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M I N U T E S
LAND USE COMMITTEE
COUNCIL OF THE COUNTY OF MAUI
COUNCIL CHAMBER, EIGHTH FLOOR
WAILUKU, MAUI, HAWAII
OCTOBER 1, 2008

ORIGINAL

APPROVED:



Committee Chair

REPORTED BY: Tonya McDade, Hawaii CSR #447
Registered Professional Reporter
Certified Realtime Reporter
Certified Broadcast Captioner

1 CONVENE: 1:35 p.m.

2 PRESENT: Councilmember Michael J. Molina, Chair
3 Councilmember Joseph Pontanilla, Vice-Chair
4 Councilmember Gladys C. Baisa, Member
5 Councilmember G. Riki Hokama, Member (Arrive
6 2:02 p.m.)
7 Councilmember Jo Anne Johnson, Member
8 Councilmember Danny A. Mateo, Member

9
10 EXCUSED: Councilmember Michelle Anderson, Member
11 Councilmember Bill Kauakea Medeiros, Member
12 Councilmember Michael P. Victorino, Member

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

15
16 ADMIN: Jeffrey Hunt, Director, Department of Planning
17 Robyn Loudermilk, Planner, Department of
18 Planning
19 Michael Miyamoto, Deputy Director, Department
20 of Public Works
21 James A. Giroux, Deputy Corporation Counsel,
22 Department of the Corporation Counsel

23 OTHERS: Senior Pastor Richard C. Smith, Valley Isle
24 Fellowship, Inc.
25 Vince Bagoyo, Jr.
Wayne Arakaki, Wayne I. Arakaki Engineer
Pastor Gary Hamrick, Valley Isle Fellowship,
Inc.
Darren Sarmiento, Valley Isle Fellowship, Inc.
Michael M. Kokubun
Florence "Flo" Nakama
Richard Drayson
Richard T. Yamasaki
Megan Motonaga
Michael Sena
Additional attendees (20)

26 PRESS: Akaku--Maui Community Television, Inc.

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28 ITEM NO. 42: DISTRICT BOUNDARY AMENDMENT AND CHANGE IN
29 ZONING FOR VALLEY ISLE FELLOWSHIP
30 (WAIKAPU) (C.C. No. 08-158)

31 CHAIR MOLINA: ... (gavel) ... Land Use Committee

1 meeting for October 1st, 2008 is now in session.

2 For the record, we have the Committee
3 Vice-Chair Joseph Pontanilla in attendance as well as
4 Committee Members Jo Anne Johnson, Gladys Baisa, and
5 Danny Mateo. Excused, we have Members Michelle
6 Anderson, Bill Medeiros, Riki Hokama, and Mike
7 Victorino.

8 So, Members, we have, basically, a skeleton
9 crew at this point, so please don't leave the room,
10 okay, as much as possible. Otherwise, we have bare
11 quorum, five people, once one person leaves the room, we
12 cannot continue with our proceedings. But thank you to
13 the Members who are here today.

14 We have one item on our agenda, which is Land
15 Use Item 42, a District Boundary Amendment and Change in
16 Zoning for Valley Isle Fellowship over in Waikapu.

17 But before we address this particular matter,
18 we're gonna do public testimony first. But before we do
19 that, let's recognize our Staff who's here today. Our
20 Legislative Analyst, Carla Nakata; Committee Secretary,
21 Tammy Frias; from the Corporation Counsel's Office, we
22 have James Giroux; and from the Planning Department, we
23 have the Planning Director, Jeff Hunt, as well as
24 Planner Robyn Loudermilk. Welcome all.

25 And let us now go into public testimony. The

1 Chair would like to go over a few ground rules for those
2 of you in the gallery who wish to testify. You'll have
3 three minutes to testify with one minute to conclude.
4 Please state your full name and any organization that
5 you may be representing. And please turn off all cell
6 phones and pagers so as not to disrupt our proceedings
7 today. So let us begin with public testimony.

8 I would like to call upon Michael Kokubun,
9 followed by Richard Smith.

10 ...BEGIN PUBLIC TESTIMONY...

11 MR. KOKUBUN: My name is Michael Kokubun. And
12 I represent Critical Mass, which is the college ministry
13 for Valley Isle Fellowship. My name is Michael Kokubun.
14 And I have been a member of Valley Isle Fellowship for
15 five years. I am also a member of Valley Isle
16 Fellowship's college ministry and have experienced
17 firsthand the impact this ministry can have on the
18 college-age community here on Maui.

19 Last year, I attended a university in Oregon
20 and found it to be lonely at heart. I came home
21 depressed, and decided to stay on island for -- to
22 attend MCC the next year. I also began attending the
23 college group at Valley Isle Fellowship at that time,
24 and I found friends there that supported and cared for
25 me.

1 Critical Mass is Valley Isle Fellowship's
2 college ministry run on the MCC campus. It is a club
3 that provides students with an opportunity to gather
4 together and worship, praise God in a nondenominational
5 setting. It also reaches out to those students living
6 in the dorms.

7 Just recently, Critical Mass held a -- held a
8 free spaghetti dinner for the students in the dorms
9 living in -- sorry -- living in the dorms. The ministry
10 also goes to play volleyball with the -- with these
11 students.

12 More and more students are coming to Critical
13 Mass. And as a result, the space that we have is
14 becoming smaller and smaller. The -- the approval of
15 this application for rezoning would allow us to expand
16 the area that we currently have and allow us to reach
17 out more to the dorm students and college students of
18 MCC.

19 Thank you.

20 CHAIR MOLINA: All right. Thank you very much
21 for your testimony. Hang on, Mr. Kokubun.

22 Committee Members, questions for the
23 testifier?

24 Seeing none, thank you very much for your
25 testimony. Good job.

1 And we have a lot of young folks in our
2 gallery today. Thank you for taking part in the process
3 here today. Your attendance is much appreciated.

4 Next to testify, we have Richard Smith,
5 followed by Flo Nakama.

6 MR. SMITH: Chair Molina and Committee
7 Members, my name is Richard Smith and I reside at 473B
8 High Street, here in Wailuku. I have enjoyed the
9 privilege of being the Senior Pastor of Valley Isle
10 Fellowship for the past 11 years. And as the applicant,
11 I thank you for the opportunity to speak on behalf of
12 our request for rezoning.

13 Like many other good churches, Valley Isle
14 Fellowship provides ministries and activities for the
15 whole family. Our mission statement is to love God,
16 love his church and love his world. Well, the point is
17 love does make a difference. And Valley Isle Fellowship
18 is making a difference in an ever-growing number of
19 families that make up our island ohana.

20 We're working hard at church to remember that
21 it's not about us. It really is about God and other
22 people.

23 Our church family is diverse as Maui itself.
24 Our membership includes Japanese, Filipino, Korean,
25 Hawaiian, Portuguese, African-Americans,

1 Mexican-Americans, Samoans, and even some Caucasians.

2 We are Maui. Okay.

3 If Valley Isle Fellowship was just a place for
4 us to go and do our religious duty on Sunday, we would
5 not be planning to build the facilities that we are
6 asking you to approve today. We would use that money
7 for ourselves, we would use it for a new car or maybe an
8 addition to our homes. We would use it for new carpet
9 or new furniture or for a vacation or for entertainment.

10 Instead, in just two and-a-half years, the
11 membership of Valley Isle Fellowship gave over \$675,000
12 above their normal giving to buy and pay for the land
13 that we want to occupy. We did that because we believe
14 that Central Maui needs another good church that is
15 committed to making a difference in the lives of people.

16 It's been said that Hawaii is the -- that
17 Maui, Hawaii is the ice capital of the Pacific, and that
18 85 percent of the crime on this island is either
19 directly or indirectly related to drugs. Crime is such
20 an issue here, as you know, that we have to export our
21 inmates to the mainland.

22 We believe that the solution to that problem
23 is found not in building more prisons, but in a personal
24 relationship with the Lord Jesus Christ. We believe
25 that God wants to use this church to help people find

1 hope and a reason and a purpose for living.

2 We involved over 200 people from our church
3 family in a major cleanup of the Maui harbor community,
4 involving hundreds of meals, shelter kits, cooking kits,
5 first aid kits, health and hygiene kits, blankets and
6 bibles. We've repeatedly [sic] taken meals to the
7 homeless of Maui. We have assisted families in finding
8 not only a home, but jobs, and a changed life.

9 Valley Isle Fellowship also sponsors a new and
10 growing collegiate ministry known as Critical Mass, that
11 Michael just told you about. They are already
12 recognized as the most active club on the campus. And
13 they are meeting the fellowship and the spiritual needs
14 of a growing number of students.

15 For the past six years, our senior adults have
16 been assisting those in wheelchairs at the Maui County
17 Fair, and as they will do this next week.

18 The Valley Isle Fellowship family has provided
19 teams and assistance around our island, our State,
20 Mexico, Thailand, Cambodia, the Philippines and the
21 continental U.S. We've helped build churches, housing
22 for the homeless, shared hope, construction equipment, a
23 moped for a pastor in Cambodia --

24 MS. NAKATA: Three minutes.

25 MR. SMITH: -- and assisted with cleanup

1 following Hurricane Katrina. We have provided tens of
2 thousands of dollars for disaster relief for the victims
3 of the Indonesian tsunami and hurricanes and tornadoes
4 in the continental U.S.

5 We've been a good friend to Wailuku Elementary
6 School where we meet on Sunday morning. We've installed
7 a video projection system, an electric screen, ceiling
8 and wall fans. We've painted the school cafeteria. And
9 we've worked on their school grounds numerous times.

10 We are a church that truly loves Maui and its
11 people. We long to continue to serve them in an
12 ever-growing capacity as we move on to our new property.
13 Your expeditious approval of our request this morning
14 would make that dream come -- become a reality.

15 I'll be glad to answer any questions that you
16 may have.

17 CHAIR MOLINA: Thank you very much, Pastor.
18 Committee Members, questions for the testifier? Seeing
19 none, thank you very much, Pastor. Next to testify we
20 have Flo Nakama, to be followed by Richard Drayson.

21 MS. NAKAMA: Good afternoon, Chairman Molina
22 and Committee Members.

23 My name is Florence "Flo" Nakama. And I am a
24 lifelong resident of 19 East Waiko Road in Waikapu. I'm
25 also a member of Valley Isle Fellowship and a member of

1 the Waikapu Community Association.

2 Waikapu, when I was growing up -- a few years
3 ago -- was a small plantation village in which most
4 families had ties to Wailuku Sugar Company. There were
5 probably about 100 families there. In this small
6 village, there were four places of worship; the Hawaiian
7 Protestant Church, the Mormon Church, the Buddhist Place
8 of Worship, and the Catholic Church, St. Joseph, which
9 was still in use until it was destroyed by fire a few
10 years ago. Today, there are no centers of worship for
11 the people of Waikapu.

12 In my small kid days, we were fortunate that
13 there were activities for young people through an active
14 Boy Scout Troop and an active 4-H Club for the girls.
15 Presently, there are none of these organizations for our
16 young people in Waikapu.

17 Waikapu has grown and is continuing to grow
18 with all the housing developments that are in place and
19 those that are coming up. I believe the need is greater
20 for the Waikapu community to have a house of worship
21 which will have a positive influence for the families
22 and people of Waikapu.

23 The vision of Valley Isle Fellowship is to be
24 an -- an oasis, a safe haven, a meeting place, and, most
25 importantly, a place of worship for young children

1 through seniors, where they can find love, acceptance,
2 respite, comfort, Bible study, fellowship,
3 rehabilitation, wholesome activities, and Godly people,
4 who are willing servants, to meet their needs.

5 Thank you for your time to listen to the
6 testimonies. And I humbly ask for your immediate
7 approval of Valley Isle Fellowship's application so we
8 can become an integral part of this fast-growing
9 community which needs a church now.

10 Thank you.

11 CHAIR MOLINA: Thank you, Ms. Nakama.
12 Committee Members, questions for the testifier? Seeing
13 none, thank you for your testimony. Next to testify on
14 Land Use Item 42, we have Richard Drayson, followed by
15 Richard Yamasaki.

16 MR. DRAYSON: Chairman Molina and Members.

17 My name is Richard Drayson. I live at 456
18 South Alu Road in Wailuku. I have been a member of this
19 Maui community for more than 35 years. I joined Valley
20 Isle Fellowship Church about six years ago. And I am
21 speaking on behalf of myself.

22 During my association with this church, my
23 faith in Jesus Christ has grown. I know that he loves
24 me, he loves my family, and, by the word of God, I know
25 that he wants me to love him back and love his church

1 and love his community. I have a clearer idea about
2 God's personality now.

3 I have seen how this church reaches out to the
4 young people of high school and college age, and teaches
5 them the difference between right and wrong. It teaches
6 them to be helpful to those who cannot help themselves,
7 without expecting anything in return. Our women's
8 groups and men's groups and, separately, the community
9 groups meet weekly to encourage and support each others'
10 efforts to lead meaningful and productive lives.

11 Our senior members minister to other senior
12 members -- other seniors in the community.

13 My own sense of ethical behavior in business
14 has been -- has been reinforced by being part of this
15 church.

16 We're a growing church. I believe that the
17 proposed multiuse facility will provide the community of
18 Maui with a valuable, positive force for improvement,
19 and one that will sustain a high quality of life for our
20 citizens.

21 Your immediate approval of Valley Isle
22 Fellowship's application is appreciated. And I thank
23 you for this opportunity to express my support.

24 CHAIR MOLINA: Thank you very much, Mr.
25 Drayson.

1 Committee Members, questions for the
2 testifier?

3 Seeing none, thank you for your testimony.
4 Next to testify, we have Richard Yamasaki, followed by
5 Megan Motonaga.

6 MR. YAMASAKI: Chairman Molina and the
7 Committee Members, my name is Richard Yamasaki. And I
8 reside in Kahului with my wife, Elaine. And we've been
9 there a long number of years. And don't ask me about
10 dates, I can't keep track.

11 Anyway, earlier, you mentioned about
12 recognizing the young people in the audience. I commend
13 you for that because not -- too many of us have gray
14 hair, except Joe Pontanilla, maybe. But, hopefully,
15 with -- what we got to say will influence you.

16 Anyway, we thank you for the opportunity to
17 express our strong support to Valley Isle Fellowship
18 District Boundary Amendment and Change in Zoning
19 Application.

20 We, that is my wife, Elaine, and myself, are
21 Members of Valley Isle Fellowship for a number of years
22 now. Since becoming Members of Valley Isle Fellowship,
23 we have come to realize how God has led us to various
24 areas of our lives to worship, relate and understand our
25 purpose in life. VIF -- who I'll keep referring to

1 Valley Isle Fellowship as VIF -- consists of a varied
2 mixture of ages, gender, race, families and believing
3 Christians.

4 I am here today to offer our testimony of the
5 wonderful camaraderie and relationship we experience at
6 Valley Isle Fellowship. Highlight of being a member of
7 VIF is the Sunday morning worship services. With the
8 praise team opening the service with their upbeat music,
9 to the pastor's prayer and message, it is truly an
10 experience that you cannot get elsewhere. Truly
11 worshipping together adds a positive dimension to our
12 lives.

13 But being a believer requires us to be
14 righteous in all aspects of our lives, whether it be a
15 relationship at home, work, play or church. Being
16 righteous involves participating in the church's
17 ministry and activities.

18 As a senior -- as my gray hair shows -- we are
19 able to participate in passive activities, nothing
20 strenuous --

21 AUDIENCE: (Laughter.)

22 MR. YAMASAKI: -- which includes small group
23 meetings and functions. Also, we're able to participate
24 in so-called housecleaning activities for short periods
25 of time, not long-term.

1 And we need to qualify our statement for
2 participation due to the age factor, as I talk about my
3 wife and myself, and our seniors at our church. We
4 admire the lay participation in our church life. And
5 every one of these saints, as I call them, have the
6 dedication and commitment to serve the Lord. And this
7 is how we came to see, hear, touch and know the Lord
8 Jesus Christ.

9 And prayer is a big part of our church. And
10 we have dedicated prayer warriors offering prayers,
11 privately and corporately. And one area of praying is
12 quite extensively used.

13 MS. NAKATA: Three minutes.

14 MR. YAMASAKI: Before a person is scheduled
15 for surgery and afterwards thereof, prayer is offered.
16 And the amazing results are heartwarming to everyone.
17 Also, prayers are offered before and after meetings to
18 thank and praise the Lord.

19 Hopefully, we have presented a brief overview
20 of what Valley Isle Fellowship means to us. And your
21 immediate approval of our application is appreciated.

22 And thank you for the opportunity to express
23 our support.

24 CHAIR MOLINA: All right. Thank you very
25 much, Mr. Yamasaki.

1 Committee Members, questions for the
2 testifier?

3 Seeing none, thank you very much for your
4 testimony.

5 COUNCILMEMBER BAISA: Chair?

6 CHAIR MOLINA: I'm sorry. Mr. Yamasaki, hang
7 on.

8 Councilmember Baisa, you have a question?

9 COUNCILMEMBER BAISA: Yes. Thank you, Chair.
10 Just wanted to thank you for being here today, and to
11 tell you about gray hair. Some of us have discovered
12 Clairol. Thank you.

13 ALL: (Laughter.)

14 COUNCILMEMBER BAISA: Thank you.

15 CHAIR MOLINA: Okay. Any other questions for
16 the testifier?

17 Oh. Mr. Pontanilla? Hang on, Mr. Yamasaki.
18 Mr. Pontanilla has a question for you --

19 VICE-CHAIR PONTANILLA: Thank you --

20 CHAIR MOLINA: -- or a comment. I don't know.

21 VICE-CHAIR PONTANILLA: -- for recognizing how
22 distinguished we are with our light hairs.

23 MR. YAMASAKI: No problem.

24 VICE-CHAIR PONTANILLA: Like Member Baisa had
25 said, you know, there's other secrets to make it black.

1 MR. YAMASAKI: Amen.

2 CHAIR MOLINA: All right. Any other questions
3 or comments?

4 Thank you very much, Mr. Yamasaki. It's
5 called gray power, right? There you go. All right.
6 Next to testify, we have Megan Motonaga, followed by
7 Michael Sena.

8 MS. MOTONAGA: Dear Chair Molina and Committee
9 Members, thank you for the opportunity to express my
10 strong support to Valley Isle Fellowship's District
11 Boundary Amendment and Change in Zoning Applications.

12 My name is Megan Motonaga. And I am
13 representing the Valley Isle Fellowship Youth Group.
14 And some of them are present with me today. I am a
15 senior at Baldwin High School.

16 And I first attended the Valley Isle
17 Fellowship Youth Group five years ago, when I was in
18 seventh grade. And I immediately fell in love with the
19 people in it. I started going to the weekly Bible
20 studies and really liked it. For the first time, I was
21 excited to be in church.

22 It was around that time that God really
23 started to work in my life. The summer before I started
24 going to the youth group, I had a burning desire to
25 learn how to play the guitar. I never really took any

1 initiative to learn because no one I knew played. When
2 I started going to the youth group, however, one of the
3 leaders there had discovered that I wanted to learn to
4 play the guitar. He taught me the basic chords. And
5 within a matter of months, God allowed one of my
6 friends, who was also a member of the youth group, and I
7 to become the worship leaders for the youth group when
8 he left for college.

9 Over the last couple of years, God has blessed
10 our worship team, the Remnant, with so many other
11 individuals that are sold out for God. We have been
12 leading worship in our youth group for the past four
13 years. He even gave us the opportunity to open in
14 concert for Olivia The Band.

15 This youth group, on top of giving me so many
16 opportunities to serve our community and the people in
17 it, by doing beach cleanups and other various service
18 projects, has also given me stability and support when I
19 needed it the most. I have made lifelong friends and
20 have been encouraged and challenged by all of them,
21 youth and youth leaders alike.

22 He is using so many of our young people's
23 impact on our neighborhood, our community and our island
24 for Christ. I am so proud to be part of a youth group
25 in which God is moving.

1 Your immediate approval of VIF's application
2 is very much appreciated and would allow us to reach out
3 to more of the youth that are in desperate need of our
4 God's love.

5 Thank you for the opportunity to express my
6 support.

7 CHAIR MOLINA: Thank you very much, Megan, for
8 your testimony.

9 Committee Members, questions for the
10 testifier?

11 Seeing none, thank you very much for your
12 testimony.

13 Next to testify, we have Michael Sena. And
14 Mr. Sena is the last person to have signed up to
15 testify. The Chair will offer members of the public one
16 last opportunity to testify on Land Use Item 42.

17 Good afternoon, Mr. Sena.

18 MR. SENA: Yes. Thank you, Councilmember
19 Molina and Council Members.

20 My name is Michael Sena. I reside at 28
21 Lanipo in Kahului. And thank you for the opportunity to
22 give my testimony today.

23 I'd like to express my strong support for
24 Valley Isle Fellowship.

25 I have been a member since 2001. And it has

1 been a -- a radical change of experience for me in
2 becoming to know our Lord Jesus Christ as our savior.
3 Both my wife attend the church, and so does my daughter.
4 And we regularly visit, through the evangelism team that
5 we have, our community members, and other people that
6 put the request on a blue card. So I know, as well as
7 my fellow church members, they're regularly inviting
8 people. And as a result, we're getting a lot more
9 visitors. So with anticipating of our church growing,
10 you know.

11 And, obviously, Jesus is involved in that. So
12 one thing that I can assure you is that we will be very,
13 very good stewards of the land. You know, we'll take
14 care of the property, we'll -- we'll treat it, you know,
15 the way the Lord would want us to treat it, so the
16 following generation can inherit it and continue to, you
17 know, lead the church forward.

18 So -- so, also, we want to assure that it's --
19 this church, once it's built, it will not just be a, you
20 know, church in the box, Sunday only activity. Okay.
21 We're gonna be utilizing this church seven days a week.
22 We're gonna be having a lot of members from the
23 community having a place to go, a safe place to go.

24 So, in conclusion, I just want to assure you
25 that we plan to live out our church goal or creed,

1 which, as Pastor Richard had mentioned earlier, is to
2 love God, love his church and love his world.

3 So thank you very much.

4 CHAIR MOLINA: Okay. Thank you, Mr. Sena.
5 Committee Members, questions for the testifier? Seeing
6 none, thank you for your testimony. The Chair will
7 offer the public one last opportunity to testify on Land
8 Use Item 42. Seeing no one approaching, Members, if
9 there is no objections, the Chair will close public
10 testimony on Land Use Item 42.

11 COUNCIL MEMBERS: No objections.

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

14 ...END OF PUBLIC TESTIMONY...

15 CHAIR MOLINA: Our item today, Members, Land
16 Use Item 42, is, the Committee is in receipt of the
17 following: County Communication No. 08-158, from the
18 Planning Director, transmitting a request from Senior
19 Pastor Richard C. Smith, on behalf of Valley Isle
20 Fellowship, for a District Boundary Amendment from
21 Agricultural to Urban, and a Change in Zoning from
22 Agricultural District to P-1 Public/Quasi-Public
23 District, on approximately 14.99 acres, located in
24 Waikapu, Wailuku, Maui, Hawaii, along with proposed
25 bills to grant the request. A correspondence dated

1 September 19, 2008, was received from the Department of
2 the Corporation Counsel's Office, transmitting the
3 following: A revised proposed bill entitled "A Bill for
4 an Ordinance to Amend the State Land Use District
5 Classification from Agricultural to Urban for Property
6 Situated at Waikapu, Wailuku, Maui, Hawaii." The
7 purpose of the revised proposed bill is to grant the
8 requested District Boundary Amendment.

9 Also, a revised proposed bill entitled "A Bill
10 for an Ordinance to Change Zoning from Agricultural
11 District to P-1 Public/Quasi-Public District
12 (Conditional Zoning) for Property Situated at Wailuku,
13 Maui, Hawaii," was also received. The purpose of the
14 revised proposed bill is to grant the requested Change
15 in Zoning.

16 So, Members, that is what we're dealing with
17 today.

18 Before we go any further, the Chair has been
19 informed that the applicant's representative, Mr.
20 Bagoyo, will be doing a Powerpoint presentation for us
21 this afternoon. So what we'll do, we'll go ahead and
22 take a short break.

23 Before that, you know what, I would like to
24 ask the Planning Department if you would like to make a
25 few brief comments before we go on to the Powerpoint

1 presentation? Ms. Loudermilk?

2 MS. LOUDERMILK: Not at this -- not at this
3 time. Thank you.

4 CHAIR MOLINA: We'll go ahead and wait until
5 the presentation is done?

6 MS. LOUDERMILK: Yes.

7 CHAIR MOLINA: Okay. So ordered, Members. So
8 what we'll do, Members, just stay in the building, don't
9 go anywhere, we're gonna take a short break, we're gonna
10 lower the screen down, and we're gonna have a
11 presentation regarding Land Use Item 42.

12 Meeting in recess subject to the call of the
13 Chair....(gavel)...

14 RECESS: 2:00 p.m.

15 RECONVENE: 2:02 p.m.

16 CHAIR MOLINA: ...(gavel)...Land Use Committee
17 meeting for October 1st, 2008 is now back in session.
18 Members, we're on Land Use Item 42, a District Boundary
19 Amendment and Change in Zoning for Valley Isle
20 Fellowship over in Waikapu, Maui, Hawaii. We have Mr.
21 Bagoyo who will be doing a Powerpoint presentation on
22 this particular item.

23 Mr. Bagoyo, you have the floor.

24 (Note: Computer-generated presentation.)

25 MR. BAGOYO: Thank you so much, Chairman

1 Molina and Members of the Land Use Committee. My name
2 is Vince Bagoyo. And I'm a member of the Valley Isle
3 Fellowship since 2003. In fact, the entire family are
4 Members of Valley Isle Fellowship. So we're -- yes, I'm
5 just helping Valley Isle through -- during this process.

6 Thank you so much for your patience. The
7 application for Change in Zoning from Ag to
8 Public/Quasi-Public and the State Land Use District
9 Boundary reclass from Ag to Urban District. And this is
10 for the proposed Valley Isle Fellowship Worship Center
11 facility.

12 Valley Isle Fellowship's located currently at
13 473 South High Street, in Wailuku.

14 Our Senior Pastor, who has testified earlier,
15 Richard Smith. And our Pastor of Evangelism and Student
16 Ministries, Gary Hamrick, is also here this morning --
17 this afternoon. And, of course, Pastor of our Small
18 Group Ministry is Darren Sarmiento, who's manning the
19 laptop computer.

20 Thank you, Darren. Valley Isle Fellowship is
21 formerly Wailuku Baptist Church, founded in 1952. And
22 in 1999, we merged with the Rejoice Church. And now we
23 become the Valley Isle Fellowship.

24 Our affiliations: We are affiliated with the
25 Maui County Baptist Association, made up of 10 churches,

1 including Lanai and Molokai. We are also a member of
2 the Hawaii Pacific Baptist Convention, made up of
3 approximately over 100 churches in Hawaii, Guam and
4 American Samoa. And, finally, we are affiliated with
5 the Southern Baptist Convention, made up of 42,000
6 churches, with a membership of over 14 million. We also
7 have missionaries and churches in over 140 countries
8 around the world.

9 As noted earlier, our mission is to love God,
10 to love his church and to love his people. And Valley
11 Isle Fellowship exists to introduce people to Jesus
12 Christ, magnify his name, and to enable followers to
13 mature in faith.

14 Valley Isle Fellowship has been very active in
15 our community. And this is just some of the snapshot of
16 what we have been doing over the last several years.

17 We do have pre-worship services for the whole
18 family each Sunday, two in the morning. The first
19 service is at 8:00, the second service is at 10:45, and
20 then one at night, at 6:00. And the two morning
21 services is currently held at the Wailuku Elementary
22 School cafeteria.

23 We do have active youth and children's
24 ministry, as been indicated by Megan, in her testimony.

25 We have the Critical Mass at the MCC campus.

1 We also have been very active in mission work on -- on
2 Maui, on the Island of Lanai, and, of course,
3 internationally.

4 We have assisted the homeless families at
5 Kahului Harbor. We are very active -- continue to be
6 active in -- in homeless shelters activities.

7 We have provided assistance to church
8 families, such as home repairs and family counseling.

9 This is just some of the snapshots of our
10 Sunday morning service. Very active, fun, but we
11 worship.

12 This is -- again, this is some of the
13 activities, some of the photos, just for your
14 information.

15 This is the Critical Mass at the Maui
16 Community College, you know.

17 This is also the ongoing Wailuku Elementary
18 School projects that we have embarked over the last
19 several years.

20 We've also helped build the Lanai Baptist
21 Church expansion. And it was fun. And having been from
22 Lanai for many years, it was really a blessing to -- to
23 help our church members over in Lanai.

24 This is some of the community workday program
25 that our church members and our youth are very active

1 on.

2 This is some of the ministries that we have
3 before the Kahului Harbor community. We had -- as noted
4 by Pastor Richard, I think we had over 200 -- 200 people
5 participated. And we continue to be involved at the
6 homeless shelter here at Waiale Road.

7 This is just some of the ministry that we are
8 active on, just helping others. Just, you know,
9 repairing their houses and doing their yard work and so
10 forth. Just in a very practical way.

11 The project site is currently located at Tax
12 Map Key 3-5-02, portion of 12. And it's located along
13 the Honoapiilani Highway, at Waikapu, adjacent to
14 Spencer residential project.

15 The total land area before you this -- this
16 afternoon is approximately 14.99 acres.

17 The project site is -- is shaded in yellow.
18 This is Honoapiilani Highway. That's Waiale Road on the
19 east. And this is the Spencer -- one of the major
20 access to Spencer project right over here on the south
21 of the property.

22 This road does not extend to HP Highway. It
23 ends approximately, I believe, right around here.

24 This is just a view plane from the Spencer
25 road looking west from Waiale Road. And the property

1 before you is this property right here.

2 This is the view from Waiale Road, looking
3 north towards Wailuku. This is the Waiale Road which is
4 -- I believe this is a 60-foot right-of-way.

5 Again, this is just a -- some of the view from
6 Waiale Road looking south, looking Waikapu, towards
7 Waikapu town.

8 And that's the Spencer's housing project.
9 This is a view looking east from Honoapiilani Highway
10 along south boundary of the property. Again, this is
11 the main access road to Spencer. This is the Spencer
12 project. And the property before you is on the -- on
13 the north side of Spencer.

14 By the way, this is -- I believe this is also
15 about 60 foot right-of-way, approximately.

16 Again, this is the view from the Honoapiilani
17 Highway looking north towards Wailuku town, kinda
18 looking northeast.

19 You may. Thanks. This is looking east across
20 the highway. Just for your information, the north
21 boundary of -- north of our property is the proposed
22 Emmanuel Lutheran Church school, which is going to be
23 located right here on the north boundary of our
24 property.

25 Again, this is the view from the highway

1 looking towards the town.

2 I think this is the final photo. This is just
3 to give you some idea, looking west, looking towards the
4 West Maui Mountain. And this is the Wailuku Heights,
5 Scott Nunokawa's project, which is the extension of the
6 Waiolani Subdivision, is somewhere around this area,
7 which is southwest of our property.

8 Again, this is just a view from west to east.
9 And this is the access road to the Spencer project.

10 The proposed projects is a multipurpose
11 Worship Center and Hospitality Center and ancillary
12 building facilities for our church ministries.

13 The existing land use designation is currently
14 County Zone Ag, State Land Use Designation is Ag and
15 Maui Community Plan P/QP District.

16 The land use approvals that are required,
17 that's before you this afternoon, is a Change in Zoning
18 from Ag to P/QP, and the State Land Use District Urban
19 Boundary Reclassification.

20 Just a final note. We -- we did -- we met
21 with the Waikapu Association members, and, also, the
22 Waiolani Homeowner's Association's board of directors,
23 regarding our project. And we did not receive any
24 opposition or any major questions that were raised
25 during those -- those meetings.

1 Thank you so much again. And if you have any
2 questions, the applicant, Pastor Richard Smith, is here
3 to respond to your questions.

4 And if there's any technical questions, I'll
5 be more than happy to be available.

6 And, also, our civil engineer, Wayne Arakaki,
7 is also here.

8 And the beauty about all this process is that
9 -- and I want to thank Wayne Arakaki for doing this for
10 us, because he actually did it pro bono. And so that's
11 really much appreciated.

12 Thank you so much. Good afternoon.

13 CHAIR MOLINA: Thank you very much, Mr.
14 Bagoyo.

15 AUDIENCE: (Applause.)

16 CHAIR MOLINA: Okay, Members, we're going to
17 call a short recess. And we shall reconvene and discuss
18 Land Use Item 42. Meeting in recess subject to the call
19 of the Chair....(gavel)...

20 RECESS: 2:12 p.m.

21 RECOVENE: 2:14 p.m.

22 CHAIR MOLINA: ... (gavel)... Land Use Committee
23 meeting for October 1st, 2008 is now back in session.

24 I would like to thank Mr. Bagoyo for that
25 presentation, very informative.

1 At this point, I would like to turn matters
2 over to the Planning Department to add some brief
3 comments with regards to this particular application.

4 But before we do that, the Chair would like to
5 recognize Council Chair Hokama to our proceedings today.

6 And we also have in attendance the Deputy
7 Director of Public Works, Mr. Mike Miyamoto, available
8 to respond to any questions from you as well.

9 Planning Department?

10 MS. LOUDERMILK: Good afternoon, Chair Molina
11 and Members of the Committee.

12 As indicated, we have an application for a
13 State Land Use District Boundary Amendment and Change in
14 Zoning by Valley Isle Fellowship before you.

15 Also, as indicated, the various land uses, the
16 State Land Use District is Agriculture. The
17 Wailuku-Kahului Community Plan for the project is
18 Public/Quasi-Public use. The zoning is Agricultural
19 District. And is -- it is located outside of the
20 Special Management Area.

21 These two requests are being brought before
22 you in order to construct the Valley Isle Fellowship
23 Worship Center facility. These applications will bring
24 the Land Use District and Zoning into conformance with
25 the Public/Quasi-Public designation on the

1 Wailuku-Kahului Community Plan map.

2 The public hearing was held by the Maui
3 Planning Commission on September 25th, 2007. At that
4 meeting, 11 people testified in support. Additionally,
5 there were 27 letters of support that were received at
6 that particular meeting.

7 The recommendation from the Maui Planning
8 Commission was approval of the Land Use District
9 Boundary Amendment with no conditions. Then they
10 further recommended approval of the Change in Zoning
11 subject to six conditions. And at a later time, the
12 Department would provide some new language for Condition
13 Number One and Number Two to further clarify the -- the
14 intent of those conditions and make it much clearer.

15 And that concludes the Department's summary of
16 the applications before you.

17 CHAIR MOLINA: Okay. Thank you, Ms.
18 Loudermilk.

19 Before I turn matters over to the Committee
20 for questions and answers, the Chair has one -- one
21 question for you.

22 My understanding is there were some prior
23 unilateral agreements with regards to this application.
24 Can you share with us -- and this is according to
25 Exhibit 11. Can you further expound on that with the

1 Committee?

2 MS. LOUDERMILK: Yes. The property before us
3 today has been subject to a number of unilateral
4 conditions that when Valley Isle Fellowship took on the
5 property, or purchased the property, that they had
6 agreed to abide by those unilaterals.

7 The one that was highlighted in the
8 Department's report had to do with the unilateral for
9 the Change in Zoning for the Waiko Baseyard. And
10 specifically for the continued consultation with the
11 State DOT for any required regional transportations
12 agreements.

13 And that's, basically, it. The other
14 unilaterals appear to implement the requirements of the
15 Waiko Baseyard Change in Zoning.

16 CHAIR MOLINA: Okay. Thank you very much for
17 that response.

18 Committee Members, the floor is now open for
19 questions for the Planning Department.

20 Member Pontanilla?

21 VICE-CHAIR PONTANILLA: Thank you. You
22 mentioned Waiko Baseyard?

23 MS. LOUDERMILK: Yes. That was a C. Brewer
24 project that came in for a District Boundary Amendment
25 and Change in Zoning back in 1998.

1 VICE-CHAIR PONTANILLA: And the baseyard is
2 located where?

3 MS. LOUDERMILK: To -- between Honoapiilani
4 Highway and Kuihelani Highway, on -- when you're going
5 from Waikapu down to Kuihelani, it would be on your
6 left-hand side.

7 VICE-CHAIR PONTANILLA: Oh. It's away from
8 this project?

9 MS. LOUDERMILK: It is. It's far away from
10 this project. However, this was a very large tax map
11 key.

12 VICE-CHAIR PONTANILLA: Oh, okay.

13 MS. LOUDERMILK: And it appeared that when the
14 unilaterals were put on the property, it did not
15 distinguish between the boundaries of Waiko Baseyard
16 with the other properties, such as this property,
17 Emmanuel Lutheran Church, and some other properties.

18 VICE-CHAIR PONTANILLA: Okay. Thank you.
19 Thank you, Chairman.

20 CHAIR MOLINA: Thank you, Member Pontanilla.
21 Chairman Hokama, followed by Member Johnson.

22 COUNCILMEMBER HOKAMA: For clarification,
23 Chairman, please.

24 Ms. Loudermilk, this -- this is the corner of
25 where the Brewer Chemical is? You know, the old Brewer

1 Chemical office?

2 MS. LOUDERMILK: I believe so.

3 COUNCILMEMBER HOKAMA: Okay. So, yes, I
4 remember that zoning. And we had placed quite a bit of
5 conditions for approval. So are there other unfulfilled
6 conditions of compliance?

7 MS. LOUDERMILK: Not that the Department is
8 aware of.

9 COUNCILMEMBER HOKAMA: Okay. So other than
10 that -- the improvements on Waiko, whether it be at
11 Honoapiilani Highway, by the old graveyard, mitigation
12 of any flow -- sheet flow into Waikapu Stream which ends
13 up in the Federal Reserve, and somehow all of those
14 things have been addressed and complied with?

15 MS. LOUDERMILK: I am not sure if they have
16 been addressed. My understanding, that agreements are
17 in place that, based upon certain events or certain
18 situations, in consultation with Public Works, then
19 those improvements would be completed.

20 COUNCILMEMBER HOKAMA: Are you able to give us
21 a status this afternoon?

22 MS. LOUDERMILK: At this afternoon, I will not
23 be able to.

24 COUNCILMEMBER HOKAMA: Okay. Thank you, Ms.
25 Loudermilk.

1 Mr. Chairman, I would request of you, if you
2 would be able to secure from Planning, within a
3 reasonable time, to report back regarding compliance of
4 the original conditions of zoning, please?

5 CHAIR MOLINA: So noted, Chairman. We'll make
6 that request.

7 COUNCILMEMBER HOKAMA: Thank you. I just need
8 some assistance please, Department. Can you help the
9 Committee understand, since the applicant's Powerpoint
10 showed ancillary uses, what is ancillary uses according
11 to the Department, please, under Public/Quasi-Public?
12 We know what is the permitted uses.

13 MS. LOUDERMILK: Yeah. My understanding would
14 be uses that are associated with general church
15 activities or events or sponsored activities and events.

16 COUNCILMEMBER HOKAMA: Has the applicant or
17 their representatives been able to communicate to you
18 and the Department exactly the type of ancillary uses
19 they intend to provide their congregation as well as
20 maybe adjacent neighbors?

21 MS. LOUDERMILK: Not specific events.

22 COUNCILMEMBER HOKAMA: Okay. Chairman, at the
23 appropriate time, I would just like to be able to ask
24 the church's representative for clarification on what --
25 what type of ancillary uses, please.

1 CHAIR MOLINA: Okay. Thank you, Chairman.
2 Well, we'll bring up Mr. Bagoyo at a later point during
3 the meeting, once we get through --

4 COUNCILMEMBER HOKAMA: Chairman, are you
5 planning to bring Public Works up --

6 CHAIR MOLINA: Yes.

7 COUNCILMEMBER HOKAMA: -- today, Chairman?
8 Thank you.

9 CHAIR MOLINA: Okay. Thank you.
10 Councilmember Johnson, questions for the Planning
11 Department?

12 COUNCILMEMBER JOHNSON: Yes. Robyn, the
13 ingress and egress, because it will be -- it appears,
14 where the project is sited, would be along -- and I'm
15 not sure of the name of that roadway because it's
16 between Waiko and Honoapiilani Highway -- will there be
17 access then, so that they would be coming out onto
18 Honoapiilani Highway or out on Waiko? Is there any plan
19 for traffic circulation?

20 MS. LOUDERMILK: No. In fact, no access can
21 be provided to Honoapiilani Highway. And there will be
22 no direct access to Waiko Road.

23 COUNCILMEMBER JOHNSON: Okay. So how will
24 they utilize their property?

25 MS. LOUDERMILK: They -- access, when the

1 application came into the Department, was going to be
2 off that side road adjacent to the Spencer project.
3 Then Valley Isle was informed that they would not be
4 allowed to use that by Mr. Spencer. So they changed
5 their access point from the side road to Waiale Road.
6 Once that change was made, that was determined at this
7 point in time to be the permanent access to and from.

8 COUNCILMEMBER JOHNSON: So they'll be using
9 Waiale, then?

10 MS. LOUDERMILK: Yes.

11 COUNCILMEMBER JOHNSON: Okay. And I didn't
12 have an opportunity -- I know they have a -- a plan in
13 here, but then, with that change in access, are you
14 satisfied, in going over all of this, that because of
15 the use of the property and because they've indicated
16 they -- it's not just gonna be like a Sunday thing,
17 where they have ongoing programs, are you satisfied that
18 the Waiale will then be able to accommodate the
19 additional traffic, and that the traffic studies that
20 have been submitted with the application are sufficient?

21 MS. LOUDERMILK: Regarding the traffic studies
22 that have been submitted, they are sufficient. We had
23 them re -- do a revised report to indicate the new
24 location and the level of service. However, I do
25 believe it's still through the subdivision process that

1 the final location in relation to Waiale Road is -- is
2 determined in order to meet the County of Maui roadway
3 standards and requirements.

4 COUNCILMEMBER JOHNSON: Okay. And one final
5 question. And I know that because we're not really
6 getting involved with the building approval or building
7 height, or anything of that sort, except that I am just
8 looking at their description for their multipurpose
9 building, 95 by 160, which would be 15,200 square feet,
10 because it's not located right on Honoapiilani -- and
11 because one of the things I think we had expressed was
12 view plane obstruction --

13 MS. LOUDERMILK: Uh-huh.

14 COUNCILMEMBER JOHNSON: -- particularly like
15 on the Spencer project nearby where there are view
16 corridors, have you had any indication, after looking at
17 the base elevation, and because the height is not
18 listed, or the projected height, of what the obstruction
19 or intrusion into the view plane looking towards
20 Haleakala would be from Honoapiilani Highway?

21 MS. LOUDERMILK: Not specific heights. In
22 general, I believe the height limit in the
23 Public/Quasi-Public is 30 or 35 feet. The property does
24 slope down significantly from Honoapiilani Highway.

25 Also, one of the requirements from the State

1 Department of Transportation that there be a buffer area
2 between the roadway and the structures would be. And as
3 part of the buffer area, the church will be doing
4 landscaping and other types of improvement that would
5 minimize any visual from any -- any rooftops.

6 COUNCILMEMBER JOHNSON: Okay. And -- and I'm
7 not so concerned about -- you know, because I wouldn't
8 want trees right, you know --

9 MS. LOUDERMILK: Sure.

10 COUNCILMEMBER JOHNSON: -- smack on the
11 highway.

12 MS. LOUDERMILK: Uh-huh.

13 COUNCILMEMBER JOHNSON: Because one of the
14 challenges, I guess, we have all over, even in West
15 Maui, is that when you plant the trees, or you have now
16 these giant walls that are coming up on the --

17 MS. LOUDERMILK: Uh-huh.

18 COUNCILMEMBER JOHNSON: -- property that's
19 across the street from this project, is you have view
20 plane obstructions. So from the highway, if you look at
21 view plane preservation, you know, my concern is that
22 whatever is done doesn't intrude dramatically, like, all
23 of a sudden, you can't see anymore. And it doesn't look
24 like that is going to be a problem, the way they've
25 located this, and it seems downslope from it. But --

1 MS. LOUDERMILK: And, also, my understanding,
2 at least for the structures before us, they will be
3 single-story structures.

4 COUNCILMEMBER JOHNSON: Okay. And that's very
5 important, I think, for view preservation. And, you
6 know, it's a shame that other areas built up as high as
7 they could to the level --

8 MS. LOUDERMILK: Sure.

9 COUNCILMEMBER JOHNSON: -- of fill. So I -- I
10 just -- you know, from -- I won't put in a condition or
11 anything of that sort regarding that, but I just think
12 that if they hear our comments -- and the general
13 commentary, basically, from most people is that they
14 hate what was done on the opposite side of Honoapiilani
15 Highway, because you can no longer see anything. And
16 that I think the Spencer project at least provided some
17 view corridors. So I would hope every effort would be,
18 you know, given to try to maintain those view corridors.

19 MS. LOUDERMILK: Okay. And --

20 COUNCILMEMBER JOHNSON: Thank you.

21 CHAIR MOLINA: Thank you, Member Johnson.

22 Member Baisa?

23 COUNCILMEMBER BAISA: Yes. Thank you, Chair.

24 Just a quick question.

25 Robyn, you mentioned that the applicant was

1 gonna put in a buffer. Can you describe how wide that
2 buffer is? The reason I am asking is I have friends who
3 live in the Spencer project. They have a little
4 daughter that's 12 years old. And she contacted me the
5 other day, wanting to write a petition to the State
6 Department of Transportation, because they lived through
7 the nightmare of having somebody come through on that
8 highway right in front of Spencer and wind up in
9 somebody's bedroom. And so I think we need a buffer
10 along there. I am just curious to know how big it is.

11 MS. LOUDERMILK: Based upon the plan
12 submitted, approximately 300 feet from the roadway.

13 COUNCILMEMBER BAISA: That's good. That's
14 good.

15 Thank you very much.

16 CHAIR MOLINA: Thank you, Member Baisa.
17 Committee Members, questions for the Department? Member
18 Mateo?

19 COUNCILMEMBER MATEO: Chairman, thank you.
20 Ms. Loudermilk, your -- your reference to the -- the
21 Valley Isle not being able to use the Spencer road, was
22 that because of the increase in traffic?

23 And if it is, then how -- how does it now
24 impact Waiale?

25 MS. LOUDERMILK: My understanding is that the

1 applicant was advised from Mr. Spencer that they -- he
2 would not allow them to utilize the roadway. And in
3 terms of further clarification, I would defer to the
4 applicant on that.

5 COUNCILMEMBER MATEO: Thank you. I'll wait,
6 Chairman.

7 CHAIR MOLINA: Okay. Thank you, Member Mateo.
8 When we bring up Mr. Bagoyo, we'll get a response to
9 that question, Mr. Mateo. Any other questions from the
10 Department before I bring up the applicant as well as
11 Public Works Deputy Director Miyamoto?

12 The Chair has just one more question for the
13 Department with regards to water. And it's unfortunate
14 we don't have a water representative here. My
15 understanding is going to Exhibit 6 of the Department's
16 report. The church -- the church has a letter of
17 agreement with Wailuku Sugar Company to utilize its
18 nonpotable surface water for landscape irrigation needs.
19 To your knowledge, Ms. Loudermilk, is the agreement
20 still in place?

21 MS. LOUDERMILK: I would defer that --

22 CHAIR MOLINA: Yeah, okay.

23 MS. LOUDERMILK: -- to the applicant, sir.

24 CHAIR MOLINA: We'll do that. Okay. Members,
25 if there are no objections, I'd like to call upon Mr.

1 Bagoyo as well as Pastor Smith to respond to any
2 questions that you may have.

3 COUNCIL MEMBERS: No objection.

4 CHAIR MOLINA: Thank you. Gentlemen? Good
5 afternoon, Mr. Bagoyo and Pastor Smith.

6 I believe Member Hokama had a -- initially had
7 the first question for you, and then we'll follow that
8 up with questions from the rest of the Members.

9 Chairman Hokama?

10 COUNCILMEMBER HOKAMA: Chairman, thank you
11 very much.

12 Pastor, Mr. Bagoyo, I would like to have you
13 give us little bit more specifics on what the church
14 intends regarding ancillary uses, please.

15 MR. BAGOYO: Thank you so much, Chair Hokama,
16 for that question.

17 The ancillary uses that we are anticipating is
18 like offices within the multipurpose facility, and some
19 classrooms for some of our ministries. And it will be
20 confined within the existing proposed -- I mean -- not
21 existing -- the proposed structure.

22 COUNCILMEMBER HOKAMA: So --

23 MR. BAGOYO: Then, of course, the Hospitality
24 Center, which is with a kitchen and so forth.

25 COUNCILMEMBER HOKAMA: And that -- I would

1 assume that would be for your fellowship requirements?

2 MR. BAGOYO: Yes. Yeah.

3 COUNCILMEMBER HOKAMA: Okay.

4 MR. BAGOYO: I think it's approximately about
5 3,500, 3,600 square feet.

6 COUNCILMEMBER HOKAMA: Okay. Okay. And,
7 again, many churches have their fellowship or, you know,
8 congregational areas. Regarding the offices, I am
9 assuming that would be for like yourself, Pastor, for
10 your ability to minister privately to members of the
11 church and others that seek your -- your guidance and
12 advice?

13 MR. SMITH: Yes, sir. I am the Senior Pastor.
14 We have a Pastor of Evangelism and Student Ministries.
15 We have a Pastor of Small Group Ministries and Worship.
16 We have secretarial staff. So -- and we are a growing
17 fellowship. And so we would, obviously, house the
18 offices there on the -- on the grounds.

19 COUNCILMEMBER HOKAMA: Okay. Is it in the
20 church's future planning or programming to use those
21 space for non-direct church requirements or to allow a
22 nonprofit to -- to rent space from you or your -- your
23 facility?

24 MR. SMITH: You're talking about the -- the --

25 COUNCILMEMBER HOKAMA: The ancillary --

1 MR. SMITH: -- current structure that we're
2 talking about?

3 COUNCILMEMBER HOKAMA: Right. Because I'm
4 just trying to have a clear understanding of ancillary
5 uses. Because we are very clear what the Code provides
6 under this zoning category of permitted uses.

7 MR. SMITH: Yes, sir.

8 COUNCILMEMBER HOKAMA: So we just -- I would
9 just like to have a good understanding of ancillary uses
10 since it's not truly defined.

11 MR. SMITH: If you will, let me digress just a
12 little bit. The former Planning Director, when -- when
13 we first met several years ago, the original plan was
14 there were to be open space between Waikapu and Wailuku.

15 COUNCILMEMBER HOKAMA: Uh-huh.

16 MR. SMITH: And then, of course, the desire
17 was an expanded greenbelt type of effect between Waikapu
18 and Wailuku. The developers have built right up to the
19 road. And in our Wai -- our Waikapu Community meeting,
20 the wall was referred to as the Great Wall of China.
21 And, of course, they have virtually eliminated view
22 plane issues for us by virtue of the fact that they have
23 risen the property to the highest point, and then the
24 houses. So people that wouldn't -- that perhaps would
25 have had a view plane issue will no longer do that.

1 And, of course, we intend to go down the
2 property.

3 In response to the Planning Department's
4 request, we -- we agreed that we would be more than
5 happy to set it back away from the -- the highway
6 significantly, to create the -- the green open space
7 effect that they were looking for. We're thinking about
8 walking paths, just landscaping that would be very
9 attractive to the community.

10 The building will be far enough down on the
11 property that I do not believe there's going to be a
12 view plane issue. And we have every intention of going
13 down, cutting into the earth, rather than raising the
14 earth up when we build.

15 So even though -- I think that there was a
16 mistake mentioned in a single-story. Being a
17 multipurpose worship facility, it will require us to --
18 to -- to go up to the -- the limit of the -- the
19 existing Codes, which is 35 feet. But because we're
20 moving down the property and then cutting down into the
21 earth, we don't believe that will be any issue at all.

22 And we have church family members living all
23 around the church and in that new Spencer project in
24 Waikapu. So we definitely intend to be user-friendly.

25 As to ancillary uses outside, obviously there

1 would be, perhaps, a -- very small structures that we
2 haven't indicated in that just to house a -- a lawn
3 tractor or -- or, you know, equipment like that. But
4 then, in addition to that, obviously we want to be able
5 to utilize the property for the benefit of the
6 community. And so we're hoping to have volleyball,
7 softball, soccer, that kinds of things. And, of course,
8 we've got plenty of property there to do it.

9 But, again, we hope to landscape that in such
10 a way that it would be a very attractive thing to the
11 community as well as very beneficial.

12 COUNCILMEMBER HOKAMA: I'm more concerned
13 about things that you -- you know, regarding the open
14 space areas, I think that's great that the church wishes
15 to provide that for congregational activities and
16 development. I'm more concerned about the -- the uses
17 within the structures.

18 MR. SMITH: Oh, the uses within the --

19 COUNCILMEMBER HOKAMA: Yes.

20 MR. SMITH: -- structures?

21 COUNCILMEMBER HOKAMA: Yes, Pastor.

22 MR. SMITH: Well, being a multipurpose worship
23 facility, of course it would be designed in such a way
24 that we could use it for recreation. It's -- it's
25 tragic that we spend so much money on church buildings

1 that sit vacant six days a week. So we want to be good
2 stewards. So we would -- we would hope to be able to
3 play volleyball, basketball, those sorts of things
4 inside the building.

5 In addition to that, as Mr. Bagoyo has already
6 stated, there would be space allocated for classrooms
7 and offices. And -- and beyond that -- those
8 classrooms, of course, would be very functional. And
9 you could do a multi -- a multitude of activities within
10 them, but nothing, I think, that would be out of the
11 ordinary for what you think of as a church activity.

12 COUNCILMEMBER HOKAMA: So, Pastor, it's your
13 intention that the type of programs you would utilize
14 your classrooms for would be run and operated by the
15 church, you wouldn't have a nonprofit come in and
16 provide some type of --

17 MR. SMITH: Well --

18 COUNCILMEMBER HOKAMA: -- component --

19 MR. SMITH: Well, wanting to be -- wanting to
20 be community-oriented and friendly, of course, we would
21 consider requests. But, I mean, obviously, we're not
22 going to allow anything to take place on the property
23 that would not be acceptable to our surrounding
24 neighbors.

25 For instance, for the last four or five years,

1 we have allowed a home school association to come into
2 our present facility to do testing. And, of course,
3 that's extremely quiet and -- and noninvasive. We have
4 provided Wailuku Elementary School with one of our
5 classrooms to assist with a special education student
6 for an entire year.

7 So those kinds of opportunities we would be
8 open to, but we have no intention of renting out space
9 or -- or having a business, you know, function outside
10 -- you know, outside of that, of the church ministry on
11 the property.

12 COUNCILMEMBER HOKAMA: Thank you for that,
13 your responses to -- to that question.

14 My other question regarding your -- your plans
15 that you shared with us this afternoon -- one, I just
16 want to thank you for, you know, trying to work with the
17 -- the slope and terrain that you currently have.

18 MR. SMITH: Absolutely.

19 COUNCILMEMBER HOKAMA: And I appreciate the
20 buffer that Mr. Bagoyo or you mentioned to Ms. Baisa's
21 earlier inquiry.

22 MR. SMITH: Well, to be very -- you know, very
23 -- very forward, because we cannot access the highway,
24 we have a desire to landscape that property in such a
25 way that, when people drive by it, they're going to look

1 over there and they're going to be drawn to it. Because
2 we realize they're going to have to go down and around
3 and up Waiale Road to get to us. So we're going to make
4 it as inviting as we possibly can. And that, of course,
5 means taking advantage of the view plane to the ocean
6 and Haleakala.

7 COUNCILMEMBER HOKAMA: I think that is very
8 smart planning and vision in your part.

9 ALL: (Laughter.)

10 COUNCILMEMBER HOKAMA: Because I can tell you
11 that driving on the main highway, I look -- well, it
12 doesn't make sense to look mauka anymore because you
13 can't see anything when you look mauka anymore.

14 MR. SMITH: Absolutely.

15 MR. BAGYOYO: Maybe, Council Chair Hokama, the
16 -- the elevation difference of existing grade right now
17 where the proposed building pad is going to be, from the
18 Honoapiilani Highway, is over 20 feet. And so it's set
19 back to approximately 340 feet from the boundary. So
20 it's -- and then we're still gonna have to cut. So the
21 -- the roofline of the proposed facility will probably
22 be much lower than -- than you see on the surrounding
23 areas.

24 COUNCILMEMBER HOKAMA: Again, much appreciated
25 to the church's sensitivity to that issue.

1 One -- one question I just wanted to follow
2 up, please, to Chairman Molina's question.

3 At this point, there is no concern regarding
4 your ability to get the nonpotable for irrigation needs?
5 That -- that is pretty much a set infrastructure that
6 you will be able to have access to? That's not in
7 question, whether or not you will have that type of
8 water for your irrigational purposes?

9 MR. BAGOYO: Yeah. We do have a letter of
10 agreement with the Wailuku Water Company for the -- for
11 all irrigation for the -- for the area.

12 COUNCILMEMBER HOKAMA: Okay.

13 MR. BAGOYO: What our plan -- because there's
14 just so many fixtures, and a lot of fixtures within the
15 facility, it's just the bathrooms and our proposed
16 kitchen, our engineer thinks that five-eight-inch meter
17 is more than sufficient to accommodate the facility.
18 And so we are hoping to connect with the Department of
19 Water Supply system when their lines are ready to be --
20 I guess when Spencer is ready to transfer that system to
21 the County of Maui, Department of Water Supply. My
22 understanding is, still, that system hasn't been
23 formally transferred to the County. And I believe
24 there's a main line right where that road, that access
25 to Spencer, in between our property.

1 And I think there was a question earlier that,
2 you know, why is it that we did not access to the --
3 from that road, instead moving it to Waiale Road. I
4 think Mr. Spencer was concerned about cars during the
5 worship service on Sundays coming into that road, and it
6 may impact the noise levels with the neighbors there.
7 So we have accommodated Mr. Spencer in moving the access
8 on Waiale Road. In fact, I think it's probably a -- a
9 wise decision, anyway.

10 COUNCILMEMBER HOKAMA: And just one quick
11 follow-up, Mr. Bagoyo. So is it -- is it a good
12 understanding on our -- the Committee's part that the
13 church intends to have two lines, one of potable usage
14 and one for nonpotable usage?

15 MR. BAGOYO: That's correct. The exist -- the
16 nonpotable line right now is actually in our boundary of
17 our property. It's pretty -- it's pretty convenient.
18 It's there. I believe they have a six-inch -- six-inch
19 line bordering our property and the Emmanuel Lutheran
20 Church property.

21 COUNCILMEMBER HOKAMA: So you would just be
22 required to tap into the six-inch with appropriate
23 reducers and --

24 MR. BAGOYO: Yes.

25 COUNCILMEMBER HOKAMA: -- for your

1 requirements?

2 MR. BAGOYO: For our irrigation.

3 COUNCILMEMBER HOKAMA: Right. Chairman, thank
4 you very much.

5 CHAIR MOLINA: Thank you, Chair Hokama.
6 Before I recognize Member Mateo, just a quick follow-up
7 on the nonpotable water agreement with Wailuku Sugar.
8 The Na Wai Eha litigation, to your knowledge, that has
9 had no impact on this agreement that you've had, Mr.
10 Bagoyo?

11 MR. BAGOYO: We certainly hope not.

12 CHAIR MOLINA: Okay. I just wanted to
13 doublecheck and make sure.

14 MR. BAGOYO: I could tell you that our --
15 we're praying about it.

16 CHAIR MOLINA: Okay. All right.

17 AUDIENCE: (Laughter.)

18 CHAIR MOLINA: All right. Member Mateo?

19 COUNCILMEMBER MATEO: Chairman, thank you.

20 And I believe -- I believe Mr. Bagoyo already responded
21 to it, in part. Pastor, how large is your congregation?

22 MR. SMITH: We have grown in the last several
23 years from a congregation of approximately 80 to
24 approximately 300. So on any given Sunday, we will
25 average between 250 and 350. On Easters and -- and

1 special occasions, it may go as high as 500.

2 COUNCILMEMBER MATEO: Uh-huh. And you have
3 services multiple times a day during --

4 MR. SMITH: Yes, sir. We have an 8:00 service
5 and a 10:45 service on Sunday morning at the Wailuku
6 Elementary School cafeteria, and then we have a 6:00
7 p.m. service in our current facility on High Street.
8 Our facility there is still large enough to accommodate
9 the evening service. And, of course, we're in close
10 proximity to our neighbors and -- and have not had a --
11 a problem.

12 COUNCILMEMBER MATEO: Uh-huh.

13 MR. SMITH: And, of course, that's another
14 reason for setting the building on the property where we
15 had chosen to do that, with a 60-foot road between us,
16 and then our parking between that road and our building.
17 We're moving that building as far away as we can from
18 both Spencer's project and the highway to accommodate
19 the County and the -- the neighbors.

20 COUNCILMEMBER MATEO: Okay. Thank you. So,
21 Mr. Bagoyo, with that number, with the 300, I guess,
22 congregate -- congregate members coming to, to worship,
23 then what was the traffic impact study based on, whether
24 there is an impact off of Waiale to get onto the -- the
25 main highway?

1 MR. BAGOYO: Yeah. According to our traffic
2 assessment report, which is -- our traffic engineer is
3 Mr. Ng. And he has indicated that the LOS, which is the
4 level of service, is quite minimal. And the existing
5 Waiale Road and Kuikahi and, of course, Waiko Road, and
6 then the highway below Waiko Road will be able to
7 accommodate the expected traffic. And most of our
8 traffic taking place on a very slow period, anyway,
9 which is on Sunday mornings.

10 COUNCILMEMBER MATEO: Good. Thank you.

11 MR. BAGOYO: Thank you so much.

12 COUNCILMEMBER MATEO: Thank you, Chairman.

13 CHAIR MOLINA: Thank you, Mr. Mateo.

14 Committee Members, questions for Mr. Bagoyo or Pastor
15 Smith? Seeing none at this point, gentlemen, thank you.
16 You're excused for the moment. Thank you. I'd like to
17 call upon Deputy Director Miyamoto from the Public Works
18 Department to respond to a question from Chairman
19 Hokama.

20 Good afternoon, Mr. Miyamoto. And thank you
21 for joining us today.

22 Before I recognize Chair Hokama, I have just
23 one question with regards to Condition Number Two,
24 Members, as part of Exhibit B, which is attached to the
25 June 13, 2008 letter. The condition reads that the

1 developer shall contribute its fair share of local and
2 regional transportation improvements as determined by
3 the DOT, Department of Transportation. The developer
4 shall enter into an agreement with the DOT prior to the
5 issuance of the first building permit. A copy of the
6 agreement shall be filed with the Department of
7 Planning. If the fees have not been established prior
8 to project completion, then the fees shall be returned
9 to the applicant.

10 Can I get comment from you, and the Planning
11 Department as well, if you're able to chime in on that?

12 Mr. Director?

13 MR. MIYAMOTO: Thank you, Mr. Chair.

14 Regarding that condition, the State, as they had
15 indicated during the Wailea 670 project, they do not
16 have any plans at this time to develop a traffic impact
17 fee rate schedule at this point.

18 Typically, what the State DOT does is they
19 develop -- they work with the applicants to review their
20 traffic impact assessment report, come up with traffic
21 mitigation measures that impact the State highway, and
22 then they result -- sort of codify that in these
23 conditions and then go about it that way. So the fair
24 share is typically -- like, for example, the traffic
25 signal at Waiko Road and Honoapiilani, various

1 developments had to pay their fair share of that -- that
2 signal construction. And I think that's the intent of
3 fair share.

4 CHAIR MOLINA: Okay. Thank you. Planning
5 Department, any comments on Condition Two, additional
6 comments?

7 MR. HUNT: Thank you, Mr. Chair. Our astute
8 Counsel has advised us that we've made a typographical
9 error in the chapter number, it should be 14.62, in
10 Condition Number One.

11 CHAIR MOLINA: Okay. And any comments on
12 Condition Two?

13 MR. HUNT: Oh, I'm sorry. On Condition Two,
14 we're not sure that we -- that the last sentence is --
15 is accurate. If the fees have not been established
16 prior to the project completion, then the fees shall be
17 returned. I think it would make more sense, if the fees
18 haven't been established, then the requirement for the
19 fees should be waived.

20 CHAIR MOLINA: Okay. So you would recommend
21 we amend this condition?

22 MR. HUNT: And, likewise, in this last
23 sentence on Condition Number One, the fee shall be
24 waived if the traffic impact has not been established.

25 CHAIR MOLINA: Okay. Thank you, Mr. Director.

1 Chairman Hokama, questions for Deputy Director Miyamoto
2 from Public Works?

3 COUNCILMEMBER HOKAMA: Thank you, Chairman.
4 Thank you for the clarification on Conditions One and
5 Two. Mr. Miyamoto, for the Committee's understanding,
6 we've heard the applicant has -- through their
7 representative, regarding how they rerouted their
8 original traffic plan to now access Waiale. So can this
9 Committee have an understanding that Mr. Spencer does
10 not intend to dedicate those roads to the County of Maui
11 and retain private ownership?

12 MR. MIYAMOTO: Chair? Yes, that's our current
13 understanding.

14 Because in the 201G process and accelerating
15 that development, the -- the applicant didn't -- the
16 requirements of the -- for the roads to be dedicated to
17 County were significant, that they preferred to keep the
18 roads private so that they could accelerate construction
19 and get the families in there.

20 COUNCILMEMBER HOKAMA: Okay. And my only
21 concern is that if their intent is to come later in some
22 future timeframe and ask the County to accept it, and
23 then it -- you know, then it's public roads, I have
24 difficulties with the current owner saying no to what
25 would be -- if that's his un-stated intent regarding

1 public roadways. That should be our decision. And as
2 far as you know -- and, you know, you're our traffic
3 expert for the Department -- if the scenario was
4 reversed and we followed the original proposal from the
5 church, would it then, more than likely, trigger
6 additional traffic control measures on Honoapiilani
7 Highway, such as another stoplight or holding lane?

8 I'm just trying to understand because of the
9 rationale of why they shouldn't use a specific road.

10 MR. MIYAMOTO: I don't think that from the
11 beginning the -- the State had -- was going to allow
12 them to have access, that Road A was gonna ultimately
13 access Honoapiilani Highway. So, actually, by creating
14 their own entrance, they've actually dispersed the
15 traffic over two intersections versus having it only on
16 that one intersection, which, in the documents, it's
17 referred to as Road A. By having their entrance on Road
18 A, you would focus a lot more traffic in one location.
19 And that would be more -- certainly operate at a lower
20 level of service than the projected operation with the
21 two driveways. So two driveways may be, actually, a
22 better scenario. There's sufficient spacing between the
23 two driveways so that they could be -- operate in a safe
24 manner.

25 COUNCILMEMBER HOKAMA: So the current revised

1 version is a better plan than the original?

2 MR. MIYAMOTO: Yes.

3 COUNCILMEMBER HOKAMA: What -- what you're
4 sharing with us this afternoon?

5 MR. MIYAMOTO: Yes.

6 COUNCILMEMBER HOKAMA: Okay. And then I know
7 you're not with Water Department, but is there any
8 concern regarding the nonpotable line, regarding whether
9 it be for our easement purposes? Is there any concerns
10 that we need to be aware of so that we can consider
11 whether or not we should consider appropriate conditions
12 to ensure access to -- you know, and I only state that
13 because I believe -- and I may be wrong -- Mr. Bagoyo
14 mentioned that it was possibly an intention to turn it
15 over to the County, that line. So, of course, we would
16 need access to, so an easement would be required. Is
17 there anything that we need to be made aware of so we
18 can have appropriate language in the legislation?

19 MR. MIYAMOTO: Yeah. I was not aware that the
20 line would be eventually turned over to the Water
21 Department. As obviously -- typically, Water Department
22 only concerns themselves with potable resources. But if
23 -- if a facility like this water line were to be
24 considered for dedication to the County, certainly you
25 want to -- you want to ensure that there's access to the

1 -- sufficient access to the pipeline in the event that
2 you have to do some kind of maintenance. Ultimately,
3 you -- you might have access easements to -- to -- so
4 that you can maintain the facility.

5 COUNCILMEMBER HOKAMA: All right. Chairman,
6 thank you. I appreciate Deputy Director's, Miyamoto's,
7 responses.

8 CHAIR MOLINA: Thank you, Chairman Hokama.
9 Committee Members, questions for Deputy Director
10 Miyamoto from Public Works at this point? Okay.
11 Members, the Chair is aware of the time right now. I'm
12 going to give you an opportunity to reenergize yourself.
13 I know it's been a very long day for some of you. So
14 what we'll do, we'll take a recess. And when we return,
15 we'll see if there's any more questions related to Land
16 Use Item 42, and then the Chair will offer a
17 recommendation. This meeting is in recess until ten
18 minutes after 3:00....(gavel)...

19 RECESS: 2:55 p.m.

20 RECONVENE: 3:15 p.m.

21 CHAIR MOLINA: ...(gavel)... Land Use
22 Committee meeting for October 1st, 2008 is now back in
23 session.

24 Thank you very much, Members, for that recess.
25 We're ready to be re -- we are now reenergized and ready

1 to proceed with additional questions and, eventually, a
2 recommendation from the Chair.

3 Members, any other final questions for the
4 Department or Public Works at this juncture?

5 Seeing none, Members, okay, very good. The
6 Chair is gonna offer a recommendation.

7 The Chair will entertain a motion for "A Bill
8 for an Ordinance to Amend the State Land Use District
9 Classification from Agricultural to Urban, for property
10 situated at Waikapu, Wailuku, Maui, Hawaii".

11 COUNCILMEMBER JOHNSON: So moved.

12 VICE-CHAIR PONTANILLA: Second.

13 CHAIR MOLINA: Okay. It's been moved by
14 Member Johnson, seconded by Member Pontanilla.

15 Members, any discussion on the motion? Member
16 Johnson?

17 COUNCILMEMBER JOHNSON: Are there any
18 amendments that we need to make, Mr. Chair, in order to
19 correct some of the things? Because I noticed there was
20 some comments made in our binder.

21 CHAIR MOLINA: Right. Member Johnson, I think
22 the proposed considerations relate to the second bill
23 for the Change --

24 COUNCILMEMBER JOHNSON: Okay.

25 CHAIR MOLINA: -- in Zoning.

1 COUNCILMEMBER JOHNSON: All right.

2 CHAIR MOLINA: But we can ask Planning, any
3 other considerations for the first bill? Are we looking
4 at any --

5 MS. LOUDERMILK: Not at this time.

6 COUNCILMEMBER JOHNSON: All right.

7 CHAIR MOLINA: Okay. Members, any other
8 comments relating to the first bill that we're
9 considering related to the District Boundary Amendment?
10 Seeing none, all those in --

11 MS. NAKATA: Chair?

12 CHAIR MOLINA: -- favor -- oh, Staff?

13 MS. NAKATA: Could Staff just clarify? This
14 would be to recommend passage on first reading of the
15 revised bill that was received from Corp. Counsel, by
16 correspondence dated September 19th?

17 CHAIR MOLINA: Okay. Members, you heard the
18 clarification on what we're considering?

19 COUNCIL MEMBERS: Yes.

20 CHAIR MOLINA: Okay. So noted. All right.
21 Members, the Chair will call for the vote for the first
22 bill. All those in favor signify by saying "aye."

23 COUNCIL MEMBERS: Aye.

24 CHAIR MOLINA: All those opposed?

25 (Silence.)

1 CHAIR MOLINA: Thank you. The Chair will mark
2 it -- one, two, three, four, five -- six-zero; with
3 three excusals, Members Anderson, Medeiros and
4 Victorino.

5 It's late afternoon. Sometimes one's vision
6 gets a little cloudy here.

7 VOTE: AYES: Councilmembers Baisa, Hokama,
8 Johnson, Mateo, Vice-Chair
9 Pontanilla, and Chair Molina.

10 NOES: None.

11 EXC.: Councilmembers Anderson, Medeiros,
12 and Victorino.

13 ABSENT: None.

14 ABSTAIN: None.

15 MOTION CARRIED

16 ACTION: Recommending FIRST READING of revised proposed
17 District Boundary Amendment bill.

18 CHAIR MOLINA: All right. Members, the Chair
19 will now offer a recommendation for the second bill that
20 we're considering. This is the bill related to the
21 Change in Zoning. The Chair will entertain a motion for
22 "A Bill for an Ordinance to Change Zoning from
23 Agricultural District to P-1 Public/Quasi-Public
24 District (Conditional Zoning) for property situated at
25 Wailuku, Maui, Hawaii".

1 COUNCILMEMBER JOHNSON: So moved.

2 VICE-CHAIR PONTANILLA: Second.

3 CHAIR MOLINA: Okay. Moved by Member Johnson,
4 seconded by Member Pontanilla.

5 Member Johnson, as the maker of the motion,
6 you have the floor.

7 COUNCILMEMBER JOHNSON: Yes. That, also, I am
8 assuming, includes the filing?

9 CHAIR MOLINA: Yes, ma'am.

10 COUNCILMEMBER JOHNSON: Okay.

11 CHAIR MOLINA: Okay, Members, this will
12 include the filing of the communication.

13 Member Johnson, any other considerations?

14 COUNCILMEMBER JOHNSON: No. But this is the
15 one where we need the amendment, so --

16 CHAIR MOLINA: That is correct.

17 COUNCILMEMBER JOHNSON: -- I will wait for
18 your advice.

19 CHAIR MOLINA: Okay. Members, the Chair would
20 like to offer to the Committee some considerations first
21 for Condition Number One. And we are looking at the
22 Exhibit B, which is attached to the September 19th
23 letter, and not the July 13th. So, Members, if you can
24 find that in your binder.

25 First, with Condition Number One. It's been

1 recommended that we change the -- next to the word
2 "Chapter," where it states, "Chapter 14.58," in
3 Condition One, change that to read "14.76." And then we
4 will delete, after the word "then" -- if you look
5 further down -- we will delete the words, "These monies
6 shall be returned to Valley Isle Fellowship, Inc.," and
7 replace that with, "The fees shall be waived."

8 So the Chair will entertain a motion to amend
9 Condition One, again, to change "Chapter 14.58" to read
10 "Chapter 14.76." And then after the word "then," to
11 delete those words that I read to you, with, "These
12 monies," and replace them with the words, "the fees
13 shall be waived."

14 Is that clear, Members?

15 COUNCILMEMBER JOHNSON: Yes. And so moved.

16 CHAIR MOLINA: Okay.

17 VICE-CHAIR PONTANILLA: Second.

18 CHAIR MOLINA: Moved by Member Johnson,
19 seconded by Member Pontanilla, to amend Condition Number
20 One.

21 Any discussion on the amendment to Condition
22 One?

23 Member Hokama?

24 COUNCILMEMBER HOKAMA: Chairman, just a
25 question.

1 Is this one of the original Brewer conditions
2 of zoning, or this has nothing to do with anything of
3 the other unilateral agreements, please?

4 CHAIR MOLINA: Ms. Loudermilk, proceed.

5 MS. LOUDERMILK: Okay. This does not have --
6 this does not relate to any previous unilaterals.

7 COUNCILMEMBER HOKAMA: Or entitlements?

8 MS. LOUDERMILK: Or entitlements. This is
9 specific to this request.

10 COUNCILMEMBER HOKAMA: Okay. Thank you. One
11 follow-up, please, Chair?

12 CHAIR MOLINA: Proceed, Mr. Hokama.

13 COUNCILMEMBER HOKAMA: Just so that we are
14 very clear on what we -- we are going to be agreeing to
15 or establishing as a condition of entitlement, is the
16 Department aware of what would be the traffic
17 improvement or mitigation that these monies were to
18 address?

19 CHAIR MOLINA: Ms. Loudermilk?

20 MS. LOUDERMILK: There were no identified
21 improvements at that time.

22 COUNCILMEMBER HOKAMA: And this was from the
23 State Department of Transportation or the County's
24 Public Works, or Department of Transportation, please?

25 MS. LOUDERMILK: This was from the Planning

1 Department. This was during the time when the Council
2 was doing -- enabling legislation for the various
3 community plans to establish the impact fees.

4 COUNCILMEMBER HOKAMA: And in the past, other
5 projects and other representatives or owners have
6 provided some monies, but -- and it was not an
7 established amount, but it provided certain amounts to
8 the County as good faith gestures to help mitigate
9 potential future impacts regarding like projects in
10 South Maui or --

11 MS. LOUDERMILK: That is my understanding.

12 COUNCILMEMBER HOKAMA: So was this ever
13 brought up to the church and their representatives as
14 another way to address it and eliminate this type of
15 condition?

16 MS. LOUDERMILK: No, as they had originally
17 agreed to this condition.

18 COUNCILMEMBER HOKAMA: Thank you, Department.

19 CHAIR MOLINA: Okay. Thank you, Chair Hokama.
20 Committee Members, questions on the proposed amendment
21 to Condition One? Seeing none, the Chair will call for
22 the vote for the amendment to Condition Number One. All
23 those in favor signify by saying "aye."

24 COUNCIL MEMBERS: Aye.

25 CHAIR MOLINA: All those opposed?

1 (Silence.)

2 CHAIR MOLINA: Thank you. The Chair will mark
3 it six-zero; with three excusals, Members Anderson,
4 Medeiros and Victorino.

5
6 VOTE: AYES: Councilmembers Baisa, Hokama,
7 Johnson, Mateo, Vice-Chair
8 Pontanilla, and Chair Molina.

9 NOES: None.

10 EXC.: Councilmembers Anderson, Medeiros,
11 and Victorino.

12 ABSENT: None.

13 ABSTAIN: None.

14 MOTION CARRIED

15 ACTION: APPROVE amendment to the main motion.

16 CHAIR MOLINA: Members, moving on. The Chair
17 would now like to offer a recommendation to amend
18 Condition Number Two. And based on the comments from
19 Deputy Director of Public Works, Mr. Miyamoto, the Chair
20 is going to suggest or recommend to the Committee a
21 proposed amendment to delete the last sentence of
22 Condition Number Two. It reads, "If the fees have not
23 been established prior to project completion, then the
24 fees shall be returned to Valley Isle Fellowship, Inc."
25 So the Chair will entertain a motion to amend. Again,

1 this is based on the comments from Deputy Director
2 Miyamoto.

3 COUNCILMEMBER JOHNSON: So move to remove that
4 language.

5 CHAIR MOLINA: Member --

6 VICE-CHAIR PONTANILLA: Second.

7 CHAIR MOLINA: Thank you. It's been moved by
8 Member Johnson, seconded by Member Pontanilla.

9 Members, comments or questions related to the
10 proposed amendment to Condition Two?

11 Chairman Hokama?

12 COUNCILMEMBER HOKAMA: Chairman, I have some
13 issues with that because we are making an assumption
14 that the State Department of Transportation has no
15 objection or disagreement for us removing what they
16 would consider would be their requirements regarding
17 their highway. And so I -- I -- I'm not too comfortable
18 in agreeing to this one regarding the State highway,
19 which would be the Honoapiilani Highway, as it regards
20 to this project.

21 Thank you.

22 CHAIR MOLINA: Okay. Thank you, Chairman
23 Hokama.

24 Planning Department, would you like to give us
25 some further clarification on this recommendation --

1 MS. LOUDERMILK: Yes.

2 CHAIR MOLINA: Ms. Loudermilk?

3 MS. LOUDERMILK: In -- in response to
4 Commissioner [sic] Hokama's concerns, we would share the
5 same concern. In reviewing the documents that were
6 provided to us from the State DOT, they had talked about
7 just fair share contribution in general. They did not
8 make a distinguished -- a distinction between fees or
9 improvements, so that the fair share could also include
10 fees or improvements. The Department thought it may be
11 a way to just clarify that it's not necessarily only
12 fees, that the fair share contribution would be
13 negotiated between the applicant and the State DOT, and
14 it would be between those two entities in terms of how
15 any fair share contributions are -- are provided to the
16 State DOT.

17 CHAIR MOLINA: Chair Hokama?

18 COUNCILMEMBER HOKAMA: Chairman, I would be
19 willing to make a motion to amend the current motion,
20 but let me just explain my thought. I would like to
21 consider just removing the whole last sentence in its
22 entirety, and -- and with the sentence, "A copy of the
23 agreement shall be filed with the Department of
24 Planning." That would allow the church applicant to
25 work with State DOT. And if those two parties agree

1 that there should be no fees or required improvements,
2 then that's fine with me. But I would've liked to at
3 least allowed both the State DOT as well as the church
4 to work it out themselves. And I think that would be a
5 fair consideration.

6 Chairman, thank you.

7 CHAIR MOLINA: Okay. So, Member Hokama,
8 you're -- just so I can get some clarification. So
9 you're -- if that is the case, the church is willing to
10 work out this agreement with the DOT, then -- then
11 you're okay with removing that last sentence?

12 COUNCILMEMBER HOKAMA: The last sentence in
13 its entirety.

14 CHAIR MOLINA: In its entirety, yes.

15 COUNCILMEMBER HOKAMA: Yeah.

16 CHAIR MOLINA: Okay. Members, any objections
17 if I could call up the app -- Mr. Bagoyo to get a
18 response? Okay.

19 Seeing no objections, Mr. Bagoyo? Mr. Bagoyo,
20 you've heard the proposed amendment from the Chair.
21 Could I get your comments?

22 MR. BAGOYO: Yeah. Thank you so much.

23 COUNCILMEMBER HOKAMA: Regarding Condition
24 Two, Mr. Bagoyo.

25 MR. BAGOYO: Yeah. Thank you so much, Chair

1 Hokama and Chair Molina.

2 Yeah. We understand the condition. And we
3 have, actually, discussed this with -- with the Planning
4 staff. And, also, I -- I did have some meetings with
5 Freddie Cajigal. And -- and we are in agreement with
6 your suggestion.

7 COUNCILMEMBER HOKAMA: Thank you, Mr. Bagoyo.

8 MR. BAGOYO: Thank you.

9 CHAIR MOLINA: Okay. Thank you. Committee
10 Members, any other questions for Mr. Bagoyo before I
11 excuse him? Member Johnson?

12 COUNCILMEMBER JOHNSON: Yes. Thank you,
13 Vince, for clarifying that.

14 And -- and I'm looking at the wording of the
15 actual Condition Number Two where you -- shall
16 contribute its fair share of local and regional
17 transportation improvements. Would it be something that
18 you may object to if we put in "transportation
19 improvements and/or fees," if we were to insert that
20 wording? Because it may be that they don't want the
21 improvements, but they just want some -- maybe like a
22 contribution, let's say, to the light that's already
23 been put in.

24 MR. BAGOYO: Yeah. I think it's only fair
25 that the church will pay its fair share, whatever that's

1 -- as long as it's reasonable. I think the discussion
2 at the time when we met with -- with the State DOT is --
3 this is before the installation of the traffic light on
4 Waiko Road. Because that's part of the unilateral
5 agreement, it's part of that large subdivision. And one
6 of the requirements is for that improvements.

7 And we were very blessed that the State and, I
8 think, Mr. Spencer and Rojac had put the traffic light
9 for us. So --

10 COUNCILMEMBER JOHNSON: Yeah. And the only
11 reason I ask is because if -- if we added in that
12 language, and then, that way, it would give some
13 flexibility.

14 MR. BAGOYO: That will be fine.

15 COUNCILMEMBER JOHNSON: Okay. Thank you.

16 CHAIR MOLINA: All right, Members, so the
17 current proposed amendment for Condition Two is to
18 remove the last sentence.

19 And, Member Johnson, you may have another
20 consideration. If we could maybe first -- if there's no
21 objections, we first deal with the removal of the last
22 sentence. Okay, Members. So the Chair will call --
23 Member Hokama?

24 COUNCILMEMBER HOKAMA: Chairman, then I would
25 move to amend --

1 CHAIR MOLINA: Okay.

2 COUNCILMEMBER HOKAMA: -- the current motion.

3 CHAIR MOLINA: Okay. Proceed.

4 COUNCILMEMBER HOKAMA: Which is, I believe,
5 the last option, the -- that we -- the motion would be
6 to amend by removing the entire last sentence of
7 Condition Two, which currently reads, "If the fees have
8 not been established prior to the project completion,
9 then the fees shall be returned to the Valley Isle
10 Fellowship, Inc."

11 CHAIR MOLINA: Okay. I believe that was the
12 --

13 COUNCILMEMBER JOHNSON: That was the --

14 CHAIR MOLINA: -- original motion, yeah, on
15 the floor. Yes?

16 COUNCILMEMBER HOKAMA: I thought the original
17 was --

18 CHAIR MOLINA: To remove --

19 COUNCILMEMBER HOKAMA: -- that the fees would
20 be --

21 CHAIR MOLINA: Yeah. If I'm correct, the
22 motion was to remove the last sentence --

23 COUNCILMEMBER JOHNSON: The whole last --

24 CHAIR MOLINA: -- on that first amendment.

25 Ms. Loudermilk, I know you had some comments on it. If

1 I'm correct, that was the original motion to amend,
2 which was to remove the last sentence.

3 COUNCILMEMBER HOKAMA: I think the thing was
4 fees to be waived.

5 CHAIR MOLINA: If the fees have not been
6 established.

7 MS. LOUDERMILK: The fees to be waived were
8 for the first condition in terms of the County, for the
9 County fees. And that -- I -- I thought I heard the
10 original -- the motion for Condition Number Two as you
11 stated it.

12 COUNCILMEMBER HOKAMA: Yeah.

13 MS. LOUDERMILK: Yeah.

14 COUNCILMEMBER HOKAMA: My apologies, Chairman.

15 CHAIR MOLINA: No, no problem. I believe, Ms.
16 Loudermilk, you're referring to what we did on Condition
17 Number One.

18 MS. LOUDERMILK: Yes.

19 CHAIR MOLINA: And we took action on that.
20 And then now we're on Condition Two, which is to remove

21 --

22 MS. LOUDERMILK: The last sentence.

23 CHAIR MOLINA: -- the last sentence starting
24 with the words, "If the fees have not been established."
25 So -- and, again, Chairman Hokama restated what was the

1 original motion on the floor.

2 So, again, that's what we are considering
3 right now, is to remove that last sentence from
4 Condition Two. Okay.

5 Chairman Hokama, additional comments on the
6 proposed amendment?

7 COUNCILMEMBER HOKAMA: Yeah. I support the
8 amendment, Chairman. And I -- and I appreciate what Ms.
9 Johnson would like to do. But if you read the first
10 sentence, it's a mutual agreed upon thing between the
11 church and the State DOT. So if it's waivers of fees,
12 that's their fair share. I think the current item is
13 very broad on what the church can agree or negotiate
14 with State DOT to take into the consideration that fees
15 would also be part of the parameters within the language
16 at this time.

17 CHAIR MOLINA: Okay.

18 COUNCILMEMBER HOKAMA: Thank you, Chairman.

19 CHAIR MOLINA: So noted, Chairman. The Chair
20 will call for the vote on Condition Two's amendment,
21 which is to remove the last sentence. All those in
22 favor signify by saying "aye."

23 COUNCIL MEMBERS: Aye.

24 CHAIR MOLINA: All those opposed?

25 (Silence.)

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

4 VOTE: AYES: Councilmembers Baisa, Hokama,
5 Johnson, Mateo, Vice-Chair
6 Pontanilla, and Chair Molina.

7 NOES: None.

8 EXC.: Councilmembers Anderson, Medeiros,
9 and Victorino.

10 ABSENT: None.

11 ABSTAIN: None.

12 MOTION CARRIED

13 ACTION: APPROVE amendment to the main motion.

14 CHAIR MOLINA: Members, any other
15 considerations for Condition Two?

16 Member Johnson?

17 COUNCILMEMBER JOHNSON: Yes, Mr. Chair. I
18 move to amend Condition Number Two to add in -- where
19 it's in the center -- it would be on the second line
20 where it says, "Regional Transportation improvements" --
21 "and/or fees." So I'm adding in "and/or fees," as
22 determined by the State Department of Transportation.

23 CHAIR MOLINA: Okay. The amendment has been
24 made by Member Johnson to add the words "and/or fees"
25 after "improvements" --

1 COUNCILMEMBER JOHNSON: Uh-huh.

2 CHAIR MOLINA: -- on Condition Number Two. Is
3 there a second?

4 COUNCILMEMBER BAISA: Second.

5 CHAIR MOLINA: I'm sorry?

6 COUNCILMEMBER BAISA: Second.

7 CHAIR MOLINA: Member Baisa, second for
8 discussion -- or second. Okay. It's been seconded by
9 Member Baisa.

10 Member Johnson, you have the floor.

11 COUNCILMEMBER JOHNSON: And I understand what
12 Chair Hokama is saying. And the only reason I'm
13 inserting this is because the first one principally
14 deals with Maui County Code, which we have control over,
15 the second one we don't know. So if it's determined
16 that they're not going to make any physical
17 improvements, then, as noted by Mr. Bagoyo, they don't
18 have necessarily a problem maybe contributing to their
19 already-constructed improvements, if that's their fair
20 share. So that would be my only reason for adding that
21 in, to give a little bit of flexibility.

22 CHAIR MOLINA: Thank you, Member Johnson.
23 Committee Members, any other discussion on the proposed
24 amendment from Member Johnson, which is to add the words
25 "and/or fees" after the word "improvements" on Condition

1 Number Two?

2 Seeing none, the Chair will call for the vote
3 for the amendment to Condition Two as proposed by Member
4 Johnson. All those in favor signify by saying "aye."

5 COUNCIL MEMBERS: Aye.

6 CHAIR MOLINA: The Chair votes aye. Is --
7 noes on Conditions Two's amendment?

8 COUNCIL MEMBERS: No.

9 CHAIR MOLINA: The Chair will mark it three
10 noes, Members Mateo, Hokama and Pontanilla. So we have
11 three ayes, three noes. The motion to amend fails. It
12 does not achieve the required five votes to pass.

13 VOTE: AYES: Councilmembers Baisa, Johnson, and
14 Chair Molina.

15 NOES: Councilmembers Hokama, Mateo, and
16 Vice-Chair Pontanilla.

17 EXC.: Councilmembers Anderson, Medeiros,
18 and Victorino.

19 ABSENT: None.

20 ABSTAIN: None.

21 MOTION FAILED

22 CHAIR MOLINA: So we are now back to the main
23 motion, as amended. Any other considerations for
24 Condition Two?

25 Seeing none, all right, Members, we shall move

1 on to Condition Number Four.

2 The Chair would like to offer a
 3 recommendation. I'd like to call upon Corporation
 4 Counsel to comment with regards to a proposed condition
 5 -- proposed amendment to Condition Four. Relating to
 6 that, the Chair had spoke with Mr. Giroux. I'd like to
 7 add -- ask him to give his comments related to Condition
 8 Four.

9 MR. GIROUX: Thank you, Chair. This comment
 10 will also go for Condition Number Five. We're just
 11 suggesting taking out the phone numbers in -- in both of
 12 those conditions. Because this document should last for
 13 eternity, and phone numbers don't, usually. So we're
 14 just asking you to take out the phone numbers and leave
 15 the State agencies that need to be contacted.

16 CHAIR MOLINA: Okay, Members, you've heard the
 17 comments from Mr. Giroux. The Chair would agree.

18 And so I would like to ask for a motion to
 19 amend Condition Four to take out the words "at" and then
 20 the phone number which follows. So, basically, the
 21 condition would end at the word "immediately," we would
 22 have a period after "immediately," and we would delete
 23 the word "at" and the phone number.

24 COUNCILMEMBER JOHNSON: So moved.

25 VICE-CHAIR PONTANILLA: Second.

1 CHAIR MOLINA: Okay. Moved by Member Johnson,
2 seconded by Member Pontanilla.

3 Any other discussion on the proposed
4 amendment?

5 Seeing none, all those in favor signify by
6 saying "aye."

7 COUNCIL MEMBERS: Aye.

8 CHAIR MOLINA: All those opposed?

9 (Silence.)

10 CHAIR MOLINA: Thank you. The Chair will mark
11 it six-zero; with three excusals, Members Anderson,
12 Medeiros and Victorino.

13 VOTE: AYES: Councilmembers Baisa, Hokama,
14 Johnson, Mateo, Vice-Chair
15 Pontanilla, and Chair Molina.

16 NOES: None.

17 EXC.: Councilmembers Anderson, Medeiros,
18 and Victorino.

19 ABSENT: None.

20 ABSTAIN: None.

21 MOTION CARRIED

22 ACTION: APPROVE amendment to the main motion.

23 CHAIR MOLINA: Now moving on to Condition
24 Number Five, the Chair would ask for an amendment to
25 delete, after the first sentence, the words, "The Maui

1 office fax number is 808-243-5838 and the Oahu fax
2 number is 808-692-8020. For further information, please
3 contact State Historic Preservation Division, Maui
4 Section, at 808-243-5169 or 808-243-4641."

5 COUNCILMEMBER JOHNSON: So moved.

6 VICE-CHAIR PONTANILLA: Second.

7 CHAIR MOLINA: Okay. It's been moved by
8 Member Johnson, seconded by Member Pontanilla. And that
9 is, again, to delete the sentences that I just read.

10 So the condition will read as -- only as
11 follows, that, "The State Historic Preservation
12 Division, Maui and Oahu Offices, shall be notified via
13 facsimile upon the onset and completion of the proposed
14 undertaking." So that is what the condition will read,
15 if the Committee approves.

16 Hearing no other comment, the Chair will call
17 for the vote on Condition Five's amendment. All those
18 in favor signify by saying "aye."

19 COUNCIL MEMBERS: Aye.

20 CHAIR MOLINA: All those opposed?

21 (Silence.)

22 CHAIR MOLINA: Thank you very much, Members.
23 The motion to amend passes on Condition Five with six
24 ayes; and three excusals, Members Anderson, Medeiros and
25 Victorino.

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

9 MOTION CARRIED

10 ACTION: APPROVE amendment to the main motion.

11 CHAIR MOLINA: Members, any other
12 considerations for the second bill related to the
13 condition of zoning for Land Use Item 42?

14 All righty. Very good. Members, we will now
15 -- the Chair will call for the vote. Member Johnson?

16 COUNCILMEMBER JOHNSON: I just wanted to say I
17 really appreciate the applicant working with the
18 community and trying to respond as best they could to
19 the concerns raised, and even the issue of the roadway
20 access near Mr. Spencer's property. I also appreciate
21 the fact that they're keeping the view plane as open as
22 possible by setting back their building.

23 And I think that as our communities grow, one
24 of the ways that we can actually promote harmony in our
25 communities is to ask our neighbors what would be

1 pleasing to them and what would be acceptable to them.

2 And I think that apart from the Christian
3 principles that are applied, I think they've shown their
4 community leadership and their desire to really not add
5 to conflict. Because, so many times, we see other
6 developments that occur where it is adding to the
7 concern and the division in the community.

8 So I want to thank them for that. Because
9 it's not often, when you see an application come
10 forward, where the people have done their best to
11 respect everyone in the community, whether it makes it
12 more difficult or not. So I want to thank them.

13 And, also, to Mr. Yamasaki. I know that he
14 was stressing the urgency of moving with this motion,
15 but I just hope that all of this takes place while he's
16 still healthy and happy and he can go to the
17 groundbreaking and he can enjoy everything. So even
18 though he's not here right now, I hope that he will
19 enjoy this building as much as the members in the
20 community will.

21 Thank you.

22 CHAIR MOLINA: Thank you, Member Johnson.
23 Committee Members, any other comments before the Chair
24 calls for the vote on the amended -- on the motion as
25 amended?

1 Member Baisa?

2 COUNCILMEMBER BAISA: Yes. Just a brief
3 comment.

4 I want to say that it's a real pleasure to be
5 working on something like this for a change, something
6 that everyone agrees is wonderful for our community.
7 And that, you know, we all need this type of facility.
8 And this area has grown so much in the last few years
9 that there is so many homes and so many residents there.

10 And I was really impressed with the testifiers
11 today, the quality of the testifiers and the breath of
12 the testifiers. The young people were very impressive,
13 as well as the citizens who came forward. And I am
14 very, very pleased to support this project.

15 CHAIR MOLINA: Thank you, Member Baisa. Any
16 other comments, Members? The Chair would like to make
17 one quick request to the Planning Department, I believe
18 related to Chairman Hokama's request for a follow-up
19 regarding the compliance for prior conditions of zoning.
20 If at all possible, if we could get -- upon a letter
21 from the Committee, if we could get that prior to first
22 reading, or sooner, if possible.

23 Chair would like to extend his thank yous to
24 the church and the members for coming out here and
25 enduring the process. And I know it seems somewhat long

1 and cumbersome, but the Committee just wants to make
2 sure all the "I"s are dotted and the "T"s are crossed so
3 no potential problems down the road can occur.

4 And I especially want to thank the young
5 people in the gallery who came out. I hope your school
6 teachers are watching. You're using your -- what would
7 have been your free time after school to come here and
8 get involved in the process of Government. So I hope
9 you guys get some extra credit for your efforts as well.

10 AUDIENCE: (Laughter.)

11 CHAIR MOLINA: So, Members, the Chair will
12 call for the vote on the motion as amended. And this
13 will include the filing of the communication.

14 All those in favor signify by saying "aye."

15 COUNCIL MEMBERS: Aye.

16 CHAIR MOLINA: All those opposed?

17 (Silence.)

18 CHAIR MOLINA: Thank you. The Chair will mark
19 it six-zero; with three excusals, Members Anderson,
20 Medeiros and Victorino.

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

9 MOTION CARRIED

10 ACTION: Recommending FIRST READING of revised proposed
11 Change in Zoning bill, RECORDATION of
12 unilateral agreement, and FILING of
13 communication.

14 CHAIR MOLINA: Members, any announcements?
15 Seeing none, the Chair would like to thank the
16 Department, as well as Staff, and you, Members, for
17 making the time to be here today. Thank you very much
18 for all your dedication and professionalism.

19 It is 20 minutes to the hour of 4:00. This
20 Land Use Committee meeting for October 1st, 2008 is now
21 adjourned.... (gavel)...

22 ADJOURN: 3:40 p.m.

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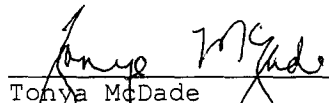
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CERTIFICATE

I, TONYA MCDADE, a Certified Shorthand Reporter of the State of Hawaii, do hereby certify that the electronically-recorded proceedings contained herein were taken by me in machine shorthand and thereafter was reduced to print by means of computer-aided transcription; that the foregoing represents, to the best of my ability, a true and accurate transcript of the electronically-recorded proceedings had in the foregoing matter.

I further certify that I am not an attorney for any of the parties hereto, nor in any way concerned with the cause.

DATED this 27 day of October, 2008.



Tonya McDade
Hawaii Certified Shorthand Reporter #447
Registered Professional Reporter
Certified Realtime Reporter
Certified Broadcast Reporter