 Concerns about global warming and the
21 U.S. dependence on foreign oil are driving a
22 historic shift from processed fuels to
23 biofuels and other types of renewable energy.
24 Now, more than ever, it is important to focus
25 on the benefits of a sustainable, local model

1 for biodiesel in the United States in order to
2 maintain local energy and economic security.

3 The Pacific Biodiesel business model on
4 Maui is the standard against which we measure
5 biodiesel production and distribution methods
6 throughout the world. Many other worldwide
7 organizations look to Pacific Biodiesel as
8 well. Recently I was at an international
9 trade conference in Orlando, Florida, attended
10 by several hundred industry leaders from
11 around the world, and I was thrilled by the
12 fact that when Bob and Kelly King walked into
13 the room, the entire assembly stood up and
14 applauded. That's the kind of respect that
15 Pacific Biodiesel has in the industry.

16 Biodiesel that is created and used
17 locally benefits Maui in many ways. It is the
18 only legal option for the disposal of fats,
19 oils, and grease in the County, as all three
20 are currently banned from the landfill. It
21 increases local economic security by
22 creating jobs in the collection of the feed
23 stock in the production and distribution of
24 the fuel. It increases the availability of
25 locally produced renewable energy to maintain

1 true energy security.

2 Last November Pacific Biodiesel was a
3 featured presenter at the County's energy
4 expo, which many of you attended. It greatly
5 reduces carbon emissions and, therefore,
6 positively impacts our local environment.
7 Pacific Biodiesel has furnished Maui Electric
8 with hundreds of thousands of gallons of
9 biodiesel for its generators, thereby enabling
10 MECO to comply with EPA air quality standards.

11 MS. NAKATA: Three minutes.

12 CHAIR MOLINA: You need to conclude, Mr. Zwick.

13 MR. ZWICK: One more sentence. Furthermore, it
14 conserves energy by reducing the need to
15 import fuel from sources thousands of miles
16 away. Let's not abandon what Bob and Kelly
17 have so thoughtfully created for our beautiful
18 island. Thank you.

19 CHAIR MOLINA: Okay, thank you, Mr. Zwick.

20 Committee Members, questions for the
21 testifier? Seeing none. Thank you for your
22 testimony.

23 Next to testify, we have Matt Daniells,
24 to be followed by Dave Mackwell.

25 And before Mr. Daniells gives his

1 testimony, the Chair would like to recognize
2 Member Anderson to our proceedings this
3 afternoon.

4 MR. DANIELLS: Good afternoon, Members of Council.
5 I'm here as a private citizen in support of
6 Kelly King and Pacific Biodiesel. I just
7 wrote a quick statement.

8 Aloha, Members of Council. I am here in
9 support of Pacific Biodiesel. Please approve
10 the variance that allows them to continue
11 their operation. I have been an enthusiastic
12 supporter and customer of theirs for nearly
13 three years now. I purchased two diesel
14 vehicles as my contribution to conservation,
15 as biodiesel creates less emissions and diesel
16 vehicles have better fuel economy than
17 comparable gasoline cars.

18 I operate my diesels almost entirely on
19 biodiesel, and I feel proud to be part of what
20 I consider to be a very progressive
21 enterprise. They are part of the future of
22 Maui's energy independence. Let's keep Maui
23 on the cutting edge and support Pacific
24 Biodiesel's operations, rather than hinder
25 them. Thank you.

1 CHAIR MOLINA: Okay, thank you, Mr. Daniells.

2 Committee Members, questions for the
3 testifier?

4 Hang on, Matt, you have a question from
5 Councilmember Baisa.

6 MR. DANIELLS: Yes.

7 COUNCILMEMBER BAISA: Hi, there.

8 MR. DANIELLS: Yes, ma'am.

9 COUNCILMEMBER BAISA: I'll keep it short, but I
10 think it's really important. You made the
11 point about the fact that you bought hybrid
12 vehicles --

13 MR. DANIELLS: Yes, ma'am.

14 COUNCILMEMBER BAISA: -- because they give better
15 gas mileage. Could you share with us an idea
16 of what -- what are they, trucks?

17 MR. DANIELLS: No, I have a Dodge truck that I use
18 for a farm vehicle and --

19 COUNCILMEMBER BAISA: Give us an idea between gas
20 and diesel. I'd like to know, and I'm sure
21 others would too.

22 MR. DANIELLS: Well, I think a comparable gas truck
23 of that size would probably give you 10 miles
24 to the gallon on gas or less, because it's a
25 very large truck. It's actually -- has to be

1 registered as a commercial vehicle because
2 it's over 6,000 pounds.

3 COUNCILMEMBER BAISA: Oh, my gosh.

4 MR. DANIELLS: However, it as a diesel vehicle, it
5 gets between 16 and 18 miles per gallon.

6 COUNCILMEMBER BAISA: Wow. That's very significant.

7 MR. DANIELLS: Yes. And then my other vehicle is --
8 I use it for -- in my real estate business as
9 a passenger vehicle, and it's a diesel
10 Mercedes which gets 30 plus miles per gallon
11 on diesel, 30, almost 40.

12 COUNCILMEMBER BAISA: Great.

13 MR. DANIELLS: And same engine size would give you
14 20 plus maybe.

15 COUNCILMEMBER BAISA: Thank you very much. Those
16 are very meaningful numbers.

17 MR. DANIELLS: Yes, thank you.

18 CHAIR MOLINA: Okay. Member Anderson.

19 COUNCILMEMBER ANDERSON: And I'd like to just follow
20 up on that.

21 MR. DANIELLS: Yes.

22 COUNCILMEMBER ANDERSON: Given current gas prices.
23 What are you currently paying for your diesel
24 fuel?

25 MR. DANIELLS: Around \$4 a gallon for regular

1 diesel.

2 COUNCILMEMBER ANDERSON: So it's comparable?

3 MR. DANIELLS: Yeah, it's comparable to gas.

4 COUNCILMEMBER ANDERSON: And you can get twice as
5 much mileage?

6 MR. DANIELLS: Yeah.

7 COUNCILMEMBER ANDERSON: Thank you.

8 MR. DANIELLS: Yes, ma'am.

9 CHAIR MOLINA: Thank you. Any other questions for
10 the testifier? Seeing none. Thank you,
11 Mr. Daniels, for your testimony.

12 Next to testify, we have Dave Mackwell,
13 followed by Tamara Koller.

14 MR. MACKWELL: Good afternoon. My name is Dave
15 Mackwell. I live in Pukalani here on Maui.
16 Been here for 11 years. I'd like to speak on
17 behalf of the variance which is proposed so
18 that recycling can be done in the area of the
19 landfill where the Pacific Biodiesel has their
20 operation.

21 I'm also wondering why the landfill has
22 to get a variance for recycling on the land,
23 since a landfill is in and of itself a
24 recycling facility. Apparently the whole
25 thing is in violation of the zoning. We

1 zone -- not only -- not only the opala, the
2 garbage that we put there is recycling it by
3 giving it back to the earth, but we have a
4 major recycling center there which recycles
5 cardboard, plastics, and household things. So
6 it would seem we ought to change the zoning
7 regulations for the landfill.

8 All these people that now have to apply
9 for variances and you have to listen to is a
10 waste of time and effort. So I would urge
11 that the Council consider streamlining this
12 whole thing and getting it over with. So
13 thank you very much.

14 I would like to make one more comment on
15 the fuel economy. If you look at Federal
16 Express, they've almost gone exclusively, for
17 their small delivery vans, which are still
18 large, they're buying a Dodge Sprinter, which
19 has a Mercedes-Benz engine, they get 24 miles
20 per gallon on those things regardless whether
21 they're going up a hill or not or how much
22 weight they're carrying, so there are some
23 extremely efficient diesel engines, and they
24 can use biodiesel as well as conventional
25 diesel.

1 CHAIR MOLINA: Thank you, Mr. Mackwell.

2 Committee Members, questions for the
3 testifier? Seeing none. Thank you for your
4 testimony.

5 Next to testify, Tamara Koller, followed
6 by Kelly King.

7 MS. KOLLER: Thank you, Chairman Molina and Members
8 of the Committee. My name is Tamara Koller,
9 and I'm a resident of Makawao. I'm here to
10 testify in support of the resolution approving
11 the action of the Board of Variance and
12 Appeals relating to the processing of used
13 cooking oil at the landfill.

14 Many of you probably know that I drive a
15 2002 blue Beetle, and that has used Pacific
16 Biodiesel since I purchased it. I also, as a
17 former Staff Member, worked on legislation at
18 the request of Members that made the fuel tax
19 for biodiesel, an alternative fuel, zero.

20 I'm very supportive of the Kings and
21 their processing. I've had no trouble with my
22 car, and what I want to know -- I want you to
23 think about, if you have any hesitation on
24 this, if you don't approve this resolution, my
25 understanding is the Department of Health will

1 come in and shut down the operation. Then
2 what is the Council going to do with the used
3 cooking oil? Is that going to end up in a
4 stream somewhere? That's a very important
5 question. Thank you, again, for the time to
6 talk.

7 CHAIR MOLINA: Thank you, Ms. Koller. It's nice to
8 see you back here.

9 Committee Members, questions for
10 Ms. Koller? Seeing none. Thank you.

11 Next to testify is Kelly King, followed
12 by Andrew Carson.

13 MS. KING: Hi. I'm Kelly King with Pacific
14 Biodiesel. Don't worry, I still have three
15 minutes -- less than three minutes of
16 testimony, but I just wanted to show you how
17 long -- how much paperwork we have that is
18 related to this issue, and we've been working
19 on this issue for a couple of years now. It
20 really isn't a variance requested by Pacific
21 Biodiesel. It's being requested by the County
22 of Maui to allow recycling as an approved
23 operation out at our section of the landfill.
24 Because we're out there, our name is on it, so
25 it is true that if we don't get this -- if the

1 variance does not pass, then we are in danger
2 of getting a cease and desist letter from the
3 Department of Health.

4 And we -- we operate under an operation
5 permit which is -- which is approved by the
6 Department of Health. So we've gotten letters
7 from them for about two years now saying all
8 of the rest of your paperwork is in order,
9 except you're not in compliance with the
10 zoning for the section of the landfill that
11 you're in. The landfill is actually zoned
12 Interim, and recycling is not an allowable use
13 on Interim-zoned property. So all we're here
14 to ask for is to please, you know, approve
15 this variance so that recycling can be an
16 acceptable use of that portion of the landfill
17 and we can continue operations as we have done
18 for 12 years.

19 CHAIR MOLINA: Thank you, Ms. King.

20 Committee Members, questions?

21 Councilmember Johnson.

22 COUNCILMEMBER JOHNSON: Yes, Kelly. Thanks very
23 much for persevering through this. I know
24 sometimes government isn't always easy to deal
25 with. The question I have for you is in

1 regard to the very issue that you address,
2 which is the zoning inconsistency and not
3 having a standard permitted use on that
4 property. Have you approached any Member of
5 the Council to do either a land use change,
6 Council-initiated land use change for that
7 area or have you recommended before the
8 General Plan Advisory Committee about possibly
9 a rezoning for that area as a part of their
10 core infrastructure analysis?

11 MS. KING: Well, we have not. From our company's
12 points of view -- I mean, from our point of
13 view, we really shouldn't even have to be
14 here, you know, lobbying for this, because
15 it's really the County Department that's
16 trying to get this variance. But I think
17 that's a much more cumbersome process at this
18 point, where, you know, if we can approve this
19 today, we can go on and not worry about it.

20 I mean, we've -- Pacific Biodiesel has
21 made some significant investment in that -- in
22 the equipment and the property out there in
23 the last year, somewhere between two and
24 \$300,000 in good faith because, you know, we
25 assumed that this would be taken care of, and

1 yet when we entered into this contract that
2 the County knew what the operations were and
3 that we would -- we had a five-year contract
4 and that the County would make sure that it
5 was legal to do the operations that we were
6 doing when we entered into the contract. So
7 we have not, you know, specifically gone after
8 that.

9 And I think it was only about two or
10 three years ago that somebody in the County
11 discovered that the zoning was Interim,
12 because it was assumed that it was Agriculture
13 zoned up to that point, and that's why this
14 wouldn't have been an issue, but -- because
15 that is an allowable use apparently on
16 Agricultural-zoned land, but then somebody dug
17 into it and said -- you know, somebody in the
18 County Department dug into it and said, wait a
19 minute, this is Interim, and so it just kind
20 of halted the whole permit process.

21 The Department of Health is being very
22 patient with us for two years, because they
23 don't want to shut us down. They know what
24 we're doing and they like it, but they're at
25 the point where they're really unclear about

1 why it's taking so long and why, you know --
2 and in all fairness, they can't let us
3 continue in non-compliance when they're
4 shutting other people down that are also in
5 non-compliance. So --

6 COUNCILMEMBER JOHNSON: And I really appreciate your
7 explanation of that, because I think a lot of
8 people don't understand that on occasion the
9 mapping errors that are made --

10 MS. KING: Right.

11 COUNCILMEMBER JOHNSON: -- or even in West Maui we
12 had different situations but similar outcome,
13 where, you know, somebody made a mistake and,
14 you know, something --

15 MS. KING: Right.

16 COUNCILMEMBER JOHNSON: -- transpired and it cost us
17 a lot of money. But be that as it may, I'm
18 not suggesting this as a substitute for what
19 we're doing now, just merely looking at this
20 as an option and to see whether or not you've
21 explored that or anyone that you know of in
22 the County has explored that option since the
23 Council does have the right to introduce land
24 use changes.

25 MS. KING: Yeah, and personally, I just assumed,

1 when I found out it was Interim, that Interim
2 means that it's between something, so, you
3 know, you just assume -- assume that by the
4 fact that it's Interim that it's pending
5 something else happening.

6 COUNCILMEMBER JOHNSON: Okay, thanks very much,
7 Kelly.

8 CHAIR MOLINA: Okay, thank you, Member Johnson.
9 Member Baisa, followed by Councilmember
10 Medeiros.

11 COUNCILMEMBER BAISA: Thank you, Chair.

12 Good afternoon, Kelly. Thanks for
13 coming. As you're aware, about a month ago
14 the Planning Committee held a panel discussion
15 on biomass and you had a representative,
16 because unfortunately you were out of the
17 state at that time. The question came up, and
18 now I've got the big boss to ask, I'm sure
19 we'll get the whole story. One was I think it
20 was mentioned that there is more of a need for
21 biodiesel than you can produce at this time.
22 And I asked the question, has there been any
23 thoughts about collecting not only from the
24 commercial establishments, but also from
25 individuals? You know, everybody makes

1 tempura and fried this and fried that, and all
2 that oil, I don't know where it's going, but
3 is there a possibility that we could develop
4 some kind of a recycling for that?

5 MS. KING: Absolutely, and we actually do accept
6 used cooking oil, residential used cooking oil
7 at our office if it's in a closed container,
8 preferably the one that it was purchased in.
9 I actually looked into that, what you were
10 talking about a few years ago, about putting
11 up a 55-gallon drum with a strainer, and I was
12 told that we would have to get a waste
13 management permit to do that because you're
14 accepting, you know, open container waste and
15 everything.

16 So I just decided to put out -- it's in
17 the recycling guide, the one that comes out in
18 the paper twice a year. There is a section
19 that says, yes, you can bring your used
20 cooking oil to Pacific Biodiesel, but we're
21 requesting, you know, minimum of a gallon. We
22 can get smaller than that, but we don't want
23 little cups with your oil from the morning's
24 fried eggs. So, you know, we're trying to set
25 minimum quantities. It's a little bit of an

1 issue, but I think it's something to look at
2 definitely.

3 The plant that we built in Japan in
4 1998, they had -- they had receptacles, the
5 client that we built this for had a string of
6 fueling stations, gas stations and he just put
7 up receptacles there for residential cooking
8 oil. They have a lot less -- or they had at
9 the time a lot less regulations there in
10 Nagano, Japan, but here it's just -- it's a
11 little bit of a permit issue. But, you know,
12 it's definitely something we're willing to
13 look at if we get support from the County.

14 COUNCILMEMBER BAISA: Well, thank you for that
15 answer. Because, you know, I hate to imagine
16 where it's going.

17 MS. KING: Yeah, it's going into the --

18 COUNCILMEMBER BAISA: Going in the landfill.

19 MS. KING: Yeah, it's going into wastewater system,
20 most of it, but some of it goes into -- you
21 know, some of -- a lot of folks do what I used
22 to do before biodiesel is, you know, you put
23 it in your refrigerator, it gets hard, and you
24 throw it in your trash and then it goes into
25 the landfill.

1 But I also wanted to address earlier
2 when you were asking about the price of fuel,
3 that the price that Mr. Daniells was referring
4 to was for diesel and at the retail pumps it's
5 about 4.25. Our price is 3.59 for biodiesel,
6 which is why there's such a demand for it.

7 COUNCILMEMBER BAISA: I knew we'd get the straight
8 information from the queen of biodiesel.
9 Thank you for being here.

10 MS. KING: Thank you.

11 CHAIR MOLINA: Thank you, Member Baisa.

12 Member Medeiros. And before Member
13 Medeiros asks his question, the Chair would
14 like to recognize Council Chairman Hokama to
15 our proceedings this afternoon.

16 COUNCILMEMBER HOKAMA: Hello, Chairman.

17 CHAIR MOLINA: Mr. Medeiros, proceed.

18 COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chair, and
19 Ms. King, thank you for being here. Do you
20 sell and dispense biodiesel from your landfill
21 location?

22 MS. KING: No, we do not.

23 COUNCILMEMBER MEDEIROS: Okay. So you have other
24 locations that you dispense from or you sell
25 it to dispensers?

1 MS. KING: We dispense from our station, which is
2 also where our office is located, on Hobron
3 Avenue, and then we also work closely with
4 Maui Oil, which distributes a B20 brand, which
5 is 20 percent biodiesel, at Paia Chevron,
6 which was actually the first name brand
7 station in the country to sell biodiesel. And
8 then on Oahu we have -- we're in the Union 76
9 stations there.

10 COUNCILMEMBER MEDEIROS: And, you know, Member Baisa
11 asked about the price, and you did give us a
12 price. Is your biodiesel regulated by any
13 government regulations as far as how you set
14 your price?

15 MS. KING: No, it is not, and we -- one of the --
16 one of the great benefits that we set out to
17 prove about biodiesel years ago when we
18 started out was the fact that because it can
19 be locally produced from local resources is
20 that it should be priced based on the cost of
21 production, and not the price of the oil in
22 the Middle East, which is what we're seeing in
23 some models on the mainland where they
24 fluctuate, they go up and down with the price
25 of oil in the Middle East. So the barrel

1 price goes up, biodiesel goes up. And we've
2 always tried to resist the -- you know, the
3 temptation to do that. You know, we could be
4 making a lot more money right now, but what
5 we're trying to do is -- part of it is just
6 look at the big picture and the reason why
7 biodiesel is such a great fuel is because it
8 can be made locally, it can be sustainable,
9 and add to the community and as your security
10 portfolio, and it also can be a real benefit
11 to the citizens, if you keep the costs down.

12 COUNCILMEMBER MEDEIROS: And finally, Ms. King, on
13 the price of your biodiesel, do you have any
14 requirements to add any fuel tax to it like
15 gasoline and other diesels?

16 MS. KING: We have to pay -- we have to pay the
17 Federal road tax and we pay a portion of the
18 State road tax. There's a 75 percent
19 exemption from the State road tax for
20 biodiesel and then a 100 percent exemption
21 from the County road tax for biodiesel. It's
22 different for every County. Every County has
23 a different measure on it, just depending on
24 what their Councils wanted to do.

25 COUNCILMEMBER MEDEIROS: I see. Mahalo, Ms. King.

1 Mahalo, Mr. Chairman.

2 CHAIR MOLINA: Okay, thank you, Mr. Medeiros.

3 And before the Chair recognizes
4 Councilmember Victorino, Chair would make you
5 aware that I believe Ms. King will be
6 available for additional Q and A once we get
7 into Land Use Item 10.

8 So, Mr. Victorino.

9 COUNCILMEMBER VICTORINO: Well, thank you, and
10 that's good to know, but, Kelly, thank you for
11 being here, and I have -- when you just
12 mentioned about being exempt from the County
13 fuel tax and 75 percent of the State tax, how
14 much saving is that to the consumer?

15 MS. KING: Well --

16 COUNCILMEMBER VICTORINO: Approximately.

17 MS. KING: Well, I think the County road tax is
18 \$0.16. At one point I think it went up and
19 then it went back down, and the State road tax
20 is about the same, so 75 percent is \$0.12, so
21 you've got about \$0.28 savings. And also add
22 that when we receive those -- when the County
23 passed that back in I think it was 2001 or
24 something, we actually dropped the price of
25 our fuel \$0.16, so it reflected instantly in

1 the cost of the fuel. It was passed over
2 directly to the consumer.

3 COUNCILMEMBER VICTORINO: No, and we appreciate
4 that, and I just wanted the public to
5 understand what that directly means in the
6 different prices of our fuel out there.

7 The last thing I had was when your other
8 gentleman was here, the -- a couple of weeks
9 back when they made the presentation, the --
10 he had made the statement that we're near
11 capacity as far as how much we can produce --
12 or how much we can take in produce and we
13 don't have any -- not much more to take in.
14 And so I had made the statement, is it or has
15 it been a thought to bring in from outside?
16 Because, you know, I understand you guys have
17 the only one here, but from the Big Island,
18 other places, and then he mentioned something
19 about -- I think he wants -- you guys were
20 going to start to establish something on the
21 Big Island and various other islands, but I
22 was saying is if we are -- he was correct as
23 far as reaching capacity -- not capacity,
24 reaching the maximum amount we can derive from
25 the community, the County of Maui, is there a

1 possibility of looking at outside sources,
2 especially within the State so that their
3 landfills can be saved? And, yes, maybe it
4 will increase the fuel a little bit, because
5 you've got to pay shipping costs, but also
6 we're doing good for not only our community,
7 but others around us.

8 MS. KING: We're actually doing that right now,
9 we're bringing in oil from the Big Island.
10 We've been working with the Administration on
11 the Big Island, because there's so much
12 illegal dumping of used cooking oil, large
13 capacity. There's a lot of lava tubes over
14 there, and, you know, there's a lot of stuff
15 at the bottom of those lava tubes. But they
16 started -- they started several years ago with
17 a survey of all the restaurants, finding out
18 how much cooking oil was coming onto the
19 island and then looking at how much was
20 actually being reclaimed, and, you know, they
21 don't have a very good system. The whole --
22 one whole side of the island doesn't have
23 door-to-door garbage service, so they're
24 starting from way behind where our island is
25 at.

1 But we've been setting -- we set up
2 collections on the -- on both sides of the
3 island, and then, you know, for these haulers
4 to come and bring the oil and then we ship it
5 either to Oahu or Maui. And so that's some
6 added -- that's some added capacity, but
7 really, you know, in the interest of
8 sustainability, what we really need to do is
9 build a biodiesel plant on the Big Island for
10 the Big Island and use their resources there.

11 And one of the other things we've been
12 doing is bringing in tallow from the west
13 coast. On every gallon of tallow biodiesel
14 that we make, we lose about \$0.80. So the
15 only way -- but we do that to try to add
16 capacity, because we've had this wait list for
17 such a long time and we had people on our wait
18 list for about eight months, so we try to
19 balance it -- you know, we raise the price a
20 little bit and try to balance it out against
21 the grease -- the cooking oil and, you know,
22 try to make a reasonable profit there. It's
23 difficult because the prices of those kinds of
24 feed stocks are going up all the time on the
25 mainland. It's partially because biodiesel

1 has been so successful, so now the people who
2 are supplying the oils for these fuels are,
3 you know, a lot more of a -- I mean, the
4 people who pick up the oil on this island that
5 bring it to us make more money than we make
6 off the fuel, you know. And that's okay.

7 You know, I mean, one of the things I'm
8 really proud about this whole business model
9 is that we don't put anybody out of business.
10 When we came in, you know, we talked to the
11 haulers in the beginning, 12 years ago, and we
12 were given -- you know, we were -- we were
13 given the whole speech about, what, you're
14 going to come in here and put us out of
15 business. And we said, no, we want to work
16 with you. And it's the same three haulers
17 that were in business 12 years ago that we're
18 still working with. So, you know, I think
19 it's a good business model and it provides
20 fuel at a cheaper rate for the consumers.

21 COUNCILMEMBER VICTORINO: Well, thank you, Ms. King,
22 and I think the whole ambience in all of this
23 is the fact that we are taking something that
24 was filling our landfills and lava tubes or
25 wherever and whatever and doing a good

1 service, becoming less dependent on our
2 outside sources for fuel. So it's a win-win.
3 And even as price continues to go up, and I
4 guarantee you gas is not coming down, at \$109
5 a barrel of oil, you know and I know it's not
6 coming down.

7 MS. KING: Right.

8 COUNCILMEMBER VICTORINO: You're going to have a
9 great opportunity to expand, and people -- you
10 think the wait list is long now, you just hang
11 on. It's going to get a lot longer a lot
12 quicker. Thank you, Mr. Chair.

13 CHAIR MOLINA: Thank you, Mr. Victorino.
14 Member Anderson.

15 COUNCILMEMBER ANDERSON: Thank you, Mr. Chair.

16 Thank you, Ms. King, for being here.

17 Does your operation assist the County in
18 disposing of other, I guess, hazardous or hard
19 to dispose of substances in its operation
20 besides the cooking oil?

21 MS. KING: Yes. We take in all of the grease trap
22 that was previously being dumped in the
23 landfill, and we have a minimal processing
24 that we do on that and then we sell it really
25 cheap as boiler fuel. So it's less than half

1 the price that the companies -- and it goes
2 into -- I think right now it goes into some
3 paving companies and Maui Land & Pine's
4 boiler, and it's sort of a crude diesel
5 substitute, so we're recycling that too.

6 COUNCILMEMBER ANDERSON: What about sludge?

7 MS. KING: Sludge goes into the compost side, so
8 between our two operations we're taking all of
9 the fats, oils, grease, sludge, and green
10 waste.

11 COUNCILMEMBER ANDERSON: That the County has to
12 offer?

13 MS. KING: Right.

14 COUNCILMEMBER ANDERSON: Well, you're certainly
15 providing a service. Thank you very much

16 MS. KING: Thanks.

17 CHAIR MOLINA: Thank you, Councilmember Anderson.

18 Seeing no other questions for the
19 testifier, thank you, Ms. King, and we hope
20 that you can stand by for any other questions
21 that may arise.

22 MS. KING: I will. Thank you.

23 CHAIR MOLINA: Thank you. Next to testify, we have
24 Andrew Carson, followed by Tom Pawlish.

25 MR. CARSON: Good afternoon, Chairman Molina,

1 Committee Members. My name is Andrew Carson.
2 I'm here representing Maui Community College
3 Sustainable Construction Technology and the
4 Sustainable Living Institute of Maui.

5 We are very much in favor of Pacific
6 Biodiesel's request for a variance on this
7 issue. I'd like to point out that biofuel is
8 a key part of the overall plan for
9 sustainability on Maui. Biodiesel is a
10 significant part of that plan. Pacific
11 Biodiesel is an internationally recognized
12 leader in the biodiesel industry and committed
13 to sustainability.

14 Pacific Biodiesel represents the best
15 use of -- on Maui for fats, oils, and grease,
16 and in the way they're doing it they've turned
17 a negative into a positive and something that
18 could be significantly environmentally
19 destructive.

20 Maui's dependence on oil, imported
21 petroleum products, approximately 95 percent
22 of our energy. Since as we just found out
23 that oil is trading over \$100 a barrel, this
24 product significantly reduces our dependence
25 on oil. Diesel fuel is required for heavy

1 equipment because of its increased torque and
2 power output. It is a cleaner burning, and,
3 as we found out, a lower cost fuel. It's an
4 environmentally responsible fuel, both the way
5 it's produced by the by-products and the fact
6 that it burns cleaner, and it's going to lead
7 us toward the future of energy independence,
8 which this island desperately needs.

9 Maui Community College has entered into
10 a partnership agreement with Pacific
11 Biodiesel. We're excited to take advantage of
12 an existing agricultural base and a long-term
13 biodiesel market. We're going to participate
14 in research products to promote sustainable
15 agriculture, biofuel feed crops, and student
16 internships.

17 Right now we're pursuing a grant to
18 purchase an expeller on this island to produce
19 our own oil. We're going to look into a grant
20 to conduct biofuel feed stock field tests, and
21 we're going to do curriculum development and
22 student internships in participation with
23 Pacific Biodiesel. Thank you.

24 CHAIR MOLINA: Thank you, Mr. Carson, and for that
25 wonderful news related to the college and the

1 partnership.

2 Committee Members, questions for the
3 testifier? Councilmember Medeiros.

4 COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.

5 Mr. Carson, you said you produce your
6 own oil. What kind of oil are you referring
7 to?

8 MR. CARSON: We are going to enter into some limited
9 field tests of some various crops. Probably
10 the first thing we're going to experiment with
11 is sunflower and then probably canola and --

12 COUNCILMEMBER MEDEIROS: So you're talking about oil
13 to be used in biodiesel kind of --

14 MR. CARSON: That's correct.

15 COUNCILMEMBER MEDEIROS: -- products?

16 MR. CARSON: A feed stock is the input in the
17 biodiesel process.

18 COUNCILMEMBER MEDEIROS: Okay. And your knowledge
19 of biodiesel, are there any pollutants in the
20 discharge or the exhaust while using
21 biodiesel?

22 MR. CARSON: There are pollutants. They are less
23 than traditional petroleum biodiesel.

24 COUNCILMEMBER MEDEIROS: I see. And do you know if
25 there's any residuals from the use of

1 biodiesel that could be of concern?

2 MR. CARSON: I'm not sure I --

3 COUNCILMEMBER MEDEIROS: Residuals from the -- you
4 know, the operation of an engine using
5 biodiesel other than the exhaust?

6 MR. CARSON: Not that I'm aware of.

7 COUNCILMEMBER MEDEIROS: Okay. Thank you for your
8 testimony.

9 Mahalo, Mr. Chairman.

10 CHAIR MOLINA: Okay, thank you, Councilmember
11 Medeiros.

12 Seeing no other questions for the
13 testifier, thank you, Mr. Carson, for your
14 testimony.

15 MR. CARSON: Thank you.

16 CHAIR MOLINA: Next to testify we have Tom Pawlish,
17 followed by Tamara Paltin.

18 MR. PAWLISH: Thank you, Mr. Chairman, honorable
19 Council Members. I'm Tom Pawlish, President
20 of Maui EKO Systems. We have the contract
21 with the County. It is -- part of the
22 contract is to dispose of the fats, oil, and
23 grease. If Pacific Biodiesel goes away, I
24 don't know what I'll do. I don't know of any
25 other legal way to get rid of it.

1 Second point I'd like to make is the
2 property where we are, which is County
3 property, we rebid the contract in '95 and
4 again in 2003, that was included in the RFP,
5 so all bidders had opportunity to work off of
6 this same property, so it was a level playing
7 field and we had no advantage.

8 If you have any questions. Thank you,
9 Mr. Chairman.

10 CHAIR MOLINA: Thank you, Mr. Pawlish.

11 Committee Members, questions for the
12 testifier? The Chair has just one quick
13 question for you, Mr. Pawlish. How long is
14 your -- what is the expiration of your
15 contract with the County of Maui, your
16 expiration date?

17 MR. PAWLISH: It -- the current contract ends July
18 1st.

19 CHAIR MOLINA: July 1st of this year?

20 MR. PAWLISH: This year. It has a five-year
21 extension upon renegotiation.

22 CHAIR MOLINA: Okay, thank you very much. Thank you
23 for your testimony, Mr. Pawlish. Seeing no
24 other questions from the testifier -- from the
25 Committee, I should say.

1 Next to testify we have Tamara Paltin,
2 followed by Cosco Carlbom.

3 MS. PALTIN: Hi. My name's Tamara Paltin. Thank
4 you for letting me testify. I'm testifying on
5 the Pulelehua project.

6 I'm a little confused as to why this
7 item is on the agenda at this time, as the
8 Mayor and Planning Director and Commission
9 have publically said they will not support any
10 projects requiring a Community Plan Amendment
11 until the General Plan is finished. But since
12 it is on the agenda, I would like to give
13 testimony on behalf of myself only.

14 I wonder if there any new answers to the
15 questions I raised at my last testimony on
16 this subject; however, the main reason that
17 I'm testifying today is there is a real need
18 for affordable housing, and we need to move
19 forward towards this goal.

20 I would like to challenge the Council
21 and Maui Land & Pineapple to develop all of
22 Pulelehua 100 percent as truly affordable.
23 Eco-sensitivity is one of the major values of
24 Maui Land & Pineapple. Affordable sustainable
25 housing is available if we could think outside

1 of the box a little bit.

2 Bamboo Technologies have come a long way
3 in the past 13 years. This company is
4 committed to the implementation of an
5 environmentally sustainable building system,
6 which is both cost effective and user
7 friendly. The structures can be owner built
8 and soon will be certified by local building
9 officials as meeting all requirements for
10 hurricane and seismic loadings in temperate
11 climates. This company also specializes in
12 putting together customized projects and
13 community efforts to implement bamboo
14 villages. Their goal within the next few
15 years is to initiate as many factory locations
16 as possible around the world to create the
17 necessary homes to satisfy customer requests.

18 They wish to work together with
19 plantation owners to develop the particular
20 species most adapted to the building industry.
21 They wish to create another option for each of
22 us to consider as we raise our families in
23 this planet together in homes which support
24 the ecosphere.

25 Our biosphere is suffering from resource

1 depletion, habitat loss, species extinction,
2 and ecosystem pollution. Suggesting
3 sustainability is not enough. Architects and
4 developers can now choose materials and
5 systems that have a restorative effect on the
6 environment. Bamboo can play a key role.

7 Bamboo is the fastest growing plant. It
8 produces greater biomass and oxygen than a
9 hardwood forest on the same area, while
10 improving watersheds, preventing erosion,
11 restoring soil, and providing sweet edible
12 shoots and removing toxins from contaminated
13 soil.

14 Bamboo produces structural beams,
15 flooring, wall paneling, fencing and many more
16 sustainable by-products of environmental
17 restoration. It's a natural water control
18 barrier because of its widespread root system
19 and large canopy. Bamboo greatly reduces rain
20 runoff, prevents massive soil erosion, and
21 keeps twice as much water in the watershed.
22 Bamboo helps mitigate water pollution due to
23 its high nitrogen consumption, making it a
24 solution for excess nutrient uptake of
25 wastewater from manufacturing, livestock

1 farming, and sewage treatment.

2 Bamboo can restore degraded lands. It's
3 a pioneering plant and can be grown in soil
4 damaged by overgrazing or poor agriculture.
5 Proper harvesting does not kill the bamboo
6 plant, so topsoil is held in place. Because
7 of its dense litter on the forest floor, it
8 feeds topsoil, restoring healthy agricultural
9 lands for generations to come.

10 MS. NAKATA: Three minutes.

11 MS. PALTIN: One final thought. It takes an acre of
12 trees to build your average American home or
13 the size of the house itself built in bamboo
14 because bamboo grows so fast and so dense.

15 CHAIR MOLINA: Okay, thank you for your testimony,
16 Tamara. And just for your information,
17 Tamara, it is posted on the agenda, the
18 Committee is not going to take any legislative
19 action. So no decisions will be made. And no
20 concerns were expressed to the Committee by
21 the Planning Department about hearing or
22 continuing the discussion, the Q and A, with
23 the Committee Members. So I just wanted to,
24 you know, make that real clear to you, as well
25 as members of the public.

1 Committee Members, questions for the
2 testifier related to Item No. 65? Seeing
3 none. Thank you for your testimony, Tamara.

4 Next to testify, we have Cosco Carlbom,
5 followed by Dick Mayer.

6 MR. CARLBOM: Good afternoon, ladies and gentlemen.
7 Thank you for your time and the opportunity to
8 come here and testify. My name is Cosco
9 Carl bom. I have been a full-time resident of
10 Maui since 1977, and I'm -- I've come here to
11 testify in favor of Pulelehua. We do not have
12 an abundance of affordable housing, an
13 understatement. Pulelehua is a very
14 well-planned project, I believe. I've been in
15 construction here just about most of my time
16 on Maui, and before a house is built it's
17 usually been sold three or four times, gone
18 from 400,000 to 700,000, something like that.
19 This isn't the plan here, so, I support it
20 fully. Hopefully I can get myself a full-time
21 house. I've been able to build them, but not
22 buy them. Thank you.

23 CHAIR MOLINA: Thank you, Mr. Carl bom.

24 Committee Members, questions for the
25 testifier? Member Anderson.

1 COUNCILMEMBER ANDERSON: Yeah, you peaked my
2 curiosity. You said before a house is built
3 it's sold three or four times. Could you
4 explain that, how that works?

5 MR. CARLBOM: A developer plans -- he gets a permit
6 to build houses, a subdivision, he puts up a
7 for sale sign -- a for sales office, a sales
8 office first before he does anything else and
9 he starts selling those lots and the houses
10 that are planned on them. So he'll sell it
11 once and that owner will sell it maybe when
12 the slab is poured, and that owner will sell
13 it again when the framing is done, and that
14 one will sell it again, and each one is making
15 a few bucks off of it.

16 The last project I think I was -- the
17 last project -- subdivision I worked on last
18 year was a subdivision, the houses first sold
19 for 380,000. The project was finished a year
20 and a half later and they were selling for 725
21 and no one had lived in them yet. That's what
22 happens to affordable housing.

23 COUNCILMEMBER ANDERSON: Thank you.

24 MR. CARLBOM: That's why so many people are renting
25 six and eight people in a house.

1 COUNCILMEMBER ANDERSON: And so this is all done by
2 speculators?

3 MR. CARLBOM: Yes.

4 COUNCILMEMBER ANDERSON: And I'll just leave it at
5 that. Thank you very much.

6 CHAIR MOLINA: Thank you, Councilmember Anderson.

7 Councilmember Johnson.

8 COUNCILMEMBER JOHNSON: Yes, and which project was
9 that?

10 MR. CARLBOM: You want me to point them out?

11 They're just all about like that. Spencer is
12 the exception. That project was Kehalani,
13 Stanford Carr. He's not a bad person.
14 Everyone does it. It's how it is, and if the
15 system was fixed, it would cut it down an
16 awful lot.

17 COUNCILMEMBER JOHNSON: Okay. Thanks very much.

18 CHAIR MOLINA: Okay, Councilmember Victorino,
19 followed by Councilmember Anderson.

20 COUNCILMEMBER VICTORINO: Thank you. And my other
21 question was these lots that you're talking
22 about, this Kehalani, it's all the upper mauka
23 side, right?

24 MR. CARLBOM: The job I was on, yes, that's the one.

25 COUNCILMEMBER VICTORINO: Because the makai side,

1 where my son bought, there was no -- and you
2 can't even sell for the first five years.

3 MR. CARLBOM: Was that -- was that --

4 COUNCILMEMBER VICTORINO: The lower one --

5 MR. CARLBOM: Okay, yeah.

6 COUNCILMEMBER VICTORINO: So that's why, I just
7 wanted to make sure that it's clear that there
8 are projects that are put out there --

9 MR. CARLBOM: Oh, yes.

10 COUNCILMEMBER VICTORINO: -- you know, so -- just so
11 that everybody doesn't jump on the bandwagon
12 and say everybody's doing this. That's not
13 the facts, okay, but you brought up a good
14 point, because Kehalani is not bound by that
15 restriction. That is not part of their
16 restrictions. So thank you. I just wanted to
17 make that clear, because I was very curious
18 where this was and I got the answer. Thank
19 you, sir.

20 CHAIR MOLINA: Okay. Councilmember Anderson.

21 COUNCILMEMBER ANDERSON: Yeah, well, now we know why
22 market-priced housing is so out of reach.

23 So you said if the system was fixed, we
24 could stop this problem. What --

25 MR. CARLBOM: If you could find a way to stop the

1 speculators, maybe if someone had sold a
2 property more than two or three times in
3 five years, put a huge tax on them so it's not
4 worthwhile. I don't know -- I can't -- I'm
5 not -- I'm a carpenter.

6 COUNCILMEMBER ANDERSON: But you've highlighted a
7 serious problem, and I appreciate that. And
8 that's not a bad suggestion. I don't know if
9 we can do it, but thank you.

10 MR. CARLBOM: Yeah, (inaudible) corporate shield and
11 there's all kinds of things you'd have to find
12 a way around, but I don't know, there's --
13 speculation definitely drives the prices way
14 up. So affordable housing, Pulelehua, that's
15 a good deal, I believe.

16 CHAIR MOLINA: Okay, thank you very much. Seeing no
17 other questions from the Committee, thank you
18 for your testimony.

19 Next to testify, we have Dick Mayer, to
20 be followed by Helen Nielsen.

21 MR. MAYER: I'd like to speak -- thank you, Council
22 Members. I'd like to speak on the Pulelehua
23 project. As you know, I'm a Member of the
24 GPAC. I'm not speaking on behalf of the GPAC,
25 but I do want to mention something that GPAC

1 did do, and that was they passed a resolution
2 at one of their last meetings asking that the
3 Council, that the Planning Commission, that
4 the Land Use Commission not make changes at
5 this time until the GPAC and the Planning
6 Commissions and you folks have had a chance to
7 review the comprehensive developments that are
8 taking place on Maui. And that's something --
9 I hope you have all received our letter from
10 the GPAC. It should have been delivered to
11 the Chair and distributed to the Council
12 Members.

13 Now I'll speak on my own behalf
14 entirely. I'm concerned -- very much
15 concerned about the number of projects that
16 have already been approved in West Maui.
17 Recently the 390-unit time-share, a year ago,
18 year and a half ago now, Kapalua Mauka was
19 approved, the time-share one is 390 units,
20 Kapalua Mauka one, also the old Kapalua
21 Plantation was 690 units, and there are many,
22 many other projects.

23 This project also is next door to the
24 Hawaiian Homelands area and has implications
25 for that. The proposal is to put up

1 900 units plus 300 ohanas, 1,200 total units.
2 So we're talking about a project on the scale
3 almost of Wailea 670. My concern is the
4 impact on all the infrastructure and the
5 inability of the County and the State to build
6 the infrastructure in time.

7 We had a report to the GPAC from
8 somebody at the -- from the State highways
9 saying that they don't have the money. It's
10 very unlikely that they will get the money.
11 The Federal government is cutting back. They
12 have less money, and what we have is,
13 obviously in West Maui, not just the Lahaina
14 Bypass, but the road all the way around
15 through Olowalu, and what are we going to do
16 with the bottle neck -- really the hour glass
17 of the tunnel? We'll have two lanes going
18 through there. We'll probably need another
19 two lanes, a highway, bridge, something there.
20 Who's going to pay for that?

21 And what we're doing is we're packing up
22 West Maui. We have a lot of units, and I'm
23 urging -- that's why I think the GPAC will
24 have a chance to take a comprehensive look. I
25 understand that the Maui Island Plan will be

1 given to the GPAC on August -- excuse me, on
2 April 3rd and we'll have a chance then to look
3 at it.

4 I have a number of recommendations that
5 I would like you to incorporate when you
6 eventually do make your recommendations on
7 this, that all affordable housing be done on
8 Pulelehua before any houses are built at
9 Kapalua Mauka. Kapalua Mauka is a luxury
10 home. That's not what we need on Maui at this
11 point. We desperately need affordable
12 housing. I also would like to ask that the
13 affordable housing be set up in such a way
14 that it's in perpetuity, not five, ten,
15 15 years.

16 Kapalua Mauka was given 173 -- it was
17 required to put in 173 affordable units. I
18 hope those are not counted in any way within
19 the Pulelehua project. They should have their
20 own 50 percent requirements.

21 The elementary school is located very
22 close to the airport, and in a very
23 interesting statement the FAA said that
24 doesn't pose any danger to the airplanes. I'm
25 concerned about the kids in the school, not

1 the airplanes landing.

2 MS. NAKATA: Three minutes.

3 MR. MAYER: Thank you. I have other items which --
4 I'll try forward some of these on to you at a
5 later date. Thank you.

6 CHAIR MOLINA: Thank you, Mr. Mayer.

7 Committee Members, questions for the
8 testifier? Councilmember Anderson.

9 COUNCILMEMBER ANDERSON: Yeah, Mr. Mayer, thank you
10 for being here. You mentioned that Hawaiian
11 Homelands being next door poses problems, or
12 that Pulelehua would pose problems for
13 Hawaiian Homelands. What did you mean by
14 that?

15 MR. MAYER: Well, they're going to be getting water
16 from that, and I would hope that they would
17 not be tapping into reservoirs that the
18 Hawaiian Homelands project, which is a very,
19 very large -- potentially large project in
20 West Maui for Hawaiians, that there may be an
21 interaction there that definitely has to be
22 looked at. And that's -- there will be a
23 private water system, I understand, for this
24 project, and I would hope that -- you know,
25 that that would not interfere with Hawaiian

1 Homelands, that and traffic as well by putting
2 this many houses upstream, up the cul-de-sac,
3 so to speak, which Maui road is, that they
4 don't interfere with the traffic going onto
5 the highway as well.

6 COUNCILMEMBER ANDERSON: And do you know many -- how
7 many homes are planned for Hawaiian Homelands?

8 MR. MAYER: The number -- I remember from -- this is
9 from memory, I think something like 4,000
10 potentially could be built on that land. It's
11 an enormous project there in West Maui. Now,
12 I don't think it will be built in the next
13 ten, 20 years, but that's -- what we're doing
14 is planning for generations, not for 10 years.

15 COUNCILMEMBER ANDERSON: Right. Thank you very
16 much.

17 CHAIR MOLINA: Okay, Committee Members, any other
18 questions for the testifier? Councilmember
19 Johnson.

20 COUNCILMEMBER JOHNSON: Dick, you're not talking
21 about the future phases of Villages of
22 Leialii. You're talking about the Honokowai
23 DHHL.

24 MR. MAYER: Yes.

25 COUNCILMEMBER JOHNSON: Okay.

1 MR. MAYER: And that's the one right next to this
2 project that's being proposed.

3 COUNCILMEMBER JOHNSON: And then you also mentioned
4 the approval, like Puukolii Village is
5 circumventing any County approvals and they've
6 gotten permission to go ahead at the State
7 level and they're asking for all kinds of
8 things, so do you -- are you familiar with how
9 many units are in there?

10 MR. MAYER: I've seen numbers earlier. I have not
11 looked at it in the last year, so I don't want
12 to even try to do it from memory on that one.

13 COUNCILMEMBER JOHNSON: Okay, but you haven't
14 analyzed that at GPAC?

15 MR. MAYER: We have not been given the island-wide
16 plan. We've not analyzed anything. We
17 haven't seen urban growth boundaries, rural
18 growth boundaries. We don't know whether the
19 Pulelehua is being proposed to be within or
20 without -- outside of the urban growth or
21 rural growth boundaries. We haven't even seen
22 the plan, and that's the way it should be, but
23 until we do and until we have a chance to look
24 at that comprehensive picture of what the
25 infrastructure can bear, you know, what the

1 County can afford to put in, fire stations,
2 police stations, parks, all these things which
3 are not being included necessarily in this
4 project, the cost -- there will be land set
5 aside, but the cost of all these facilities,
6 that's what the GPAC is supposed to be
7 advising you on.

8 COUNCILMEMBER JOHNSON: Yeah, and thank you very
9 much for, you know, expressing that concern,
10 because I think that, you know, you bring out
11 some very good points, and thank you for your
12 suggestions.

13 MR. MAYER: Thank you. Thank you, all.

14 CHAIR MOLINA: Okay, thank you very much, Mr. Mayer.

15 Next to testify is Helen Nielsen, and at
16 this point Ms. Nielsen is the last person to
17 have signed up. Chair will give the -- one
18 last opportunity for anyone in the gallery
19 that would like to testify, you have an
20 opportunity to sign up.

21 Proceed, Ms. Nielsen.

22 MS. NIELSEN: Good afternoon, Council Members and
23 Council Chair. My name is Helen Nielsen. I'm
24 here testifying for myself. I'm testifying in
25 favor of the variance to allow Pacific

1 Biodiesel to continue doing recycling. I'm
2 a -- they've been providing biodiesel on this
3 island for 12 years. Jonathan, my husband,
4 and I have been customers for 12 years and so
5 have a number of my friends in the Kipahulu
6 and Kaupo area. We run our tractor on
7 biodiesel since the minute it became
8 available. Have lots of friends with farms in
9 Kipahulu, including a bamboo farm, who runs
10 primarily their equipment on biodiesel.

11 It's -- it's not just for selfless
12 reasons -- selfish reasons that I want them to
13 continue. They've been great to deal with.
14 Doing business with them has been a pleasure,
15 but it really does provide a tremendous
16 service for this island, so I really urge you
17 to help that variance go along.

18 And I'd like to thank the Chair and this
19 Council for allowing me my three minutes,
20 another reason why Maui no ka oi.

21 CHAIR MOLINA: Thank you, Ms. Nielsen.

22 Committee Members, questions for the
23 testifier? Seeing none. Thank you.

24 MS. NIELSEN: Thank you.

25 CHAIR MOLINA: Next to testify we have David

1 Rockett, followed by Michelle Kauhane.

2 And the Chair appreciates all of you for
3 keeping within the time parameters here today
4 for our public testimony.

5 MR. ROCKETT: Greetings. I'm here to testify for
6 Pulelehua. My name is David Rockett. I'm a
7 1963 graduate of Baldwin High School. The day
8 after I graduated I moved over with my
9 surfboard and my Jeep to West Maui, and I've
10 been there pretty much ever since. I run a
11 charter boat business and I've been running it
12 out of Lahaina Harbor since 1972. And when
13 the people come out on my boat and they say,
14 gee, you must have seen a lot of changes here.
15 I say, I have seen them all, every one of
16 them.

17 I'm also a soccer coach. I've been
18 coaching soccer since, oh, about 24 years now.
19 I coach youth teams, I coach at the local
20 Lahainaluna High School, and I also coach
21 adult soccer. Some of you may know that when
22 a referee in soccer makes a bad call against
23 one team, he sometimes does a make-up call for
24 the other team. Most make-up calls are a bad
25 idea, because now you've got both sides mad at

1 you.

2 I'm sure most of you -- I know all of
3 you have seen the developments over on the
4 West side, the big hotels that are going up on
5 North Beach, the development out at Kapalua,
6 and all the new stuff that's going on in
7 Lahaina town itself. Some of these have been
8 bad calls, and the only make-up call I'm
9 hearing about is some are calling for a ban on
10 ag lots.

11 If you want to do a make-up call, do
12 Pulelehua. That would be a good one. Most of
13 the people who are going to work in these new
14 developments, they're living in Haiku,
15 Pukalani, Upcountry, over on this side of the
16 island, and when they're driving to work, one
17 of the main things they're thinking about is
18 they've got to put the first two hours of
19 their shift in paying for the gas. These
20 workers need to live in the community that
21 they work in, and that way they can be part of
22 the West Maui ohana, and I can coach their
23 kids in soccer. I'm done. Any questions?

24 CHAIR MOLINA: Thank you, Mr. Rockett.

25 Committee Members, questions for the

1 testifier? Seeing none. Thank you for your
2 testimony.

3 Next to testify -- you know what, I made
4 a slight mistake. I believe Keith Hertz was
5 before Ms. Kauhane. My apologies to you,
6 Ms. Kauhane.

7 MS. KAUHANE (from the audience): It's okay.

8 CHAIR MOLINA: Okay, thank you.

9 MR. HERTZ: Aloha. My name is Keith Hertz. I'm
10 here to testify for Pulelehua. I'm a resident
11 of Lower Road and I've been -- Pulelehua, when
12 I first read about it, I was looking for
13 housing. And it interested me that there was
14 affordable housing going in, and I, you know,
15 signed up on the website and thought this is a
16 great idea for the West side. Obviously there
17 wasn't anything around there that I could
18 afford. And as time went on, I started
19 looking more into Pulelehua and I started
20 getting really excited about how it was more
21 of a sense of community, master plan
22 community, places where, you know, my kid can
23 actually walk to school, the sidewalks were
24 actually walkable, and the parks, you know,
25 were safe and everything like that.

1 And I grew up in a small town in
2 southwest Iowa, and when I came over here --
3 that's what I liked about Maui, it was a small
4 town feel, but I think Pulelehua would
5 exemplify that feeling of small town, that
6 sense of camaraderie that you get with your
7 neighbors and playing in the park with friends
8 and things like that.

9 Now that I've lived in Maui for a while,
10 and what I've seen on the west side, you know,
11 there's a number of high profit, high density
12 locations going in just a half a mile from
13 where I live, and that's -- that's focused
14 primarily on the tourism. And I don't have a
15 problem with that, because that's how I make
16 my living here; however, those people come and
17 go and they don't leave the island with a lot
18 of aloha. They come, they visit, they take,
19 they leave, and I think Pulelehua, you have to
20 have residents with a lot of aloha to spread
21 that feeling of Maui around, and with
22 Pulelehua there, I think it helps kind of
23 balance the seesaw with what's going on on the
24 West side and all the new development of
25 tourist locations. It's nice to having there

1 where everybody that you're living around
2 actually lives there and works on the West
3 side. So that's all I have. That's my three
4 minutes.

5 CHAIR MOLINA: Okay. Thank you.

6 MR. HERTZ: Any questions?

7 CHAIR MOLINA: Thank you, Mr. Hertz.

8 Committee Members, questions for the
9 testifier? Councilmember Johnson.

10 COUNCILMEMBER JOHNSON: Yes, you talked about parks,
11 and I know we all love parks. What is your
12 feeling about the project being built or a
13 portion of it being built on the site of the
14 West Maui Regional Park?

15 MR. HERTZ: I -- you know, when I think about the
16 parks, obviously -- I live really close to
17 Honokowai Park and we go down there all the
18 time. That park is highly, highly used, and
19 sometimes I don't feel as if, you know, my --
20 my wife at night, I don't really want her
21 going down there with my six-month old child.
22 So I think being -- being on a park, I don't
23 know exactly how to answer your question.
24 I -- I know that there's -- I'm sorry, I don't
25 know. Can you repeat your question?

1 COUNCILMEMBER JOHNSON: Yeah, well, the site for
2 Pulelehua is actually going to have housing on
3 the site of where the West Maui very large,
4 you know, acreage regional park was going to
5 be. So if you would rather have the housing
6 than the regional park, I guess that's what
7 I'm asking you. Is that more important to you
8 than --

9 MR. HERTZ: Than a major park?

10 COUNCILMEMBER JOHNSON: Than the park that was
11 planned there for many years and that's in our
12 Community Plan currently?

13 MR. HERTZ: I think housing and getting the families
14 there in the community are a little bit more
15 important than having a major park there. I
16 mean, I think that there are -- there are
17 scheduled parks available in Pulelehua, and
18 that's -- that's more than what we have now.

19 COUNCILMEMBER JOHNSON: Okay, thank you.

20 CHAIR MOLINA: Thank you, Member Johnson.

21 Any other questions for the testifier?

22 Seeing none. Thank you for your testimony.

23 Next to testify, we have Michelle

24 Kauhane, followed by Daniel San Miguel.

25 MS. KAUHANE: Good afternoon. Aloha, Chairman

1 Molina and Members of the Committee. My name
2 is Michelle Kauhane. I'm the Executive
3 Director at Hawaiian Community Assets, and I'm
4 here to speak on behalf of the project that
5 you're discussing at Pulelehua.

6 I'm a resident of Oahu, not Maui, so I'm
7 not here to tell you whether I think it's a
8 good development or a bad development, but I
9 think that in the process of making the
10 decision I -- there are things that you need
11 to know that would be important in making your
12 decision. We are a home-buyer education
13 provider. We have provided home-buyer
14 education across the State of Hawaii to more
15 than 1,300 families in the last year. We
16 provide individualized counseling services to
17 help families reduce their debt, improve their
18 credit, and be mortgage ready.

19 Pulelehua has done for this project an
20 outstanding job, and we are trying as we work
21 across the State to get more developers who
22 are developing affordable housing or even
23 non-affordable housing to engage families in
24 the process of home-buyer education and
25 financial literacy.

1 Studies by Freddie Mac show that as
2 little as 10 hours of home-buyer education
3 increases home ownership for first-time home
4 buyers by over 60 percent and reduces
5 foreclosure by 40 percent.

6 So I think it's an important factor in
7 making your decision to understand that Maui
8 Land & Pine has contracted a non-profit
9 community-based organization to do the right
10 thing for the community and families that are
11 looking to move into Pulelehua. That's all.

12 COUNCILMEMBER VICTORINO: Mr. Chair.

13 CHAIR MOLINA: Thank you, Ms. Kauhane.

14 MS. KAUHANE: Any questions?

15 CHAIR MOLINA: Mr. Victorino.

16 COUNCILMEMBER VICTORINO: Yes, thank you,
17 Ms. Kauhane, and, you know, you hit the nail
18 on the head, which I've been professing since
19 I walked in this door. One of the biggest
20 challenges, not the idea, and the cost is very
21 important, but the other aspect is we don't
22 get the people ready to buy homes. And --

23 MS. KAUHANE: Correct.

24 COUNCILMEMBER VICTORINO: And that's been a really
25 big challenge, and you fitting into what we've

1 been talking about for a long time. Let me
2 ask you this question, is this available only
3 for this project or is this a community effort
4 that spreads out throughout the County of
5 Maui?

6 MS. KAUHANE: It's --

7 COUNCILMEMBER VICTORINO: I know Statewide, but
8 County of Maui?

9 MS. KAUHANE: County of Maui, we -- Hawaiian
10 Community Assets is a Statewide provider.
11 We -- for the Pulelehua project it started
12 specifically to get families who were
13 interested involved, employees, their family
14 members, but it's also, under this contract
15 through Maui Land & Pineapple, open to anyone
16 in Maui County. They fund the home-buyer
17 education and individualized counseling
18 sessions, but anybody in the County of Maui is
19 welcome to come. And so --

20 COUNCILMEMBER VICTORINO: So these are individual
21 sessions? These aren't like group, you know,
22 you get a whole --

23 MS. KAUHANE: You have a group session.

24 COUNCILMEMBER VICTORINO: Okay.

25 MS. KAUHANE: We do home-buyer education, which is

1 an eight-hour session in a group.

2 COUNCILMEMBER VICTORINO: Okay.

3 MS. KAUHANE: And then following that, families who
4 need help with repairing credit, reducing
5 their debt, and understanding what mortgage
6 products are available, that is done
7 individually following the workshops.

8 COUNCILMEMBER VICTORINO: And these workshops are
9 being held where?

10 MS. KAUHANE: Central and West Maui, particularly
11 for this, Maui Community College, on the West
12 side, so they've had -- we've serviced for
13 Pulelehua's project over 200 families through
14 eleven workshops.

15 COUNCILMEMBER VICTORINO: Okay. Thank you very
16 much, and I really appreciate what --

17 MS. KAUHANE: Thank you.

18 COUNCILMEMBER VICTORINO: -- you've done for the
19 people.

20 Thank you, Mr. Chair.

21 CHAIR MOLINA: Okay, thank you, Councilmember
22 Victorino.

23 Councilmember Anderson.

24 COUNCILMEMBER ANDERSON: Thank you, Chair.

25 Do you know of any home-buyer education

1 providers here on Maui?

2 MS. KAUHANE: Hawaiian Community Assets. No, we
3 originated -- actually, our organization is
4 now centralized in Honolulu, but we started in
5 Paukukalo, Maui. So we do have an office here
6 in Paukukalo. I believe Hawaii Home Ownership
7 Center comes over and they teach a class every
8 now and then, but I don't know that they
9 have -- I don't know how they're facilitating
10 the follow-up counseling. There's no office
11 physically here in Maui.

12 COUNCILMEMBER ANDERSON: And do you typically
13 contract with projects that haven't been
14 approved?

15 MS. KAUHANE: It's not typical. We have -- I take
16 that back. Kauai County, we are contracted
17 directly with Kauai County because they have
18 several affordable housing projects on their
19 books.

20 COUNCILMEMBER ANDERSON: So they're already
21 approved.

22 MS. KAUHANE: Those are approved, but preparing
23 families who are -- not typical if their
24 project is not approved.

25 COUNCILMEMBER ANDERSON: Okay, thank you.

1 CHAIR MOLINA: Thank you, Councilmember Anderson.

2 Member Johnson, followed by

3 Councilmember Pontanilla.

4 COUNCILMEMBER JOHNSON: Yes, and because you are

5 located in Paukukalo, are you focused

6 primarily on native Hawaiians?

7 MS. KAUHANE: Our program is -- the majority of the

8 families -- about 80 percent of the families

9 that we serve are native Hawaiian, but we have

10 contracts with several counties, not this

11 County in particular, but we have contracts

12 with county agencies that we do, not just

13 native Hawaiians.

14 COUNCILMEMBER JOHNSON: Are you a for-profit or a

15 non-profit.

16 MS. KAUHANE: We're non-profit.

17 COUNCILMEMBER JOHNSON: And do you receive any funds

18 from Office of Hawaiian Affairs or any other

19 grants or monies?

20 MS. KAUHANE: We are providing under a contract with

21 the Department of Hawaiian Homelands, as well

22 as we receive HUD funding through the Federal

23 government, through Kauai County, Hawaii

24 County, and we have contracts with also

25 private organizations.

1 COUNCILMEMBER JOHNSON: Okay. I don't know if you
2 heard the earlier comment about the project,
3 because we have phases of Villages of Leialii,
4 which is DHHL, and then you also have Hawaiian
5 Homes, which is in the Honokowai area,
6 sandwiched between Puukoolii Village and the
7 proposed Pulelehua, so if DHHL, because
8 another project such as the one you're
9 representing, were to be denied or not have
10 water available or other resources that are
11 required in order for that project to move
12 forward, the position that you are in, how
13 would you address that?

14 MS. KAUHANE: Homesteaders in Maui County are
15 allowed access. They are at the top of the
16 food chain in priority for water issues in
17 Maui County. I don't think that water is an
18 issue nor a position I need to take in
19 supporting home-buyer education, but as far as
20 I understand as an individual, homesteaders
21 have -- are A number 1 on that list for water
22 rights and access to that water, so I don't
23 see how that is an issue.

24 COUNCILMEMBER JOHNSON: And the only reason I'm
25 asking this is because you're advocating for

1 this particular project, but it may be the --
2 at the expense of a project that would benefit
3 Department of Hawaiian Homelands, because we
4 have almost reached sewage capacity and water
5 capacity in West Maui, and that's why I'm
6 asking you the question.

7 MS. KAUHANE: Okay. Again, I would like to be very
8 clear that I am not advocating either for or
9 against the development project itself. What
10 I am advocating for is the fact that I think
11 it's an important component in the Committee's
12 decision whether you're going to select this
13 project to be done or not done that it should
14 be required by any developer building any
15 project that the basis for this is home-buyer
16 education and financial literacy.

17 I'm not a resident of Maui. I don't
18 think I am in a position to tell you you
19 should build Pulelehua, you shouldn't build,
20 but you should acknowledge the fact that they
21 have done the right thing in reaching out to
22 the community and providing the education that
23 is of utmost importance. Because we can build
24 as much affordable housing as we need, and the
25 fact will remain that families who are

1 eligible for those affordable units are in
2 financial crisis and they need to understand
3 the significance of being prepared for that
4 mortgage. Whether the house is labeled
5 affordable or not, they need the education to
6 go with that so that they can actually sustain
7 that home and prevent foreclosure. That is
8 the position.

9 COUNCILMEMBER JOHNSON: Yeah, and I guess what I was
10 trying to get from you is how you would feel
11 or what is your position, and you're saying
12 you don't have a position one way or the other
13 as to whether this gets approved or not.

14 MS. KAUHANE: Yeah, we're supporting -- I would like
15 you all to support all developers on Maui to
16 require home-buyer education.

17 COUNCILMEMBER JOHNSON: Okay, thank you.

18 MS. KAUHANE: You're welcome.

19 CHAIR MOLINA: Okay, next, we have Councilmember
20 Pontanilla.

21 VICE-CHAIR PONTANILLA: Thank you. Thank you,
22 Ms. Kauhane, for being here. I got one
23 question.

24 CHAIR MOLINA: Ms. Kauhane --

25 MS. KAUHANE: I'm sorry.

1 CHAIR MOLINA: -- you're wanted.

2 VICE-CHAIR PONTANILLA: What is the success rate in
3 regards to, you know, the training that you
4 provide and, you know, those people that went
5 through your training, you know, go for like,
6 say, home mortgage, the success rate? One in
7 four? One in six?

8 MS. KAUHANE: The success rate of our program in
9 particular is about 30 percent of the families
10 who actually initiate in home-buyer education
11 that become successful home owners. I want to
12 let you know that that is low, and it seems
13 low and it is low, and the reason for that is,
14 as was mentioned before, we do a lot of work
15 with the Department of Hawaiian Homelands, and
16 so the development schedule -- because
17 85 percent of our clientele are homesteaders,
18 the development schedule really drives the
19 success rate of our program.

20 If families -- we have families right
21 now who are mortgage ready, about 60 percent
22 of those families are mortgage ready. When
23 their home is ready, that's a different story.
24 So we only count the bean in the bag when
25 they're in the house.

1 VICE-CHAIR PONTANILLA: Thank you. I think you
2 provided just now a really, really good
3 insight in regards to, you know, I qualified
4 today, all of a sudden my credit goes bad and
5 I'm out the window. Thank you.

6 MS. KAUHANE: Thank you very much.

7 CHAIR MOLINA: Thank you, Councilmember Pontanilla.
8 Councilmember Baisa.

9 COUNCILMEMBER BAISA: Thank you for being here, and
10 I certainly appreciate what you're doing, and
11 I can tell a personal story. Three years ago
12 when my husband was selected for a lot in
13 Keokea, we are told that we needed to submit
14 financial documents for a preliminary
15 qualification, and then we were offered all
16 kinds of assistance, and I guess you're the
17 company that will be working with those that
18 are getting ready. This weekend they will be
19 coming to Maui again and are requesting
20 updated financials, because they're getting
21 ready in November, when we start actually
22 selecting lots and building next February,
23 they want to make sure that we're ready. And
24 I want to testify that I think the help that
25 you provide is very, very good, because people

1 need to repair their credit, they need to hold
2 on before they buy the big SUV or whatever it
3 is.

4 MS. KAUHANE: Absolutely.

5 COUNCILMEMBER BAISA: And I think that it's very
6 important, and I get your point. And I think
7 that as we approve affordable housing
8 projects, it's something that we might want to
9 mention along with conditions, is that there
10 be home-buyer education so that by the time
11 those homes are built and they actually have
12 to go for the mortgage, they will be ready.
13 And I've been told by people like yourself,
14 and you can verify this, is that oftentimes
15 it's the purchase of a vehicle that is the
16 problem with the credit. Is that true?

17 MS. KAUHANE: Absolutely. Absolutely. I think as
18 Committee Members, this is -- you have the
19 ability to help us do that. Maui is --
20 there's a lot of development going on in Maui.
21 Education can only help. It will not hurt
22 your community. There is a profit margin in
23 developments. That's fine. It could also be
24 an opportunity for those developers to give
25 back into -- to put some of that back to the

1 community to make sure that families can
2 really sustain the properties that they're
3 getting into.

4 COUNCILMEMBER BAISA: Thank you very much --

5 MS. KAUHANE: Thank you.

6 COUNCILMEMBER BAISA: -- for the work that you do,
7 because getting those folks in a home is
8 really important.

9 MS. KAUHANE: Thank you.

10 CHAIR MOLINA: Thank you, Councilmember Baisa.

11 And, Members, before I recognize Member
12 Anderson, again, please confine your questions
13 to the particular item and not so much on the
14 program that's being offered. Although I
15 think it's a great program, but I do want to
16 stay within the Sunshine Law parameters here,
17 so the agenda item is the Pulelehua project.

18 Councilmember Anderson.

19 COUNCILMEMBER ANDERSON: Thank you, Chair.

20 Ms. Kauhane, the State's 201 H program
21 now, which is a HUD-based program, requires by
22 law that those projects provide homeowner
23 education. So does your organization assist
24 in those projects?

25 MS. KAUHANE: Not any project that I know of under

1 201 H in particular.

2 COUNCILMEMBER ANDERSON: So you said you were
3 contracted by Maui Land & Pine to provide this
4 service for Pulelehua?

5 MS. KAUHANE: Yes.

6 COUNCILMEMBER ANDERSON: And so are you contracted
7 on a regular basis by specific project
8 managers to assist them?

9 MS. KAUHANE: At Pulelehua?

10 COUNCILMEMBER ANDERSON: No, no, no, just --

11 MS. KAUHANE: Anywhere else?

12 COUNCILMEMBER ANDERSON: Is that how your
13 organization operates, is that you only give
14 homeowner education assistance when you are
15 requested by a developer?

16 MS. KAUHANE: No. We do classes monthly across the
17 State. We do --

18 COUNCILMEMBER ANDERSON: And how would someone plug
19 into that here?

20 MS. KAUHANE: We have a -- our office in Paukukalo,
21 Maui, they could contact us. We have a
22 website, hawaiiancommunity.net, and they can
23 register for classes there, and we have
24 classes monthly. For Pulelehua in particular,
25 they do the outreach, coordinating people

1 to -- if we have folks who want to attend that
2 work -- they're welcome to join as well, but
3 they help to outreach for people who have
4 shown interest in the project, employees,
5 family, and open to the broad community.

6 COUNCILMEMBER ANDERSON: Okay, thank you.

7 MS. KAUHANE: You're welcome.

8 COUNCILMEMBER ANDERSON: Thank you, Chair.

9 CHAIR MOLINA: Thank you, Members.

10 Any other questions for the testifier?

11 Seeing none. Thank you, Ms. Kauhane.

12 MS. KAUHANE: Thank you.

13 CHAIR MOLINA: Next to testify we have Daniel San
14 Miguel, followed by Kimokeo Kapahulehua.

15 MR. SAN MIGUEL: Hello my name is Daniel San Miguel.

16 Just want to say I did attend the Hawaii
17 Community Assets homeowner's education. It
18 was excellent, provided to us at no cost, and
19 really provide a good service. I think it was
20 about a year and a half ago though. I mean,
21 I'm trying to get ready, and just waiting,
22 because there's nothing affordable to buy.

23 Like many other local people, my family
24 has been here in Hawaii for generations. My
25 wife was born and raised here. Both our

1 grandparents worked for sugar and pineapple
2 plantations here and on Oahu, and they were
3 able to buy homes. My wife and I both work
4 full-time and we cannot afford to buy a decent
5 home here. We've been looking for property
6 recently. It's very discouraging. A typical
7 property in our price range is a house in
8 tear-down condition, and it's actually
9 advertised as that, or -- and in a bad
10 location or vacant land that we can't afford
11 to build.

12 There are many beautiful properties on
13 Maui, but none are affordable. I feel like
14 we're left grabbing for scraps. I mean, if
15 you really look at anything below \$450,000 is
16 literally, if you look in that price range, is
17 a tear-down property.

18 With the high cost of housing, Pulelehua
19 represents to many working families their only
20 realistic chance to own a decent home on Maui.
21 I mean, I don't think we're telling you
22 anything you don't know, saying that the
23 rental prices are also high. After paying
24 rent, it's very difficult to save money to
25 improve our credit. It's not a good feeling

1 to pay the rent, high rent for a 50-year old
2 house, knowing that every six months the
3 landlord can either ask you to move out or
4 raise the rent. And many people I know are in
5 the same situation.

6 There's virtually no affordable housing
7 being built. Three years ago I heard about
8 Pulelehua. I got very excited, but I thought,
9 I'm probably too late to apply, you know. I
10 could not have imagined how wrong I was. How
11 can a permit process take this long when the
12 need is so great?

13 Anyway, in closing, I really just urge
14 you to support and approve this project as
15 soon as possible. Thank you for your time.

16 CHAIR MOLINA: Thank you, Mr. San Miguel.

17 Committee Members, questions for the
18 testifier? Councilmember Anderson.

19 COUNCILMEMBER ANDERSON: Mr. San Miguel, thank you
20 for your testimony. Just to clarify, have you
21 applied already for Pulelehua --

22 MR. SAN MIGUEL: Yes, I have.

23 COUNCILMEMBER ANDERSON: -- signed up? You have?

24 MR. SAN MIGUEL: I signed up a while ago, I think
25 two years ago or maybe three.

- 1 COUNCILMEMBER ANDERSON: Okay, thank you.
- 2 CHAIR MOLINA: Okay, thank you. Councilmember
3 Johnson.
- 4 COUNCILMEMBER JOHNSON: Yes, I know there's a
5 requirement under another project, Kapalua
6 Mauka, that was approved, so have you been
7 contacted by Maui Land & Pine as to the
8 affordable rentals and that affordable
9 component that they were going to be
10 providing?
- 11 MR. SAN MIGUEL: I have not -- is this on -- which
12 property?
- 13 COUNCILMEMBER JOHNSON: This was already approved,
14 so it's a requirement under that that they're
15 going to be providing that housing, so I was
16 just curious as to whether --
- 17 MR. SAN MIGUEL: Yes, I mean, I've seen on the
18 website rentals as well as -- is this -- are
19 you talking about Pulelehua specifically?
- 20 COUNCILMEMBER JOHNSON: No. It was supposed to be
21 provided in conjunction with Kapalua Mauka,
22 and so I'm curious as to whether or not that
23 is moving forward? I just -- if you don't
24 know, that's --
- 25 MR. SAN MIGUEL: I don't know. I'm sorry.

1 COUNCILMEMBER JOHNSON: Okay, thank you.

2 CHAIR MOLINA: Thank you, Councilmember Johnson.

3 Any other questions for the testifier?

4 Seeing none. Thank you for your testimony.

5 Next to testify we have Kimokeo

6 Kapahulehua, followed by Wayne Nishiki.

7 MR. KAPAHULEHUA: Hello, good afternoon, Council
8 Chair Molina and Council Members. My name is
9 Kimokeo Kapahulehua. I'm testifying on behalf
10 of Na Kupuna O Maui in support of Pulelehua.
11 First, Na Kupuna O Maui would like to support
12 the affordable housing component. Secondly,
13 we support the lower school, which is
14 kindergarten to 5th grade in -- thinking that
15 will work out with the Department of
16 Education, so with this -- in that housing
17 now, the children would just walk to school.
18 We have Princess Nahienaena, we have
19 Kamehameha III, and -- we have three
20 elementary schools, anyway, and those are
21 already up to capacity, and so they will
22 definitely fill the component of having that
23 school there, so Na Kupuna O Maui supports the
24 project called Pulelehua and we ask you to
25 support this.

1 CHAIR MOLINA: Thank you, Mr. Kapahulehua, for your
2 testimony.

3 Committee Members, questions for the
4 testifier? Councilmember Anderson.

5 COUNCILMEMBER ANDERSON: Kimoqueo, thank you for
6 being here.

7 MR. KAPAHULEHUA: Thank you.

8 COUNCILMEMBER ANDERSON: Is Pulelehua going to build
9 the elementary school?

10 MR. KAPAHULEHUA: No. Pulelehua is working together
11 with the State of Hawaii Education. I
12 couldn't ask [sic] you if they're going to
13 build the school, but there is an arrangement
14 made for a lower school to be built in
15 Pulelehua.

16 COUNCILMEMBER ANDERSON: A signed arrangement?

17 MR. KAPAHULEHUA: I'm not so sure, but I do know in
18 our discussions to them that they're committed
19 to build a lower school in there. I couldn't
20 answer the -- if the Maui Land & Pine is doing
21 that or the State, but they're working with
22 the State for the lower school.

23 COUNCILMEMBER ANDERSON: Okay, thank you.

24 MR. KAPAHULEHUA: Thank you.

25 CHAIR MOLINA: Thank you, Councilmember Anderson.

1 Any other questions for the testifier?

2 Seeing none. Thank you, Mr. Kapahulehua.

3 MR. KAPAHULEHUA: Thank you.

4 CHAIR MOLINA: Next to testify is Wayne Nishiki, and

5 Mr. Nishiki is the last person to have signed

6 up.

7 MR. NISHIKI: Good afternoon, honorable Council

8 Members. My name is Wayne Nishiki. I'm

9 speaking against Pulelehua, against Pulelehua.

10 When I was a Council person working on the

11 Community Plan for West Maui, we had looked at

12 that area as a park. The reason why, after

13 that controversial West Maui airport was

14 built, many of us had some concerns about the

15 safety, and that's the reason why a park was

16 scheduled to be built there.

17 The airport is right there. We had

18 many tests. I don't know if -- Mr. Pontanilla

19 and Mr. Molina and Mr. Hokama, of course, is

20 the senior Members -- had the opportunity to

21 vote on that project, but there were many

22 problems and safety problems. That's the

23 reason why the community -- made up of

24 community members recommended that a park be

25 put in that area, for the concern of safety.

1 I don't like to go up against a big
2 company like Maui Land & Pine, but this must
3 be said. I thought when Kelawea Mauka --
4 Kapalua Mauka was approved there was talk that
5 there would be no more layoffs. What have
6 they done? They closed the cannery. What
7 does this teach you? This company is now
8 strictly for profit. Pineapple is going out.
9 Along with the cannery closed, can you imagine
10 how many people that had given the blood and
11 sweat to support this company? No concern.
12 They just laid them off, not to mention the
13 support staff, the carpenters I knew, the
14 plumbers, all the people that worked around to
15 keep this cannery area -- the company was so
16 cold, it just laid them off, gave them
17 separation and said, see you later.

18 Is this the kind of company that you
19 wanted to reward with this subdivision?
20 Trying to get the Community Plan Amendment
21 despite that we had set this up to be a park,
22 and we need parks in West Maui. It's not do
23 you want this or do you want that. That area
24 was put there because there's a safety and for
25 the need of the West Maui community to have

1 parks. Look at that kind of crap parks they
2 got over there in West Maui. Try and live
3 there. If one big hotel wanted to have a
4 party somewhere on a local park there, there's
5 no place. Launiupoko, small area. I can't
6 think of nowhere else. West Maui needs a
7 park. This is part of an infrastructure that
8 West Maui needs.

9 MS. NAKATA: Three minutes.

10 MR. NISHIKI: My throat is drying up, and so I say,
11 no Community Plan Amendment. I know that the
12 Administration has said that it did not want
13 to see this until the General Plan was
14 approved. I ask you to use your integrity
15 also in not allowing this type of development
16 to occur at this point in time. Thank you.
17 Any questions?

18 CHAIR MOLINA: Thank you, Mr. Nishiki.

19 Okay, one at a time. Let's start first
20 with Councilmember Johnson, followed by
21 Councilmember Anderson.

22 COUNCILMEMBER JOHNSON: Thank you very much, Wayne,
23 for being here.

24 MR. NISHIKI: Thank you.

25 COUNCILMEMBER JOHNSON: You know, with regard to the

1 park -- because I have always seen this being
2 a regional park because of the inadequacy, as
3 you point out, for all of our park space in
4 West Maui. Were there other -- you know, were
5 there other places -- because I wasn't on the
6 Council, obviously, when this was approved.
7 Were there other places that were talked about
8 where you could put this large a regional park
9 and --

10 MR. NISHIKI: The reason why this area was selected
11 was because in Lahaina you had some parks in
12 that area. They were looking at the
13 development that was to occur in the Kapalua,
14 Honokowai, Napilihau area, and this is the
15 reason why that area was selected for the park
16 by members chosen by Council Members who
17 represented and lived in West Maui. This was
18 not somebody that lived on Lanai, on Molokai,
19 in Honolulu that knew nothing about the area.
20 These were people that lived there, were
21 selected because they wanted to create a
22 community, and now you've got Maui Land & Pine
23 saying, hey, erase that. Let's erase them off
24 the -- what is there because we want to put in
25 Pulelehua. Come on, they've got other areas

1 they can put in affordable. Not this area.

2 COUNCILMEMBER JOHNSON: And are you aware -- because
3 I know you've been still involved in community
4 issues, because I have not been aware that any
5 of the community members that served on the
6 Community Plan Advisory Committee or the
7 general community who required or wanted that
8 park put there, had they ever been approached,
9 are you aware of, to actually change that now,
10 to do away with the park?

11 MR. NISHIKI: I don't think that the community
12 committee made up of West Maui residents -- I
13 don't know. I don't know if they've ever been
14 approached. Ask Maui Land & Pine. That would
15 be the person -- they're asking for this.

16 COUNCILMEMBER JOHNSON: Okay.

17 MR. NISHIKI: And if I were to guess, I would say
18 no.

19 COUNCILMEMBER JOHNSON: Yeah, and you spoke about, I
20 guess, the practices or whatever or rewards
21 going to a company that does not seem to be
22 honoring its commitments. Are you aware of
23 any other things that, you know, have been
24 done in the area that, you know, are of
25 concern to you? I know that you're with Save

1 Honolua, but --

2 MR. NISHIKI: Yeah, it's not that. It's just for
3 local people that I've seen that have given
4 their sweat and tears in supporting the
5 cannery and Maui Land & Pine. You know, it's
6 kind of a -- I guess I can say it because I
7 believe in this. You know, it's like Colin
8 Cameron, when he was alive, was a great man
9 who cared about the people, the place, and
10 everything else. That's the reason why when
11 the grave sites were discovered out in
12 Honokahua, he moved it back and this shows you
13 the integrity and the sensitivity. I can
14 speak today and feel that this is not the kind
15 of company that we have now with the
16 leadership. And I don't mean to offend
17 anybody. I just look at what somebody says
18 and what they do, and that is like you don't
19 have to shake somebody's hand, you can believe
20 in him and that's what he's going to do. This
21 is not the situation, and that's the reason
22 why this is before you.

23 COUNCILMEMBER JOHNSON: Thanks very much for your
24 comments, Wayne.

25 MR. NISHIKI: Thank you.

1 COUNCILMEMBER JOHNSON: Appreciate it.

2 CHAIR MOLINA: Councilmember Anderson.

3 COUNCILMEMBER ANDERSON: Thank you, Chairman.

4 Thank you for being here, Wayne.

5 MR. NISHIKI: Yeah.

6 COUNCILMEMBER ANDERSON: You hit on one of the
7 questions that I wanted to ask, because I know
8 you travel to West Maui almost daily, right?

9 MR. NISHIKI: Yes.

10 COUNCILMEMBER ANDERSON: So you're very familiar
11 with the area. Are there other areas where
12 they could put this project without having it
13 in close vicinity to the airport?

14 MR. NISHIKI: I'm sure there are, but site specific
15 I wouldn't be able to tell you. I think that
16 this is not the concern that this Council
17 needs to weigh. What you need to look at, as
18 one speaker already has represented, there are
19 other developments that are occurring. You
20 need to look at that inventory and what you
21 will see in West Maui. I think if you weigh
22 what the people of West Maui put up with,
23 traffic, inability to see the ocean, high cost
24 of living, I think that you, this Council,
25 need to look at areas that may be possible for

1 affordable housing. I have not done my
2 homework to locate any specific area, but ask
3 Maui Land & Pine where else they have land.

4 COUNCILMEMBER ANDERSON: Well, it was kind of an
5 unfair question. I'm sorry, but --

6 MR. NISHIKI: The reason why I say this to you --
7 excuse me, Mr. Chairman -- is because it just
8 seems to me, when I look at the footprint of
9 Maui Land & Pine and what they're trying to do
10 in that area, they got a high end development,
11 million dollar homes all along the oceanfront,
12 no public access, and if there is access,
13 there's no parking. I don't know, it's like
14 what do we really have here for those of us
15 that support the industry or work in the
16 industry?

17 CHAIR MOLINA: Councilmember Anderson, you have
18 another question?

19 MR. NISHIKI: And you've got to be honest about what
20 you put in there.

21 COUNCILMEMBER ANDERSON: You sat on the Council when
22 they adopted the Community Plan for West Maui.
23 And I believe Mr. Cameron was still alive, or
24 at least it was still family-owned company.
25 Maybe it was Richard. I think it was Richard

1 Cameron. But at the time that Community Plan
2 was developed, they received Community Plan
3 designation for hundreds of land -- hundreds
4 of acres of land to be developed, Kapalua
5 Mauka, well, Kapalua Project Districts 1 and
6 2, and that consists of hundreds of acres of
7 land. And they did not object to having the
8 area below the airport designated for Park and
9 Ag, and was that because they got so many
10 acres designated for development at that same
11 time already? In other words, you know, you
12 take a lot and you give a little. Do you
13 recall?

14 MR. NISHIKI: I think that would be a fair
15 assessment, because I don't believe -- and
16 they would be very vocal, I would think, at
17 that point in time, when the Community Plan
18 was being formed, they did get a lot, and
19 because of this, perhaps, they did not object
20 to it, especially with a group of community
21 residents that were giving out the bennies.
22 So they did not object, and obviously it's
23 because they got a lot of benefits during that
24 plan update.

25 COUNCILMEMBER ANDERSON: Okay, thank you very much.

1 CHAIR MOLINA: Thank you, Member Anderson. Seeing
2 no other questions for the testifier, thank
3 you, Mr. Nishiki --

4 MR. NISHIKI: Thank you.

5 CHAIR MOLINA: -- for your testimony.

6 And seeing no one else approaching from
7 the gallery for testimony, if there are no
8 objections, Members, the Chair will close
9 public testimony for our two Land Use items
10 today.

11 COUNCIL MEMBERS: No objections.

12 CHAIR MOLINA: All right, thank you very much,
13 Members. So ordered.

14 **...END OF PUBLIC TESTIMONY...**

15 CHAIR MOLINA: Members, it's time for a recess.

16 Chair will call for a recess until 3:15.

17 (Gavel).

18 **RECESS: 3:05 p.m.**

19 **RECONVENE: 3:18 p.m.**

20 **ITEM NO. 10: USE VARIANCE FOR PACIFIC BIODIESEL**
21 **(KAHULUI) (C.C. No. 07-114)**

22 CHAIR MOLINA: (Gavel). Land Use Committee meeting
23 for Wednesday, March 12th, 2008 is now back in
24 session.

25 Members, we are on our first item of the

1 day, Land Use Item No. 10, which is a proposed
2 use variance for Pacific Biodiesel in Kahului.
3 The Committee is in receipt of the following:
4 County Communication Number 07-114 from the
5 Planning Director transmitting the Board of
6 Variances and Appeals' approval of a request
7 from the Department of Public Works and
8 Environmental Management for a use variance to
9 allow Pacific Biodiesel to process waste
10 cooking oil into biodiesel within the Interim
11 District at the Central Maui Landfill, Phase
12 III, located off Pulehu Road in Kahului.

13 The Committee is considering two res --
14 either of two resolutions to consider, one is,
15 of course, which is to approve and the other
16 which is to disapprove.

17 So with that being said, the Committee
18 Chair would like to also recognize the
19 appearance of the Director of Environmental
20 Management, Cheryl Okuma, as well as
21 Mr. Takamine, Tracy Takamine, the Solid Waste
22 Division Chief. Good afternoon, and we
23 appreciate you being here.

24 And we last met on this matter several
25 weeks ago, and of course we -- it is somewhat

1 of a time sensitive matter. We had, I guess,
2 dealt with the State Department of Health and
3 their most recent letter had expressed some
4 concerns about this matter not being
5 addressed, and that if we don't find some type
6 of resolution to this, we could be subjecting
7 ourselves to potential fines and other nasty
8 things.

9 So with that being said, the Chair would
10 like to turn over the matter. I guess,
11 Director Okuma, do you have any additional
12 comments to make before we open the floor for
13 questioning?

14 MS. OKUMA: Yes, thank you very much for taking this
15 matter up, Committee Chair Molina and
16 Committee Members. I'd just like to note that
17 by letter dated -- transmittal dated March 10,
18 2008 we did provide information requested by
19 this Committee Council, and basically it
20 addresses the prior confusion on land
21 ownership in terms of the land, the property
22 upon which Pacific Biodiesel operates, so we
23 have clarified that in that transmittal.
24 Basically it is the County that does own that
25 property upon which Pacific Biodiesel

1 operates.

2 And the other point that we were asked
3 to address was the approval in perpetuity, and
4 just like to affirm that we are in support of
5 the Board of Variance and Appeals' conclusion
6 of a use variance in perpetuity. It's our
7 understanding that that runs with the land, so
8 long as it's this type of activity, and that's
9 what we understand from our -- our attorney.

10 Thank you.

11 CHAIR MOLINA: Okay, thank you, Madam Director.

12 Before I open the floor for questions,
13 Mr. Takamine, do you have any comments to add?

14 MR. TAKAMINE: No, I do not at this time.

15 CHAIR MOLINA: Okay, thank you.

16 Committee Members, the floor is now open
17 for questions. Councilmember Johnson.

18 COUNCILMEMBER JOHNSON: Yes, and thanks very much
19 for explaining, you know, the time sensitivity
20 and I guess the predicament we're in, because
21 I did listen to a tape of the last meeting too
22 on this issue. One of the things that I asked
23 a testifier was that in the long term, I know
24 this is just the interim fix, but have you
25 explored the possibility of seeking a

1 Council-initiated land use change for this as
2 a permanent site or is that not an option?

3 MS. OKUMA: For purposes of this use variance in
4 preparing for this Committee meeting, we have
5 been in discussions with the Planning
6 Department, and that is in fact something that
7 has come up. And basically we're open to
8 doing whatever is needed in order to see that
9 we do have conforming use for this type of
10 activity. So I guess the answer is yes, we're
11 open to that.

12 COUNCILMEMBER JOHNSON: Yeah, and that would be the
13 long-term fix, rather than just continuously
14 going this route.

15 MS. OKUMA: Yes.

16 COUNCILMEMBER JOHNSON: Okay, thank you very much.

17 CHAIR MOLINA: Thank you, Councilmember Johnson.
18 Councilmember Medeiros.

19 COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.

20 Director, we heard testimony that EKO is
21 also in a close vicinity in location to
22 Pacific Biodiesel.

23 MS. OKUMA: That's correct. EKO has their
24 composting activity, which is on Phase III of
25 the landfill. Phase III of the landfill is

1 the property that the County now owns, and
2 that is also where Pacific Biodiesel operates.
3 And they've got sort of a synergy in terms of
4 their activities as between those two. Now,
5 EKO also has the grinding of green waste
6 operation, and most recently, last year, that
7 part of that activity, and it's only EKO, is
8 now occurring on Phase V, which we do not own
9 at this time, and we're in negotiations for
10 that property acquisition and purchase.

11 COUNCILMEMBER MEDEIROS: So EKO would also benefit
12 from this variance or it's not so much a
13 requirement to have this variance?

14 MS. OKUMA: My understanding is that this use
15 variance is really applying to Pacific
16 Biodiesel's activity.

17 COUNCILMEMBER MEDEIROS: Okay, thank you for that
18 response and information.

19 Mahalo, Mr. Chairman.

20 CHAIR MOLINA: Okay, thank you, Councilmember
21 Medeiros.

22 And, Members, by the way, we also have a
23 representative from the Planning Department
24 also, ready to respond to any questions that
25 you may have, currently sitting in the

1 gallery.

2 Any other questions for Director Okuma?

3 And by the way, the response from the Director
4 was in relation to a March 10th, 2008 letter
5 sent from the Director to the Committee.

6 Committee Members? Madam Director.

7 MS. OKUMA: May I just make one clarification to my
8 response to Councilmember Medeiros? The use
9 variance is needed for the operating permit
10 for EKO, however, that's the DOH operating
11 permit that we're talking about is needed.

12 COUNCILMEMBER MEDEIROS: Okay, and by saying that,
13 it means that they're both operating on
14 separate permits or agreements or on one?

15 MS. OKUMA: It's -- I believe -- and EKO is here,
16 but I believe it's one permit. Is that right?

17 MR. TAKAMINE: Pacific Biodiesel has a permit to
18 operate and they require this variance. EKO
19 also is required to have an operating permit,
20 but because EKO is a sub -- subcontracted by
21 EKO and they're using some residuals from EKO
22 in the composting operation, they require --
23 the DOH is requiring them to have the right
24 zoning in order for both of them to have the
25 permits issued.

1 COUNCILMEMBER MEDEIROS: Okay. So when we do a
2 variance, I understand from testimony, and
3 tell me if this is correct, that currently
4 it's on Interim zoning?

5 MR. TAKAMINE: That's correct.

6 COUNCILMEMBER MEDEIROS: And what would be the
7 proper zoning without a variance?

8 MR. TAKAMINE: I believe it would be agriculture.

9 COUNCILMEMBER MEDEIROS: Agriculture for that kind
10 of activity?

11 MR. TAKAMINE: I believe so.

12 COUNCILMEMBER MEDEIROS: Okay. Thank you for your
13 response.

14 Mahalo, Mr. Chairman.

15 CHAIR MOLINA: Mr. Medeiros, if you'd like
16 additional clarification, maybe we can call
17 someone from the Planning Department, if that
18 is your choosing, for at a later point.

19 COUNCILMEMBER MEDEIROS: At this time I'll yield to
20 the next Member for questions. Thank you.

21 CHAIR MOLINA: Okay. Councilmember Baisa.

22 COUNCILMEMBER BAISA: Yes, Mr. Molina, I'd like to
23 know what is the length of time of the permit?
24 Is there an expiration?

25 MS. OKUMA: The permit under which they have been

1 operating actually expired about a month or so
2 ago. Oh, yeah. I'm sorry, this is the
3 permit, not our contract, right?

4 COUNCILMEMBER BAISA: Uh-huh.

5 MS. OKUMA: So the permit expired, it was about a
6 month ago, and so, therefore, that's why the
7 application had been submitted previously and
8 EKO was in the process of putting together
9 the -- whatever was required by Department of
10 Health. But, again, the DOH operating permit
11 expired about a month ago, around the time we
12 met the last time.

13 COUNCILMEMBER BAISA: Okay. Thank you.

14 CHAIR MOLINA: Okay, thank you, Councilmember Baisa.

15 Any other questions for Director Okuma?
16 Councilmember Anderson.

17 COUNCILMEMBER ANDERSON: Thank you, Chairman.

18 So this variance is for Phase III, the
19 whole Phase III operation of the landfill.

20 MS. OKUMA: My understanding -- and perhaps Planning
21 can really address this, but my understanding
22 is that that use variance applies to the
23 property, which is Phase III, and it applies
24 to the activity of Pacific Biodiesel.

25 COUNCILMEMBER ANDERSON: So I'm looking at the map

1 that is attached to the January 29th, '08
2 transmittal. It's actually the very last
3 thing on that transmittal, Members. And it's
4 showing the Central Maui Landfill, Phases I,
5 II, and III, and Phase III shows 13 1/2 acres,
6 and it shows sludge receiving, FOG processing,
7 a retention pond, composting, screening and
8 storage. So all of that use is utilized by
9 Pacific Biodiesel; is that correct?

10 MS. OKUMA: Well, EKO is also on Phase III, so
11 Pacific Biodiesel doesn't occupy that whole
12 area.

13 COUNCILMEMBER ANDERSON: So the variance is for both
14 of them?

15 MS. OKUMA: Well, my understanding is the reason for
16 the use variance is really due to the activity
17 of Pacific Biodiesel, and again --

18 COUNCILMEMBER ANDERSON: So if EKO was the only one
19 using this Phase III, there wouldn't be a need
20 for a variance?

21 MS. OKUMA: Well -- okay, I would probably defer
22 that to the Planning Department, because my
23 understanding is that the reason why we're
24 going forward with the use variance is to
25 address the fact that Pacific Biodiesel has

1 this activity. However, for DOH operating
2 permit purposes, we know that what's important
3 to Department of Health is conforming Land
4 Use, and that's tied to both EKO's activities
5 as a subcontract with Pacific Biodiesel. So I
6 guess it's all tied together.

7 COUNCILMEMBER ANDERSON: So what I'm hearing you say
8 is that because Pacific Biodiesel is regulated
9 under the Department of Health, and the
10 Department of Health requires proper zoning,
11 that the Department of Waste Management has
12 requested this variance. If it was only EKO
13 composting, Department of Health wouldn't be
14 concerned; is that correct?

15 MS. OKUMA: I think -- I believe that that would be
16 so, because, again, my understanding is that
17 the use variance is only to address Pacific
18 Biodiesel's activity.

19 COUNCILMEMBER ANDERSON: And so is it correct that
20 if Pacific Biodiesel was not operating, it
21 would impact the operations of EKO composting?

22 MS. OKUMA: If one recalls, from what I understand,
23 when the request for proposal was issued about
24 five years ago, one of the requirements was to
25 address the fats, oil, and grease, and back in

1 terms of how this has evolved over time, my
2 understanding is that Pacific Biodiesel
3 appeared on the scene and then subcontracted
4 with EKO so that EKO could basically satisfy
5 the requirement of the RFP.

6 COUNCILMEMBER ANDERSON: Okay. Thank you.

7 CHAIR MOLINA: Thank you, Councilmember Anderson.

8 Any other questions for the Director
9 before I call up someone from the Planning
10 Department to give comments? Okay, seeing
11 none, I see in the gallery we have Director
12 Hunt, as well as Mr. Cerizo. Gentlemen,
13 either one of you, or both of you, please feel
14 free to come up and give us your comments on
15 this proposal. Good afternoon, gentlemen, and
16 thank you for making yourselves available.

17 MR. HUNT: Good afternoon.

18 CHAIR MOLINA: Mr. Director, do you have any
19 comments to add into what has already been
20 discussed from the prior meeting as it relates
21 to this particular proposal?

22 MR. HUNT: I can try and answer some of the
23 questions that have come up.

24 CHAIR MOLINA: Okay.

25 MR. HUNT: The base zoning of the property is

1 Interim, and that doesn't allow for the
2 facility, so that's why the variance is
3 required. There's another green processing
4 facility on site that is allowed, so that's
5 not subject to the variance, even though it's
6 on the same area. And Francis Cerizo can
7 probably give you a lot more better
8 information than I can regarding all this.

9 CHAIR MOLINA: Okay, thank you, Mr. Director.

10 COUNCILMEMBER ANDERSON: Chair.

11 CHAIR MOLINA: Councilmember Anderson.

12 COUNCILMEMBER ANDERSON: Yeah, I just want to get
13 some clarification. When you say EKO is not
14 subject to the variance, are you saying that
15 they could operate with or without the
16 variance?

17 MR. HUNT: We interpret the Code that their
18 operation doesn't need a variance because it's
19 an agricultural use.

20 COUNCILMEMBER ANDERSON: Well, back in July of 2004
21 Maui EKO Composting and Pacific Biodiesel
22 applied for a Conditional Use and State
23 Special Use permit with the Planning
24 Department in order to operate in an Ag
25 District, what was thought to be an Ag

1 District, and then in reviewing the
2 applications -- and I'm reading this right out
3 of the variance application -- the Department
4 of Planning determined that the property is
5 located within the County's Interim District,
6 which would then cause it to require a
7 variance.

8 Can you tell me was this a new
9 revelation that it was in the Interim
10 District? How much of the land in that area
11 is considered Interim?

12 CHAIR MOLINA: Mr. Director or Mr. Cerizo?

13 MR. HUNT: I'll defer to Mr. Cerizo. He has a lot
14 more history on this project.

15 COUNCILMEMBER ANDERSON: Thank you.

16 MR. CERIZO: The property's under the State Land Use
17 Agriculture District, and that's the purpose
18 of why they need the State Special Use Permit.
19 It's not a permitted use to have the biodiesel
20 facility in -- within the State District.

21 The -- EKO is the primary -- Pacific
22 Diesel [sic] is a subcontractor to EKO, so
23 the -- actually the business that's actually
24 doing the work is EKO, they're the primary
25 contract -- primary contractor to handle the

1 waste products, the green waste, and as far as
2 the fat, oils, that's -- they're
3 subcontracting that to Pacific Diesel [sic] to
4 process. So that is -- that part there is
5 what needs to have the variances, the Pacific
6 Diesel [sic] operation.

7 COUNCILMEMBER ANDERSON: Excuse me. Okay. My
8 question was when -- when was it determined
9 that this property was County Interim and how
10 much of the property in that area is County
11 Interim?

12 MR. CERIZO: The property has been always Interim.
13 The portion that's Interim is that portion
14 that's designated as Public/Quasi-Public on
15 the Community Plan. The -- that's to the
16 extent of the area that's Interim.

17 COUNCILMEMBER ANDERSON: Okay, so you can't tell me
18 is Phase I and Phase II also Interim?

19 MR. CERIZO: We are looking at, you know, the map as
20 to where Phase I and Phase II is. The -- I
21 can't tell exactly where the Phase II or III,
22 if they're outside the Community Planned area
23 or not.

24 COUNCILMEMBER ANDERSON: So you don't have any map
25 with you that shows the Interim zoning for the

1 land in this area?

2 CHAIR MOLINA: Mr. Cerizo, do you need a little bit
3 more time to try and locate that?

4 MR. CERIZO: Yeah, we're trying to locate a zoning
5 map, and that's -- if you'd like me to --

6 COUNCILMEMBER ANDERSON: That's okay, if you can't
7 answer the question, I'll just move on. So
8 are you saying, then, from what I heard you
9 say previously, the land is State zoned, for
10 lack of a better word, Ag, it's in the Ag
11 District for the State, and so whether or not
12 they have a variance for the County zoning,
13 they still have to get a State Special Use
14 Permit?

15 MR. CERIZO: Yes.

16 COUNCILMEMBER ANDERSON: And they've already applied
17 for that, correct?

18 MR. CERIZO: Yes.

19 COUNCILMEMBER ANDERSON: And because it's under
20 13 acres, it is a permit that the County would
21 issue for the State; is that correct? I
22 mean --

23 MR. CERIZO: As far as the State Special Use Permit,
24 we have another person that actually processes
25 State Special Use Permits, and I don't have

1 the details on that, but we have a Staff
2 person here that could answer questions on the
3 State Special Use Permit.

4 COUNCILMEMBER ANDERSON: So you don't know -- I
5 mean, they applied in 2004 and they're under
6 the gun from the Department of Health, so the
7 Department hasn't processed --

8 MR. CERIZO: If you'd like to ask the question on
9 the State Special Use Permit, we have a person
10 here that can give you all the answers on the
11 State Special Use Permit.

12 COUNCILMEMBER ANDERSON: Okay. Thank you, Chair.
13 I'll yield.

14 CHAIR MOLINA: Okay, thank you, Member Anderson.
15 Chairman Hokama.

16 COUNCILMEMBER HOKAMA: For our Planning
17 Department -- and I appreciate Mr. Cerizo,
18 because he has a lot of institutional
19 background and history, Mr. Chairman. You
20 know, I believe we passed the agricultural --
21 Comprehensive Agricultural Zoning Bill prior
22 to final adoption of the current
23 Wailuku-Kahului Community Plan, which placed
24 this site as Public/Quasi-Public. So when we
25 did our comprehensive Ag Bill which introduced

1 the sliding scale, didn't we zone this
2 property Agricultural at the same time?

3 MR. CERIZO: Whatever was Community Planned Ag, it
4 was mentioned in the Ag bill that any
5 properties that are Community Planned Ag,
6 those properties will be zoned Ag, so --

7 COUNCILMEMBER HOKAMA: It also has State
8 classification Ag?

9 MR. CERIZO: No, that's not --

10 COUNCILMEMBER HOKAMA: As long as it had Community
11 Plan Ag --

12 MR. CERIZO: That's right.

13 COUNCILMEMBER HOKAMA: -- regardless of State land
14 use classification --

15 MR. CERIZO: That's right.

16 COUNCILMEMBER HOKAMA: -- got rezoned?

17 MR. CERIZO: Yeah, you might be confusing the Rural
18 Bill, which you have to have both the State
19 Rural and the Community Plan Rural, then you
20 would have zoning, but as far as the Ag, the
21 Ag Bill, it just relied on -- that you have a
22 Community Plan to be Ag and then the zoning
23 would follow.

24 COUNCILMEMBER HOKAMA: So this is State Interim for
25 time immemorial that we can recall,

1 Mr. Cerizo?

2 MR. CERIZO: Yeah, until the zoning map is adopted
3 for an area, all lands that was listed as
4 Interim in the early '60s or in the '50s,
5 those were -- that's when it started, and then
6 once we rezone it, like we did in 1998 for the
7 Ag Bill, that zoned anything that's in that
8 area, basically, all was -- Community Plan Ag
9 was turned into Ag. And as I recall, the
10 Community Plan for that area also included
11 Public/Quasi-Public designation, and that's
12 why that part there was not zoned.

13 COUNCILMEMBER HOKAMA: Okay. So hearing some of the
14 comments from this Committee, what would be
15 the appropriate rezoning from Interim?

16 MR. CERIZO: The appropriate rezoning would be to
17 Public/Quasi-Public. One of the permitted
18 uses in that section would be public buildings
19 and facilities, and this would be considered
20 as a public facility.

21 COUNCILMEMBER HOKAMA: The Pacific Biodiesel
22 component?

23 MR. CERIZO: No, the landfill.

24 COUNCILMEMBER HOKAMA: The landfill, yeah.

25 MR. CERIZO: Yeah.

1 COUNCILMEMBER HOKAMA: What would the components for
2 Pacific Biodiesel be? What would be
3 appropriate zoning? Industrial?

4 MR. CERIZO: More like M-2.

5 COUNCILMEMBER HOKAMA: M-2?

6 MR. CERIZO: Yeah.

7 COUNCILMEMBER HOKAMA: Because of the refining,
8 manufacturing component?

9 MR. CERIZO: That's correct.

10 COUNCILMEMBER HOKAMA: Okay. Okay. So are we -- is
11 the Department going to initiate? Because I
12 would not like to maintain Interim status,
13 because I don't believe in granting Board of
14 Variance and Appeals zoning authority through
15 perpetuity rulings. That's what the Council
16 is for.

17 MR. CERIZO: Yeah, I would think that that's the
18 direction we'd be going to as far as getting
19 the appropriate zoning. Another option
20 besides the M-2 would be a conditional permit
21 to the Public/Quasi-Public to allow that, but
22 that's another option.

23 COUNCILMEMBER HOKAMA: I think we want to get away
24 from conditional permits for this County in
25 general.

1 Thank you, Chairman.

2 CHAIR MOLINA: Thank you, Mr. Chair.

3 Any other questions for the Department?

4 Chair has one quick question, I guess, for the
5 Corporation Counsel, Mr. Giroux. Members, if
6 you'll note on November 29th, 2007, the Board
7 of Variances had a meeting, and in there
8 they -- it mentions that, I guess, the
9 variance -- they're recommending that the
10 variance is supposed to be placed in
11 perpetuity unless a condition is violated or
12 some other thing happens. And I guess this is
13 the minutes -- from the minutes.

14 Mr. Giroux, would you recommend that
15 should this Committee decide to go ahead and
16 approve, that we need to make include in the
17 resolution, possibly in one of the whereas
18 clauses, to make mention of what occurred at
19 the Board of Variance meeting and their
20 recommendation?

21 MR. GIROUX: Thank you, Chair. The statute
22 19.02.050 states that the -- while this is at
23 the variance level, that the Board may -- may
24 issue it and that they may issue conditions
25 and that they may put such period of time as

1 the facts may warrant. And I think that's
2 what the question came up to send it back to
3 the Board of Variance to ask them if they --
4 when it first came up, it didn't have any time
5 frame whatsoever in any of the transmittals,
6 and so when it went back, the comments that
7 came back were that they didn't see any facts
8 that warranted a time period.

9 The Council still at this level can look
10 at the facts and make a determination of
11 whether or not they think there are facts that
12 warrant it and they can add that in. So if
13 the -- if the Council doesn't see that and
14 they're just adopting what the variance --
15 Board of Variance has found, then an extra
16 whereas clause would make it clear as to what
17 the intention of the time frame of the
18 variance would be.

19 CHAIR MOLINA: Okay, thank you, Mr. Giroux. I bring
20 that up because earlier we heard Director
21 Okuma make mention that they would support the
22 recommendation from the Board of Variances as
23 well.

24 Members, any additional questions? If
25 not, the Chair is ready to offer a

1 recommendation.

2 COUNCILMEMBER BAISA: Recommendation.

3 CHAIR MOLINA: Okay, Members, the Chair will
4 entertain a motion to approve the action of
5 the Board of Variances and Appeals granting a
6 variance to allow Pacific Biodiesel,
7 Incorporated to process waste cooking oil into
8 biodiesel on property zoned Interim at
9 Kahului, Maui, Hawaii, and this would include
10 the filing of the communication.

11 COUNCILMEMBER ANDERSON: So moved.

12 COUNCILMEMBER JOHNSON: Second.

13 CHAIR MOLINA: Okay, it's been moved by Member
14 Anderson, seconded by Member Johnson. Any
15 discussion? And, excuse me -- okay, Member
16 Anderson, as the maker of the motion, I'll
17 recognize you first, followed by Chairman
18 Hokama.

19 COUNCILMEMBER ANDERSON: Yeah, Mr. Chair, you know,
20 I think it's unfortunate that Pacific
21 Biodiesel has been put in this position,
22 because they are a subcontractor to someone
23 who is contracted by the County to take care
24 of a County responsibility, and we would be in
25 deep kimchee, literally, if we didn't have

1 somebody to process our fats, oils, and
2 greases. And Pacific Biodiesel is making good
3 use of that waste, a productive use of that
4 waste, and providing a much needed service to
5 our community beyond just doing away with the
6 waste, but making -- making it into something
7 that is useful, and we found out today cheaper
8 than what we're all paying for gas, which is
9 something to really consider.

10 So I just think that anything we can do
11 to support this, and hopefully -- you know,
12 they put a big investment into this property,
13 County-owned property, in good faith that the
14 County would support them in long-term use.
15 They have -- I mean here we are five years
16 into it, they have another five years for
17 renewal, and -- which is coming up soon. So I
18 do know that this was brought to the attention
19 of the County many years ago. In fact, they
20 did apply in 2004, and here we are four years
21 later still trying to make things right.

22 So I'm glad to see that the Department
23 has brought this forward and found a way to
24 make it work. Hopefully we could -- because
25 this is a use I don't see ever going away. I

1 don't see biodiesel in Maui County ever going
2 away, so I would hope that we would find a way
3 to rezone the property properly and not have
4 to use a variance. I guess this was the most
5 timely way to do it, but I would like to
6 know -- I know we've got to vote already and I
7 would like to know what the status is of the
8 State Special Use Permit. And if my
9 understanding is correct, that is something
10 they still need to do for the State. So I
11 hope everybody supports this. Thank you,
12 Chairman.

13 CHAIR MOLINA: Thank you, Member Anderson.
14 Chairman Hokama.

15 COUNCILMEMBER HOKAMA: Chairman Molina, thank you.
16 I think -- you know, it's in my belief,
17 Chairman, that what we have here before us
18 this afternoon is not something about Pacific
19 Biodiesel. I think we have sufficient track
20 record with the entity that shows it's a
21 proven technology. They have done and worked
22 with us to alleviate the problems with our
23 sewer systems, our restaurants with their used
24 grease, used oils. For me, what has -- was
25 disturbing, and I commend you for your

1 patience, Mr. Chairman, is how this was
2 brought to Committee attention, as well as the
3 lack of resources from Administration for us
4 to have to try to resolve this issue at the
5 last meeting.

6 So my comment is in support of this
7 motion to provide Pacific Biodiesel the proper
8 variance and land use approval to continue and
9 satisfy State Department of Health's
10 requirements for us to continue during our
11 operations, but I will state for the record,
12 Mr. Chairman, I am not happy with how the
13 Administration, through the various
14 Departments, how they have responded with this
15 particular issue.

16 It doesn't make a passing standard grade
17 with me, Chairman. I can tell you, during
18 budget, they better put on their hard hats,
19 because I'll be firing a lot of bullets to
20 justify their budgetary request. Thank you.

21 CHAIR MOLINA: So noted, Mr. Chairman.

22 Members, the Chair would like to ask for
23 a consideration of an amendment from the
24 Committee Chair based on the conversation I
25 had with the Corporation Counsel relating to

1 the November 29th, 2007 BVA meeting. The
2 Committee Chair would like to ask for
3 consideration of a motion to include an
4 additional whereas clause in the approving
5 resolution to -- basically states the BVA held
6 a further meeting on the subject variance
7 application on November 29th, 2007 and found
8 that the use variance should be granted in
9 perpetuity.

10 COUNCILMEMBER JOHNSON: So moved.

11 COUNCILMEMBER ANDERSON: Second.

12 CHAIR MOLINA: It's moved by Member Johnson,
13 seconded by Member Anderson.

14 Any discussion on the amendment to the
15 main motion? Seeing none. All those in
16 favor, signify by saying, "aye."

17 COUNCIL MEMBERS: Aye.

18 CHAIR MOLINA: All those opposed?

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1 **VOTE: AYES:** Councilmembers Anderson, Baisa,
2 Hokama, Johnson, Medeiros,
3 Vice-Chair Pontanilla, and Chair
4 Molina.
5
6 **NOES:** None.
7
8 **EXC.:** Councilmembers Mateo and Victorino.
9
10 **ABSENT:** None.
11
12 **ABSTAIN:** None.

13 **MOTION CARRIED**

14 **ACTION: APPROVE amendment to main motion.**

15 CHAIR MOLINA: Okay, thank you. Chair will mark it
16 seven-zero.

17 We're now back to the main motion as
18 amended. Member Anderson.

19 COUNCILMEMBER ANDERSON: Mr. Chair, could I ask a
20 clarifying question of the Planning
21 Department?

22 CHAIR MOLINA: Proceed.

23 COUNCILMEMBER ANDERSON: In the resolution it states
24 on the first paragraph -- do you have a copy
25 of that in front of you, Director? It's
attached to a December 13th, 2007 transmittal,
the resolution before us that we've just moved
to approve. In the first paragraph --

MS. NAKATA: Oh, excuse me, Mr. Chair.

CHAIR MOLINA: Staff.

1 MS. NAKATA: The December 2007 transmittal is the
2 disapproving reso. The approving reso was
3 transmitted I believe back in May.

4 COUNCILMEMBER ANDERSON: Oh, geez.

5 CHAIR MOLINA: Thank you for that clarification.

6 COUNCILMEMBER ANDERSON: I guess I should have read
7 the title.

8 CHAIR MOLINA: May 18, 2007, reso attached to
9 approve.

10 Proceed, Member Anderson.

11 COUNCILMEMBER ANDERSON: Thank you, Carla.

12 I'm assuming they both say the same
13 thing, but let me double check. I just want
14 to be clear that we are -- of course now I
15 can't find the -- in May of '07?

16 COUNCILMEMBER MEDEIROS: 18, May 18th.

17 CHAIR MOLINA: May 18th, 2007.

18 COUNCILMEMBER ANDERSON: Okay, wait, wait. I'll get
19 it. Here it is. Okay. Okay. It's in the
20 second paragraph on this one. It says, the
21 project being located on that certain parcel
22 of land situated in Kahului, blah, blah, blah,
23 containing approximately 59.686 acres. And
24 then when we look at the map attached in the
25 response letter to your request, Mr. Chair, in

1 March of this year, it shows the area in
2 question as being 13 acres, so what I'm
3 wondering is are -- are -- the variance that
4 is being approved is for all 59 acres, which
5 would include Phase I and Phase II of the
6 landfill --

7 CHAIR MOLINA: Okay, Department --

8 COUNCILMEMBER ANDERSON: -- is that correct?

9 CHAIR MOLINA: -- can you provide a clarification
10 for Member Anderson? Mr. Cerizo.

11 MR. CERIZO: The map shows that the project, the
12 phases are on TMK parcel 3-8-3-19, and that
13 entire parcel is 59.686, and the phases that
14 we're talking about is located on that parcel.
15 So there's a portion of the parcel that we're
16 talking about, phases -- those specific
17 phases, they're located on that parcel, the
18 13 acres. So it's -- and it's reflected on
19 the map on Exhibit A.

20 COUNCILMEMBER ANDERSON: Right, I understand that.
21 My question is the resolution is approving a
22 variance for all 59.686 acres, and it was my
23 understanding that we only -- you know, Phase
24 I and Phase II doesn't need a variance, but, I
25 mean, I guess if we want to include them, it's

1 confusing when it's only Phase III that is
2 distinguished as being necessary for the
3 variance because of EKO composting and Pacific
4 Biodiesel. So is that a purposeful request?

5 MR. CERIZO: I guess -- I guess the -- what probably
6 would be more appropriate is that that phase
7 be identified, and perhaps instead of saying
8 the entire parcel, that we're just reflecting
9 that that phase, as reflected in the variance,
10 would be what should be included in the
11 resolution.

12 COUNCILMEMBER ANDERSON: Right, because when you
13 look at the report from the Planning
14 Department to the Board of Variance and
15 Appeals, it specifically calls out for a
16 variance for Phase III. And I'm sorry, but I
17 haven't had a chance to go through, but then,
18 you know, it's generally done when there is --
19 you want to just zone a portion of a parcel or
20 a TMK map number, that you can say a portion
21 of, what is it lot 19, but I just want to be
22 clear, Mr. Chair, that we're, you know, doing
23 what we're meant to be doing here and that the
24 resolution is correct. And I haven't had a
25 chance to go through the specifics in the

1 findings of fact to see if they called out for
2 all 59 acres or if they just wanted -- well --

3 CHAIR MOLINA: I agree, your concerns are definitely
4 justified. We want to make sure we get
5 clarity to this and --

6 COUNCILMEMBER ANDERSON: I guess there's no harm in
7 giving a variance to all 59 acres, unless
8 anybody can say there is, and I'd say we're
9 okay, but I just want clarification.

10 CHAIR MOLINA: Yeah.

11 COUNCILMEMBER ANDERSON: Because it's conflicting.

12 CHAIR MOLINA: I guess the main intent for today is
13 the Pacific Biodiesel area, but Department,
14 can you provide clarification? Mr. Director.

15 MR. HUNT: The second paragraph in the resolution,
16 in my interpretation, describes the land, the
17 property, not where the variance is subject
18 to. The resolution goes on, and in the last
19 paragraph on that same page the resolution
20 describes -- decision and order, a copy of
21 which is attached as Exhibit B. When you read
22 Exhibit B, it specifically refers to Phase
23 III, even though it includes that same tax
24 lot.

25 COUNCILMEMBER ANDERSON: Well, that's just what I

1 saw as a conflict, but then it also mentions
2 the 59 acres in the report. And so if we're
3 only doing Phase III, if that's all the
4 concern is of the Department and the State, I
5 guess we need to make it clear.

6 COUNCILMEMBER HOKAMA: Chairman, if I may.

7 CHAIR MOLINA: Member Anderson, if you mind yielding
8 the floor to Chairman Hokama.

9 COUNCILMEMBER ANDERSON: Yeah, I'm through, Chair.
10 I just brought up the concern.

11 CHAIR MOLINA: Okay. Proceed, Mr. Chairman.

12 COUNCILMEMBER HOKAMA: Chairman, thank you. I know
13 we are under discussion of the motion you have
14 accepted, but I would just ask the Members if
15 they wish, they can take note and look at the
16 various application filed by then Director
17 Arakawa when this division was under the
18 Department of Public Works. He's asking for a
19 use variance, but he does refer to a tax map
20 key, which is 3-8-003, parcel 019, and I'm
21 assuming that it is the entire parcel that the
22 use variance is being approved for.

23 CHAIR MOLINA: The 59 acres, okay, thank you for
24 that clarification, Mr. Chair.

25 Any other discussion on this matter,

1 Members? If the Committee wishes, we can work
2 with Committee Staff to provide -- get maybe a
3 written response from the Planning Department
4 to provide additional clarification if the
5 Committee so chooses. If that's not
6 necessary, then we'll just go from here, then,
7 Members.

8 Any other questions before the Chair
9 calls for the question? Seeing none. All
10 those -- by the way, included in this motion I
11 would like to ask for your consideration to
12 allow Staff to make any non-substantive
13 changes should the need arise. Seeing no
14 objections, thank you.

15 Members, all those in favor, signify by
16 saying, "aye."

17 COUNCIL MEMBERS: Aye.

18 CHAIR MOLINA: All those opposed?

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1 **VOTE: AYES:** Councilmembers Anderson, Baisa,
2 Hokama, Johnson, Medeiros,
3 Vice-Chair Pontanilla, and Chair
4 Molina.
5
6 **NOES:** None.
7
8 **EXC.:** Councilmembers Mateo and Victorino.
9
10 **ABSENT:** None.
11
12 **ABSTAIN:** None.

13 **MOTION CARRIED**

14 **ACTION:** Recommending ADOPTION of revised proposed
15 resolution entitled "APPROVING THE ACTION
16 OF THE BOARD OF VARIANCES AND APPEALS
17 GRANTING A VARIANCE TO ALLOW PACIFIC
18 BIODIESEL, INC. TO PROCESS WASTE COOKING
19 OIL INTO BIODIESEL ON PROPERTY ZONED
20 INTERIM AT KAHULUI, MAUI, HAWAII"; and
21 FILING of communication.

22 CHAIR MOLINA: Thank you. The Chair will mark it
23 seven-zero, with two excusals, Members Mateo
24 and Victorino. Land Use Item 10 will move on
25 to the Council for first reading [sic]. Thank
you very much, Members.

26 **ITEM NO. 65: COMMUNITY PLAN AMENDMENT, CHANGE IN
27 ZONING, AND PROJECT DISTRICT PHASE I
28 APPROVAL FOR THE PULELEHUA PROJECT
29 (LAHAINA) (C.C. No. 06-236)**

30 CHAIR MOLINA: Okay, Members, we will have maybe
31 roughly a half hour, just over that, for our
32 last item on the agenda today, which is Land
33 Use Item 65, which is a Community Plan
34 Amendment, Change in Zoning, and Project

1 District Phase I approval for the Pulelehua
2 project in Lahaina. And just to, I guess, sum
3 things up in short, three bills are being
4 considered, but for today's purposes no
5 legislative action will be occurring. This is
6 just to continue the process now to give the
7 Committee the opportunity to ask questions of
8 our County resource personnel as it relates to
9 this project.

10 For today we have -- from the County
11 Departments, we have Ann Cua, from the
12 Department of Planning, and also Mike
13 Miyamoto, the Deputy Director of Public Works,
14 and we have on call the Director of Housing
15 and Human Concerns, Vanessa Medeiros, and Pat
16 Matsui, the Planning and Development Division
17 Chief, for your perusal, Members. So we'll
18 try and get as much as we can done as far as
19 the Q and A goes before we lose quorum this
20 afternoon.

21 So with that being said, good afternoon,
22 Ms. Cua. Do you have any opening comments to
23 make before I open the floor up for questions?

24 MS. CUA: Yes, I do, Mr. Chair, Members of the
25 Committee. The applications before you are

1 threefold, a Community Plan Amendment, and the
2 Community Plan Amendment has three parts. One
3 is the amendment of the map itself, the second
4 part is amendment of the Community Plan
5 language to actually add a description of
6 Project District 5 where one does not exist
7 presently, and then finally, to further amend
8 the Community Plan language regarding the
9 50-acre park site.

10 Currently the Community Plan has a
11 reference to the proposed Mahinahina Regional
12 Park on approximately 50 acres of land below
13 the Kapalua West Maui Airport, and the
14 language is proposed to be amended to read:
15 "The proposed Mahinahina Regional Park on
16 approximately 50 acres of land in the vicinity
17 of the Kapalua West Maui Airport."

18 They're also asking for a Change in
19 Zoning from County Ag and Interim to West Maui
20 Project District 5, and a Project District
21 Phase I application, which basically deals
22 with the Project District's standards
23 ordinance.

24 Attached to the Planning Department
25 report, which we sent up to the Council as

1 Exhibit Number 40, is the -- is the proposed
2 Project District ordinance, which includes
3 standards, permitted uses, and other -- other
4 items that you will be considering at some
5 point in your deliberations.

6 Just for the Committee's information, if
7 this project passes this Committee and is
8 granted Community Plan Amendment and zoning,
9 the project will still need to come back to
10 the Planning Department and the Planning
11 Commission for a Project District Phase II
12 application, and this application involves a
13 public hearing, another public hearing in the
14 West Maui Community Plan region held by the
15 Maui Planning Commission, and that would deal
16 with the specific site planning for Pulelehua.

17 And if the project passes that phase,
18 then Project District Phase III applications
19 would need to be obtained, which is basically
20 administrative approval from the Planning
21 Department to assure that the final site plans
22 for the project are consistent with the
23 preliminary site plans approved in the Phase
24 II approval process.

25 The project is outside of the Special

1 Management Area permit, so an SMA permit will
2 not be required. For the Committee's
3 information, a final EIS for this project was
4 accepted by the State Land Use Commission on
5 July 13th, 2005, and published in the OEQC
6 bulletin on August 28th, 2005. Also, the
7 State Land Use Commission redistricted the
8 property from Agricultural to Urban, and the
9 findings and fact, conclusions of law,
10 decision and order dated June 30th, 2006 was
11 transmitted to the Council as part of the
12 transmittal package from the Planning
13 Department.

14 The Planning Commission held a public
15 hearing on the applications on April 24th,
16 2006 at the Lahaina Civic Center. Five
17 additional meetings held on April 25th,
18 May 9th, May 23rd, June 13th, and June 19th
19 were held. At the public hearing 23
20 individuals testified in support, seven in
21 opposition, and 13 expressed concerns about
22 the project. Concerns dealt with issues such
23 as traffic, affordable housing, schools,
24 water, and wastewater.

25 We also received a number of letters

1 with regard to this project. We received 135
2 letters in support and a petition with 41
3 signatures in support of the project. 41
4 letters in opposition, and a petition with 120
5 signatures in opposition to the project, and
6 26 letters of concern.

7 The Maui Planning Commission recommended
8 approval of the Community Plan Amendment and
9 Project District Phase I application. They
10 also recommended approval of the Change in
11 Zoning application with 17 conditions.

12 Briefly, because you're not having a
13 presentation today from the Applicant, I did
14 want to just highlight the project. The
15 project involves 310 acres of land. The
16 project is actually a traditional neighborhood
17 design mixed use community with 882 units,
18 also having the potential for up to 267 ohana
19 units, which totals -- which gives you a total
20 possible unit count of 1,149 units. The
21 project will provide a mix of residential
22 units for all income groups. They're also
23 proposing a commercial component of
24 approximately 100,000 square feet. Civic uses
25 such as library, churches, a wellness center,

1 parks, and open space, and the project is
2 proposed as a walkable community where
3 residents will be able to walk to work, walk
4 to the park, school, neighborhood, grocery
5 store, church, et cetera.

6 The highest residential densities and
7 most intense mix of uses will be located in
8 this center area of the project, and from
9 there each subsequent area will have
10 progressively less intense uses. There will
11 be open space areas that will provide buffers
12 and separation of neighborhoods.

13 Of the 310 acres, approximately
14 111 acres, or 33 percent, will be developed as
15 lots, and 44 percent will be developed as
16 park, left as gulches, and open space, and
17 that's about 136 acres.

18 I do want to mention a little bit about
19 the ohana units. The application says that
20 there's a potential for 267 ohana units. But
21 if you look at the bill that I -- or the
22 ordinance that is attached as Exhibit 40 to
23 the Planning Department's report, the Planning
24 Department and the Commission discussed the
25 size of the lots and the size of the actual

1 ohana units, and what the Applicant is
2 proposing would be to have ohana units be
3 developed on lots less than 7,500 square feet.
4 And I think, as most of you know, Chapter
5 19.35, the accessory dwelling ordinance,
6 allows for ohana units, but only on lots
7 starting from 7,500 square feet. And while we
8 really appreciate and support the concept of
9 Pulelehua, we just felt it necessary to
10 maintain consistency in terms of where we
11 allow ohana units, and so for that reason we
12 amended the ordinance so that the lots that
13 would have ohanas would be a minimum
14 7,500 square feet.

15 Now, if the Council decides at some
16 point to amend the accessory dwelling
17 ordinance to allow for smaller size lots or
18 larger size ohanas, then that would be -- that
19 would be definitely something that this
20 project could take advantage of. What this
21 does to the project is it reduces the amount
22 of ohanas that they're able to provide. Based
23 on the Applicant's calculations, it reduces it
24 quite significantly, from 267 to 45 units.

25 In terms of affordable housing, the Maui

1 Planning Commission proposed a condition, I
2 believe it's Condition Number 1, dealing with
3 affordable housing, and that condition is
4 actually moot right now. When the Commission
5 considered this request, the Workforce Housing
6 Policy was not in effect, and so they crafted
7 language for a condition for your
8 consideration.

9 I believe you have received a letter
10 from the Director of Housing and Human
11 Concerns, dated October 23rd, 2007, indicating
12 that the project will be required to provide
13 40 percent affordable housing pursuant to the
14 Workforce Housing Policy which was adopted on
15 December 7th, 2006.

16 In addition to that, this project has a
17 requirement from another project, Kapalua
18 Mauka, to provide 125 rentals, and those units
19 will be in addition to the 40 percent
20 requirement. So out of the 882 units,
21 54 percent, or 478 units, will be affordable
22 within Pulelehua.

23 In terms of education, Maui Land & Pine
24 has executed an educational contribution
25 agreement with the Department of Education

1 dated June 16th, 2006, which includes a land
2 component of 13 acres and a cash component of
3 2.4 million. And that gets a little bit
4 complicated.

5 Initially the Applicant had proposed a
6 13-acre contribution, and the State apparently
7 has a requirement that residential projects
8 exceeding 50 acres shall have a land component
9 and a construction cost component. And so for
10 this project, the land component requirement
11 is 5.8 acres and the construction cost
12 component is 2.4 million, and the anticipation
13 is to use the 2.4 million to purchase the
14 remaining 6.2 acres to get a 13-acre school
15 site.

16 I just want to hit on two more topics,
17 and then we can go into questions. Relative
18 to traffic, mainly access, the DOT has
19 approved three access points for this project.
20 Project plans propose five, three are
21 definitely approved, Akahele Street, North
22 Street, and South Street, but on South Street
23 the location is not yet fixed. The middle
24 street access point is still being considered
25 by DOT, and school street access is not

1 approved. And if I'm misstating anything and
2 anything has been updated from DOT, I expect
3 that the Applicant would provide updates to
4 this body, but that's my most recent
5 information.

6 The Applicant will be making mitigative
7 improvements, roadway improvements. In
8 addition to that, they are -- they have -- or
9 they're willing to provide a voluntary
10 contribution of \$3,500 per market unit and
11 1,500 per market multi-family unit. The 3,500
12 was per market single-family unit. The
13 Planning Commission has recommended a
14 condition to you which includes that voluntary
15 contribution amount.

16 In terms of parks and open space, there
17 will be ten acres of active parks, two
18 five-acre park sites, which make up the
19 ten acres of activity parks. There will also
20 be 17 acres of passive parks. In addition to
21 that, there will be 32 acres of gulches and
22 77 acres of open space. The Parks Department
23 has gone on record as supporting the two
24 five-acre park sites, provided the sites are
25 privately owned, maintained, and dedicated for

1 public use. In addition, the park sites must
2 be fully developed as multi-purpose ballfields
3 with lot grading, grass planting, automatic
4 irrigation, parking, drainage, and comfort
5 stations. The plans must be approved by Parks
6 Department, and they're also requiring that
7 all other park acreage for community,
8 recreational, and neighborhood use shall be
9 privately owned and maintained.

10 It is important to note, and we have
11 heard some testimony today, that -- about the
12 50-acre park site that is designated in the
13 Community Plan for this property, or within
14 this property. The Applicant has been working
15 with the Parks Department regarding a 60-acre
16 regional park site in the immediate area for
17 development of a future district park. This
18 future park site coincides with the language
19 that I spoke about. Remember I said the
20 Community Plan Amendment basically contains
21 three parts? One of the parts of the amended
22 language is reference to the 50-acre park
23 site, and the Applicant, again, has been in
24 discussions with Parks Department, and they
25 can eventually talk to you more about that in

1 terms of how they've been progressing.

2 And the last point I want to make on
3 this is that there is a condition proposed by
4 the Planning Commission that deals with this
5 negotiated effort, that it has been ongoing
6 between Maui Land & Pine and the Parks
7 Department.

8 So that wasn't very brief, but I just
9 tried to give you as much of an overview to
10 get our questions going and to hit some of
11 what I thought was the most important issues.

12 CHAIR MOLINA: Okay, thank you very much, Ms. Cua.
13 That was quite an extensive but very thorough
14 overview, I must say.

15 Members, the floor is now open for
16 questions to the Planning Department. We'll
17 start with Member Johnson.

18 COUNCILMEMBER JOHNSON: Yes, Ann, and with regard
19 to -- I don't know if you were here for Dick
20 Mayer's testimony and I think former
21 Councilmember Nishiki's testimony about the
22 position of the Department was sort of holding
23 off on any major General Plan or even
24 Community Plan developments until the GPAC
25 work is essentially completed to at least know

1 where core infrastructure is to be located and
2 what direction we're heading in, so any
3 comment?

4 MS. CUA: I believe my boss has a comment to that.

5 CHAIR MOLINA: Mr. Director.

6 MR. HUNT: The Department's position right now is if
7 somebody were to apply for a Community Plan
8 Amendment, we would most likely, not in every
9 case, most likely not support it. In this
10 particular application, the Department
11 position was made a long time ago, so the
12 process has been ongoing. I don't think it's
13 fair, not just for this particular proposal
14 but for any other proposal that has already
15 gone through the initial phases and is up at
16 Council, for a new Administration to come in
17 and to change the Department's recommendation
18 on that.

19 Generally speaking, our role at this
20 stage of the process is to report the record,
21 to answer questions, that kind of a role.
22 Our -- to really give you our recommendation
23 now, it should have gone through the Planning
24 Commission, and the Planning Commission
25 already listened to the previous Department's

1 position and had made their recommendation to
2 you now. So --

3 COUNCILMEMBER JOHNSON: So what will your
4 recommendation be when it comes to the
5 discussion in the General Plan about the
6 regional park and the park needs for the West
7 Maui community, since it seems to be
8 determined by a private developer where they
9 want our park to go?

10 MR. HUNT: The Maui Island Plan will be released in
11 the near future and that will be addressed in
12 the island plan.

13 COUNCILMEMBER JOHNSON: So you have no
14 recommendation or indication on this
15 particular application that the General Plan
16 or the map or anything will either support it
17 or not support it?

18 MR. HUNT: I don't think it would be appropriate to
19 say what the contents of the draft Maui Island
20 Plan will be at this point, until we release
21 it.

22 COUNCILMEMBER JOHNSON: Well, you're advocating a
23 land use change basically at this point, or
24 endorsing it, based on what the Planning
25 Commission recommended; therefore, in order

1 for us to make an informed decision, I think
2 it is really important that we know what is
3 planned, because to make a decision without
4 having that information doesn't seem to be
5 very prudent to me.

6 MR. HUNT: I didn't follow your comment about I'm
7 advocating. I don't understand what you
8 believe I'm advocating.

9 COUNCILMEMBER JOHNSON: Well, just to say that
10 you're advocating in terms of that the
11 development was in process, therefore, you're
12 advocating that we should take this up as a
13 recommendation of both the Department, because
14 that's the Department's position, as well as
15 the Planning Commission, because a decision
16 has been made.

17 MR. HUNT: I disagree. I don't think that's fair.
18 I'm not advocating. Our job right now is to
19 report the record.

20 COUNCILMEMBER JOHNSON: So are you -- well, you
21 either support the report or you don't support
22 it. So you're just saying no comment?

23 MR. HUNT: Our job is to tell you what has gone on
24 up to this point. The Planning Department's
25 position when it went to the Planning

1 Commission was one of support, and that is on
2 the record. That is in the record. As
3 Planning Director, I wouldn't be doing my job
4 if I didn't tell you that. The Planning
5 Commission heard that original Department
6 position, considered it, and now they've made
7 the recommendation to you. So you need to
8 consider what's in the record.

9 COUNCILMEMBER JOHNSON: Yes, and --

10 MR. HUNT: It's not just for -- there's other
11 applications where this has come up, and the
12 Department's position is we -- we report the
13 record.

14 COUNCILMEMBER JOHNSON: Well, you're reporting the
15 record, but the record would indicate a
16 supportive position, whether that occurred in
17 the past, you know, is --

18 MR. HUNT: I disagree with that. I think we can
19 objectively say here's what happened in the
20 past. Here's the history, objectively, an
21 account, a report of what went on, and we hand
22 it to you folks and now you take that history
23 and you make your decision without asking the
24 Planning Department to go back in time and
25 change the Department's position. The

1 Department made a position.

2 COUNCILMEMBER JOHNSON: I'm not asking you. I'm
3 asking you at this point in time, because
4 you're before us and we just heard Ms. Cua,
5 you know, reiterate what is stated in the
6 documentation we have, to me, you either
7 support what's there or you don't support it.
8 I mean, that's the way I'm looking at in this
9 particular situation. So either you agree or
10 you disagree with the report.

11 CHAIR MOLINA: Excuse me, Mr. Director, if I may
12 interject, and, Member Johnson. That's a good
13 question. Because that question was on my
14 mind. And I guess in light -- recently,
15 Mr. Director, I know you had made a community
16 statement with regards to Community Plan
17 Amendments, so I'm just sort of guessing what
18 Member Johnson wants is, you know, basically
19 in short where does the Department stand on it
20 now? Because I guess in the past, as you had
21 mentioned, the Department supported the
22 proposal, but in light of the recent comments
23 the Department made, or the new stance, if you
24 will, I guess we're just trying to get some
25 clarity, and that's -- I think that's what it

1 is, and it's not meant to, you know, create
2 any friction, so to speak. So -- I mean, if
3 you want to comment, it's your right. If not,
4 we understand too at the same time.

5 MR. HUNT: Let's take this particular project out of
6 the discussion just for a second. There's a
7 number of projects that go through the
8 pipeline that take time by the time the
9 Planning Department makes a recommendation to
10 the Planning Commission and then the Planning
11 Commission makes a recommendation to you. I
12 don't think it's fair for the Planning
13 Department, when a new Administration turns
14 over, to come into the Council and say, by the
15 way, even though the previous Planning
16 Department supported that and the Planning
17 Commission has recommended it, we're not
18 supporting it. I don't think that's right. I
19 think we report the record.

20 In order for us to do that would take a
21 whole lot of analysis and it should go through
22 the Planning Commission. It shouldn't just be
23 us now I'm coming in at the 11th hour and
24 saying, oh, by the way, we don't support this
25 anymore. And it's not this particular

1 application. You've had TVRs that have come
2 up before you, and we made it clear that we
3 may not have supported the recommendation in
4 the past, but that we're not here to say that.
5 We're here to report the record, and that's
6 what we did and you guys acted on the record,
7 and we're doing the same thing now.

8 COUNCILMEMBER JOHNSON: Okay, so -- and I guess if
9 I'm reading between the lines is that you're
10 reporting it, but you don't necessarily agree
11 with it or disagree with it?

12 MR. HUNT: That's correct.

13 COUNCILMEMBER JOHNSON: And so my original question
14 was, no comment, is probably more accurate
15 than anything else, because you're reporting
16 the record?

17 MR. HUNT: That's correct, we're reporting the
18 record. We're not advocating it.

19 COUNCILMEMBER JOHNSON: Okay, well, you know, that's
20 fine. It's semantics. The other question I
21 have, though, is because you are aware of
22 other -- and you referred to other projects in
23 the area, has the analysis been done overall?
24 Because I believe right next door to this,
25 Puukolii Village will be coming not to the

1 County at all. It will circumvent the County
2 and go straight to the State because of Act 15
3 and then subsequent legislation that was
4 passed at the State Legislature that basically
5 exempted it from coming through the County
6 process.

7 So with the close proximity of these two
8 projects, has your Department done any
9 analysis of the cumulative impacts of the
10 implementation of those two projects, one
11 which is before us and the second one which
12 will never come before us?

13 MR. HUNT: I don't believe we've done a -- I don't
14 believe we have performed a cumulative
15 analysis of the two projects together. This
16 individual project should have had an analysis
17 in the original report that went to the
18 Planning Commission and that should be part of
19 your record.

20 COUNCILMEMBER JOHNSON: Okay, but are you familiar
21 with the Puukolii Village project nearby?

22 MR. HUNT: Yes.

23 COUNCILMEMBER JOHNSON: Okay. And you've reviewed
24 the EIS on that or have -- because it's not
25 coming to you is there no occasion for you to

1 make comment on that?

2 MR. HUNT: I believe we do make comments on State
3 projects.

4 COUNCILMEMBER JOHNSON: Okay, but no analysis has
5 been done of the overall impact of two
6 projects that are right on top of one another?

7 MR. HUNT: The impacts of this project should be
8 considered as part of this record. The
9 impacts of a separate project, we -- for the
10 State, we would have a right to comment on
11 that.

12 COUNCILMEMBER JOHNSON: Okay, and so, therefore,
13 your Department will not be able to provide us
14 with an analysis to look at this -- rather
15 than doing it in a segmented fashion, to look
16 at it in light of what will also come at the
17 State level and not before us?

18 MR. HUNT: Are you asking the Department to do that?

19 COUNCILMEMBER JOHNSON: Well, I'm trying to make a
20 determination as to what you will or will not
21 be doing. And if you've already provided
22 comments to the State, I would like to at
23 least have that information, since it's --
24 that's not the subject, you know, of what
25 we're hearing, but in order for us to make an

1 informed decision, personally, me, myself, I
2 would like to see some, I guess, analysis or
3 some kind of capacity looked at with regard to
4 their close proximity.

5 Because we won't have an opportunity to
6 put any conditions at all on the other
7 project, but I would like to know how these
8 two interrelate, and particularly because the
9 Environmental Impact Statement, I believe, for
10 Pulelehua does slightly overlap the area which
11 will front the Kaanapali 2020 or the Puukolii
12 Village project. So if you have comments, I
13 would like to see them at some point.

14 MR. HUNT: I understand your request. We will
15 take -- we will consider any comments that are
16 delivered to us by your Chair and we will try
17 to respond to those. If it's the will of the
18 Chair that he wants a cumulative analysis of
19 adjacent projects along with this one, we will
20 try and respond to that.

21 COUNCILMEMBER JOHNSON: And, Mr. Chair, I would make
22 that request, because we have had massive
23 projects approved within probably less than a
24 two-mile area, and they're huge. Besides the
25 time-share, you've got Puukolii Village, which

1 won't come before us, and you have this
2 project, so -- and the Hyatt as well, so, you
3 know, just if you need clarification from me,
4 I'd be happy to provide it, but I think it's
5 important for the Members to understand the
6 massive approvals that have been made. Thank
7 you.

8 CHAIR MOLINA: Okay, thank you for that
9 consideration, Member Johnson.

10 Members, I do realize we're losing
11 quorum in several minutes. I'd like to, I
12 guess, give each Member an opportunity to ask
13 a question or two of the Department if they
14 have any at this point. And I would like to
15 make a note to the Members with regards to the
16 Department of Transportation, they did send a
17 March 7th, 2008 letter to the Committee that
18 relates to the traffic concerns related to
19 this project, so just for your -- as an FYI,
20 Members, in the second binder, the skinnier
21 binder with this particular matter.

22 Mr. Pontanilla, do you have a question
23 or any need for clarification from the
24 Department?

25 VICE-CHAIR PONTANILLA: No, Chairman, I think the

1 Planning Department brief overview of the
2 project subject is pretty clear. Because of
3 the short time and inability to ask other
4 Department questions, I have no questions at
5 this time.

6 CHAIR MOLINA: Okay, thank you, Mr. Pontanilla.

7 Chairman Hokama? Councilmember
8 Medeiros?

9 COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. I
10 just have maybe one or two for now.

11 Planning Department, you know,
12 because -- and I haven't been able to go
13 through the entire thing yet, the
14 infrastructure for the project, water and
15 sewer, is that County or private or a
16 combination of?

17 MS. CUA: The -- well, I'll go through -- I'll go
18 through that events, okay, with you. Are you
19 also interested in what the projects going
20 to --

21 COUNCILMEMBER MEDEIROS: I'm basically interested in
22 water, sewer, and if there's a potential to
23 connect to R-1 water.

24 MS. CUA: Yes. In terms of water, potable water
25 consumption, this project is anticipated --

1 anticipating generating 719,000 gallons per
2 day, and non-potable water, 200,000 gallons
3 per day. They have several options that
4 they're considering for potable water source,
5 and one is to upgrade the Mahinahina Treatment
6 Plant, the second is to expand their private
7 Kapalua Water Company service area, and third,
8 to drill -- to drill wells, additional wells.
9 For their non-potable source, they are
10 planning to use R-1 water for irrigation of
11 their parks, open space areas, et cetera.

12 COUNCILMEMBER MEDEIROS: Is the R-1 water from the
13 County --

14 MS. CUA: Yes.

15 COUNCILMEMBER MEDEIROS: -- facility? I see, okay.
16 Go ahead. I'm sorry.

17 MS. CUA: In terms of wastewater, the project is
18 going to generate approximately 350,000
19 gallons per day. They're planning to build an
20 on-site sewer collection system consisting of
21 gravity lines, pump stations, et cetera, and
22 they're planning to also build a new sewer
23 transmission line along the mauka side of
24 Honoapiilani Highway, approximately 3,500 feet
25 long, with connection to the Lahaina

1 Wastewater Reclamation Plant.

2 COUNCILMEMBER MEDEIROS: Okay. And, Mr. Chairman,
3 just a second question, please.

4 On the school, the elementary school,
5 the information I have in my binder, it's a
6 13-acre elementary school site plus 2.4
7 million, and for some reason I thought I heard
8 you say the 2.4 million would buy the rest of
9 the property to make 13 acres.

10 MS. CUA: Yeah, I don't know if I'm explaining it
11 quite well, but at the end of the day you'll
12 end up with the 13-acre school site that you
13 see on the plan. It's just how you get there
14 is kind of interesting because of the State's
15 requirement to have the combination of land
16 dedication with construction cost dedication,
17 and so the actual requirement from the State
18 is 5.8 acres of land and \$2.4 million, which
19 is planned to be used to purchase the
20 remainder -- the remaining 6.2 acres so that,
21 again, at the end of the day we end up with
22 the 13-acre site that you see on the plans
23 before you.

24 COUNCILMEMBER MEDEIROS: So we will have a 13-acre
25 elementary school site but no money because it

1 went to purchase the land to make 13 acres?

2 MS. CUA: I -- the Applicant is saying no, so maybe
3 you need to ask them. Because I was really
4 confused, because it seemed really simple to
5 me when they just wanted to give the 13 acres,
6 but the State didn't --

7 COUNCILMEMBER MEDEIROS: And then, finally, so if
8 that's the requirement of the developer, the
9 building of the physical structures would be
10 by the State?

11 MS. CUA: I --

12 COUNCILMEMBER MEDEIROS: Okay, we'll --

13 MS. CUA: Let me answer it. Let me -- and maybe
14 you're going to need to ask the Applicant
15 this, because one thing that I didn't mention
16 that I really need to mention is that both the
17 Planning Department and the Commission felt
18 that it's critical, in our opinion, for this
19 project that the school be built concurrently
20 with the residential units. And we feel that
21 if the zoning is approved, it's critical that
22 there be a condition that links it together.

23 Having said that, the -- you know, we
24 had some discussion of, well, you know, you
25 can put that condition there, but, you know,

1 what assurances are you going to have that
2 that's going to be able to happen? And I
3 believe the Applicant previously had indicated
4 that they were willing to help with the --
5 funding the design of the school, and from my
6 understanding, they may even be designing it
7 right now. And I believe the Applicant also
8 indicated that at one point in time that they
9 were willing to build the school, provided
10 they are reimbursed, and, you know, that's
11 something that you need to ask the Applicant
12 now.

13 COUNCILMEMBER MEDEIROS: Okay, I think we'll ask the
14 Applicant when we have that opportunity.
15 Mahalo, Ms. Cua.

16 Mahalo, Mr. Chairman.

17 CHAIR MOLINA: Thank you, Mr. Medeiros.

18 Councilmember Baisa, do you have any
19 questions for the Department at this time?

20 COUNCILMEMBER BAISA: No, I think I can wait until
21 our next meeting on this. Thank you.

22 CHAIR MOLINA: Thank you, Member Baisa.

23 Councilmember Anderson?

24 COUNCILMEMBER ANDERSON: Yeah, I do have a few
25 questions, because I want to have time between

1 now and then to clear up a few things. And
2 if -- Mr. Chair, if we could request a letter
3 from the Department of Education specific to
4 the things Ms. Cua was saying so we can have
5 something in writing that clarifies the
6 arrangement that the Applicant has been
7 discussing with the DOE, and maybe, excuse me,
8 in that letter we can ask them for some
9 assurance that -- if they could give us any
10 assurance that the school would be built
11 concurrent with the project, even if the
12 Applicant were to front the money to build the
13 school, would they be amenable to that and --
14 because, you know, it's hard for us to depend
15 on the State. You know, I mean, let's get it
16 in writing.

17 CHAIR MOLINA: Nothing like black and white. I'll
18 ask Staff to undertake that request.

19 MS. CUA: Mr. Chair.

20 CHAIR MOLINA: Ms. Cua.

21 MS. CUA: If I could just add to that, this
22 Committee has been provided a copy of the
23 executed housing agreement -- excuse me,
24 educational agreement, and I don't know if you
25 want to start with that. Because it does

1 explain it in there. It really does. It
2 talks about the 5.8 acres and the 2.4, and if
3 you want to start with that and then frame
4 your letter after you've read that.

5 CHAIR MOLINA: Yeah.

6 COUNCILMEMBER ANDERSON: Thank you, Ms. Cua.

7 CHAIR MOLINA: Okay. Thank you.

8 Member Anderson.

9 COUNCILMEMBER ANDERSON: Ms. Cua, did you ever
10 forward a copy of the application to us? As
11 far as I can see, we only have the Planning
12 Department's report to the Planning
13 Commission.

14 MS. CUA: I believe you have the EIS document.

15 COUNCILMEMBER ANDERSON: Was the EIS document used
16 as their application?

17 MS. CUA: Well, let me finish. I think you've got
18 the EIS document and just the application
19 itself, but not the entire application
20 booklet, but pretty much --

21 COUNCILMEMBER ANDERSON: (Inaudible).

22 MS. CUA: -- the EIS document -- I mean, the
23 application document is largely the EIS
24 document.

25 COUNCILMEMBER ANDERSON: Yeah, well, not

1 necessarily, because, you know, we're bound by
2 our own County Code and the application
3 requirements that we have, and I do know that
4 under Chapter 343 for an EIS they have to look
5 at cumulative impacts, but also in our County
6 Code requirement for application for Change in
7 Zoning, they need to do an analysis of the
8 secondary impacts of the proposed use on
9 surrounding uses, which includes increases in
10 property value, increases in population,
11 housing, community services and facility
12 needs, compatibility with surrounding uses,
13 and such, so to me that's a cumulative
14 analysis. Excuse me.

15 I am in support of where Ms. Johnson was
16 going with this, because, you know, we're --
17 we're not developing in wide open spaces here.
18 We're developing in very constrained, highly
19 congested areas. And one of the reasons --
20 reasons that this area was designated in the
21 Community Plan as park and ag was to preserve
22 an open space strip along Honoapiilani Highway
23 in that area just to prevent sprawl,
24 continuous sprawl.

25 So that's why I think it's extremely

1 important when you look at the planned uses
2 that are going forward. And, you know, this
3 is a map, a long-range planning map that you
4 guys have put out. You know, it's just solid
5 in here, and there's no relief along this
6 corridor. And so that's why I think, you
7 know, in making a determination on Pulelehua
8 we have to look at the adjacent uses.
9 Because, as Ms. Johnson said, we have no
10 control over that.

11 But nonetheless, it is there and it will
12 be developed and, shoot, look at it, it's way,
13 way bigger. How many acres is this? It's way
14 bigger than Pulelehua. So one will affect the
15 other, and the reason I'm asking that is
16 because I don't see in the report any
17 discussion of secondary impacts or cumulative
18 impacts.

19 And so I, for myself, Mr. Chair, would
20 like to see the application from the
21 Applicant, the application as required by the
22 County Code. Because basically what we get is
23 bits and pieces of that application put into a
24 report, and it makes it hard for us to
25 correlate it to the application requirements

1 that we are required to follow as Council
2 Members in making a decision. So if maybe we
3 could ask for that so I'd have a chance to
4 review that in the interim.

5 And then the question I have, Mr. Chair,
6 for Ms. Cua is I'm very confused on this
7 traffic situation, because, once again, this
8 project was -- as best as I can determine, was
9 reported out of the Planning Department --
10 Planning Commission on June 19th. That was
11 their last meeting, their decision-making
12 meeting, Ms. Cua?

13 MS. CUA: That's correct.

14 COUNCILMEMBER ANDERSON: Okay. And what they had at
15 that time was a report that had been done in
16 April of that year. And within the report,
17 when it discusses roadways, traffic,
18 necessarily, it references a transportation
19 report prepared for Pulelehua by Hall Planning
20 & Engineering Incorporated. Then we get a
21 review letter of the application by the
22 Department of Transportation dated August '04.

23 And you see, this is what's really
24 confusing to me, because the letter that we
25 have here, August '04, is their review letter

1 on the Draft Environmental Impact Statement.
2 And it's a pretty scathing letter saying that
3 they're going to have -- this will have an
4 adverse impact on both the airport and the
5 highway, and then it goes on to say in a
6 February '05 letter, which was done for the
7 State, State Land Use District Boundary
8 Amendment, another letter that isn't all that
9 favorable. And I see no letters specific to
10 the Hall report.

11 The letters from DOT reference -- and
12 then we get a letter -- thank you, Mr. Chair,
13 for sending a letter -- asking when we're
14 going to get an approved traffic impact
15 analysis report. But I see a letter from DOT
16 October '07. Now, this is after this report
17 has been done after the Planning Commission
18 passed it out, after the Planning Department
19 made their recommendations, that, again, is
20 highly critical of the revised traffic impact
21 assessment report.

22 So where I am confused is in the report
23 where it references the transportation report
24 by Hall Planning & Engineering, at the time --
25 at that time, was that the only traffic report

1 you had and is that the TIAR that they're
2 referencing in the DOT letters?

3 MS. CUA: Yes, that is correct. That's my
4 recollection.

5 COUNCILMEMBER ANDERSON: So, you know, that's very
6 disturbing that we're getting something -- and
7 I know it's not this Department's -- the
8 current Department's recommendation that -- or
9 the current Administration that brought this
10 forward with a recommendation for approval,
11 but it makes it very hard for the decision
12 makers to make a decision based on the
13 recommendations of the Planning Department and
14 the Planning Commission when the information
15 they had at the time they made their decision
16 was wholly inadequate and wholly incomplete.
17 And that Department of Transportation spelled
18 it out in no uncertain terms, yet the
19 Department went ahead and recommended
20 approval.

21 Our requirement in the County Code is
22 that we have a traffic impact analysis that's
23 been reviewed and commented on by DOT.
24 Doesn't say approved, but commented. The
25 comments say you're going to adversely affect

1 us in multiple ways, not just the five access
2 points they want, but the proximity to the
3 airport and on and on.

4 So now we're getting these letters that
5 they're going to revise -- they've revised the
6 traffic impact analysis twice already, and we
7 still don't have it approved, or I would say,
8 stateable comments from DOT on their TIAR, yet
9 it's in front of us, Mr. Chair, for decision
10 making. All this should have been done before
11 it ever left the Planning Department and went
12 to the Planning Commission.

13 And I myself am very disappointed that
14 the Planning Commission would pass this out,
15 knowing the traffic problems we have in West
16 Maui, when DOT has said -- oh, I lost my
17 place. In their review letter at the time of
18 the Planning Department's -- or the Planning
19 Commission's review, you know, basically said,
20 don't do this to us, because there is --
21 there's no way that this build out in this
22 area has been addressed in the traffic impact
23 analysis.

24 And I'm not going to find it, but I'll
25 just move on. Here we are in '07, and they're

1 saying the same thing, the revised TIAR
2 completely mischaracterizes the function,
3 role, and importance of Honoapiilani Highway
4 and the regional transportation network,
5 resulting in incorrect and inappropriate
6 conclusions and recommendations.

7 I mean, how can we make a fair, you
8 know, decision with this kind of incomplete,
9 mischaracterized information? How could the
10 Planning Commission pass this forward to us in
11 this state? And I appreciate your letter,
12 Mr. Chair, asking for a final -- you know, a
13 final TIAR. I mean, that should have been
14 done two years ago, and here we are now in
15 2008, should have been done three years ago,
16 still waiting for it. Do I hear, you know,
17 reminiscent bells of Wailea 670? We still
18 don't have a regional traffic analysis for
19 that project either. And, you know, we're
20 putting people's lives at risks when we don't
21 have an accurate analysis so that we can have
22 mitigation measures in place that will assure
23 us that the traffic situation is going to be
24 adequately mitigated.

25 And so, you know -- and I don't -- I'm

1 sorry, but getting a letter from DOT saying,
2 oh, well -- what did they say to you,
3 Mr. Chair, that we think they're good folks
4 and it's their intent to finish this and we're
5 optimistic that the new TIAR will be -- this
6 is the March 7th, '08 response to our Chair's
7 request. DOT says that Maui Land & Pine has
8 notified us of their intent to prepare a new
9 traffic impact analysis and that we're
10 optimistic that the new traffic analysis will
11 be more technically valid and locally
12 appropriate, since a local professional
13 transportation engineer will prepare it. And
14 then they go on to make some very critical
15 comments.

16 And, Mr. Chair, I would plead with you
17 to require this to all be done before we take
18 this up again. Because it's not our job to
19 figure out mitigation measures that, you know,
20 hopefully will take care of adverse impacts.
21 It's the Applicant's job to do an adequate
22 analysis prior to it even coming to the
23 Planning Department or the Planning Commission
24 and then on to us. And I'm tired of doing
25 their work for them. Let them do the work and

1 come to us and prove to us that what they plan
2 to do will not adversely impact Honoapiilani
3 Highway, the current use of that highway, the
4 plans that the DOT has for expansion, the
5 cumulative impact on that highway that will
6 happen with the surrounding uses being
7 developed out, because that is the standard
8 for a traffic impact analysis. You don't do
9 an impact analysis just for your project. You
10 look at the surrounding cumulative uses, and
11 you project what kind of, you know, expansion
12 or roadway improvements you need in order to
13 absorb that increase of use.

14 And if they're not willing to do that up
15 front, we're wasting everybody's time, their
16 time, the public's time, our time. You know,
17 I'm just not willing to sit here and do their
18 work for them and wait for them after the fact
19 to do their job. What's the impact on the
20 airport? There's still no answer to that.
21 You know, I mean, the tactic is stall, stall,
22 stall and say, you know, we're good folks and
23 we're going to do this all after the fact.
24 We'll do it. We'll do it when we come to the
25 Planning Commission for Project District Phase

1 II. You know what? We're the decision
2 makers. We're the elected body who are here
3 to protect the general welfare of the public
4 in our decisions and we have a Code to follow.
5 And, you know, if we don't stand by this Code,
6 who will, Mr. Chair? Certainly not the
7 developer. Because we've got an incomplete
8 application in front of us, once again, where
9 we've got to go through all this trying to
10 figure it out.

11 And I for one have more important things
12 to do on behalf of the public than spend
13 dozens of hours trying to figure out whether
14 or not there's going to be adverse impacts.
15 That should have been decided up front in the
16 application, allow Ms. Cua to do her analysis,
17 allow the Planning Commission to see up front
18 what DOT is recommending in roadway
19 improvements to make this project palatable.

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

21 Members, it's getting kind of late. I
22 realize some of you have overextended your
23 stay a little. The Chair appreciates it. And
24 I guess the concerns that have been expressed,
25 this is one reason why the Chair chose not to

1 have a decision made on this, because I think
2 it is a large project and we have to make sure
3 we do a thorough job before any decision
4 making is considered in the future.

5 Planning Department, very briefly, brief
6 comment before we close today, do you have
7 anything to state, Ms. Cua?

8 MS. CUA: Very briefly, because I probably could
9 talk a while, but the -- if you're just
10 looking at traffic, for instance, you know,
11 the traffic report analyzed 24 different
12 projects within the surrounding area. The
13 application talks about projects in the other
14 area. This decision -- the recommendation
15 that came up to you did not come up and was
16 not analyzed in a bubble.

17 You know, I guess I have to disagree. I
18 don't feel the application is incomplete. We
19 had lots of testimony at the Land Use
20 Commission level, the planning -- there was
21 numerous testimony from Department of
22 Transportation, Airports Division, Highways
23 Division. At the Planning Commission level
24 they had a number of State agencies that
25 answered questions, provided testimony. You

1 know, it's all in the minutes. I mean, these
2 issues have been discussed, and we can go into
3 that in further detail at a later meeting.

4 CHAIR MOLINA: Okay, thank you, Ms. Cua.

5 Members, we're going to close for today,
6 but before I do so, I would like to thank
7 everyone for their participation, and also to
8 Staff and also the Administration and those of
9 you in the gallery. Chair would like to
10 remind everyone who is on the Planning
11 Committee, we do have a recessed meeting
12 tomorrow at 9:00 a.m. right here in the
13 Chambers, and that of course deals with the
14 subject matter of TVRs.

15 So with that being said, if there are no
16 announcements, the Chair would like to adjourn
17 today's Land Use meeting for Wednesday,
18 March 12th. (Gavel).

19 **ACTION: DEFER pending further discussion.**

20 **ADJOURN: 4:52 p.m.**

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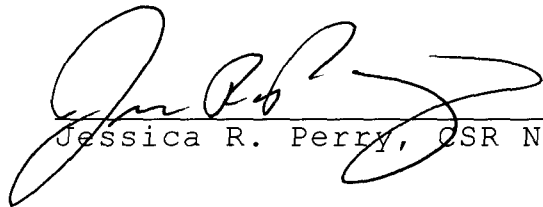
C E R T I F I C A T E

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

I, Jessica R. Perry, 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 10th day of April, 2008, in Honolulu, Hawaii.



Jessica R. Perry, CSR NO. 404