

**MAUI PLANNING COMMISSION
REGULAR MINUTES
AUGUST 12, 2008**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Jonathan Starr at approximately 8:30 a.m., Tuesday, August 12, 2008, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

A quorum of the Commission was present. (See Record of Attendance.)

Mr. Starr: I'd like to introduce the members, on the left, Kent Hiranaga, Commissioner Bruce U'u. We have Corporation Counsel James Giroux. I'm Chair Jonathan Starr. This is our good Director, and Commissioner Dr. Iaconetti, and Commissioner Joan Pawsat, Commissioner Wayne Hedani. We have Carolyn Takayama-Corden our board secretary. We have Deputy Director of Public Works Mike Miyamoto, we have planners par excellence Ann Cua, Livit Callentine and Robyn Loudermilk and probably some more.

Anyway we will start the meeting with an opportunity for members of the public to testify on any item on the agenda. There'll be opportunity to testify either at the beginning of the meeting which would mean now or later on before each individual item. We ask people testify only once unless they have some new and very compelling evidence to talk about and we ask people to keep it as short as possible since our agenda is full and in no case more than three minutes. Anyone wishing to testify for any item please make yourself known.

The following people testified at the beginning of the meeting:

Mr. Gregg Blue - Item B-2, Matt and Sandy Daniells, DBA, CIZ

Ms. Jocelyn Perreira - Item B-2, Matt and Sandy Daniells, DBA, CIZ

Mr. Roger (last name not audible on tape) - Item B-2, Matt and Sandy Daniells, DBA, CIZ

Their testimony can be found under the item on which they testified.

Mr. Starr: Okay, thank you. Members any questions? Seeing none, anyone else wishing to testify at this time please raise your hand. Not seeing any we'll move on to our agenda items and I'll pass it on to our Director, Jeff Hunt to introduce the first item.

Mr. Hunt: You're first item involves Maui Lani 100 LLC requesting Phase II Project District Approval for the Maui Lani Village Mixed Use (VMX) District Project at Kuikahi Road and the Maui Lani Parkway, for construction of a Village Mixed Use Project consisting of 150 Multi-family residential units integrated with commercial/retail, light manufacturing, and live/work uses in a 57-acre VMX (CR) Subdistrict, and approximately 114 Single-Family and 211 Multi-Family units in a 34-acre VMX (R) Subdistrict. The tax lot is 3-8-007: (por) of 151, 152, and (por) of 155 in Kahului. The project file number (PH2 2007/0002) and Ann Cua is the planner assigned to this project.

Mr. Starr: Before Ms. Cua starts I just want to mention that there was an EA that was done for this project. They were not distributed to the commission before this meeting. I noticed it, I did request one copy which we have here and if anyone wants to look at it now or if anyone has a problem with proceeding without it, they should let us know, but if anyone wants to see it, we certainly can pass this one around. Anyway, please proceed.

B. PUBLIC HEARINGS (Action to be taken after each public hearing item.)

- 1. MAUI LANI 100LLC requesting Phase II Project District Approval for the Maui Lani Village Mixed Use (VMX) District Project at Kuikahi Road and the Maui Lani Parkway, for construction of a Village Mixed Use Project consisting of 150 Multi-family residential units integrated with commercial/retail, light manufacturing, and live/work uses in a 57-acre VMX (CR) Subdistrict, and approximately 114 Single-Family and 211 Multi-Family units in a 34-acre VMX (R) Subdistrict, TMK: 3-8-007: (por) of 151, 152, and (por) of 155, Kahului, Island of Maui. (PH2 2007/0002) (A. Cua)**

Ms. Ann Cua: Thank you Mr. Chair. I will cover that issue as well in my brief power point. How I'd like to handle today is I'm going to give you a little overview of the project and how it got to this point. Then I'm going to turn it over to the applicant to talk about the project itself and its impacts. I did request the attendance of the State Historic Preservation Division as this is, you know, the Maui Lani project and Maui Lani is known to be significant in terms of its archaeological and cultural resources. We do have two letters from the State Historic Preservation Division one dated 2005 and one dated 2008, and so we have both Mr. Hinano Rodrigues and Jenny Picketts who have joined us today and I would request that maybe after the applicant's presentation if they would be able to come up in case you have any questions and then we could dismiss them at that point if that's okay with the commission.

One other thing I want to point out, I passed out a sheet titled Exhibit C, Maui Lani Regional Park and I am going to refer to this and this Exhibit C actually is attached to the supplemental parks agreement in your report which is Exhibit 26. In Exhibit 26 it refers to the new park site in Exhibit C and so I wanted to make sure you had this for your use. So with that, if I could have someone get the lights for me?

In March of 2006, the County Council passed legislation to amend the Wailuku-Kahului Community Plan. Also to change the zoning and amend the project district standards ordinance to enable a land use plan update for approximately 130 acres of the Maui Lani Project District. The land use update included a new village mixed use commercial area of 57 acres and a VMX residential area of 34 acres. It also included relocation of a 19-acre regional park, a new residential district of approximately 17 acres and roadways and pedestrian paths.

I thought it important today to talk a little bit about the project district process. We go over this with you in our orientation with you every year. But this is a project that's before you and I thought it would be a good idea to just kind of take you real quicky through the process.

The project district process has three phases and the first phase is the approval of the ordinance and the ordinance lists permitted uses and development standards within the project district. For this phase 1 process you, the commission, holds the public hearing usually in the or always in the affected community plan region and you make recommendations to the County Council. And for the Phase 1 Project District process the County Council is the final authority.

So for this project that's before you today, the Project District Phase 1 process has been completed. The Council did make an amendment to the ordinance and that ordinance is before you today for information.

The Phase 2 Project District process which is where we're at today for this project includes approval of the preliminary site plan. The Maui Planning Commission conducts the public hearing in the affected community plan region and is the authority to grant approval of this phase.

Then the final phase of the project district process is the Phase 3 process and this includes approval of the final site plan and development plans for the project. The Planning Department reviews Phase 3 Project District applications to assure that it is in compliance with the preliminary site plan that the planning commission approved. And the Planning Department in this phase is the authority to grant approval.

And I wanted to make a note here, for a Project District Phase 2 application that you approve. One Project District Phase 2 application there could be a number of Phase 3 applications that we get. And you're going to see with this project it's quite large, it involves a number of segments of development and the applicant in this case and in many cases will come in one segment at a time, lets say maybe one subdivision, one phase of the commercial and that's kind of how it goes. So the Planning Department normally will review a number of Phase 3 applications for a project that you reviewed at one time.

So this brings us to day. In March of 2006, the Planning Commission approved a Project District Phase 2 application for the overall Maui Lani master plan update. At that time, you also approved a project district map and that's Exhibit 8 in your report.

In your approval there were two conditions of the Phase 2 approval and Condition No. 8 stated that the approval is limited to the land use allocation map and conceptual plan including roadways, single family residential lots and regional park. As each phase is developed within the mixed use subdistrict, Project District Phase 2 approval shall be obtained pursuant to Chapter 19.45.

Condition No. 9 of that approval stated that design guidelines shall be established for streetscapes including roadway design, building architecture, landscaping, lighting and graphics for the village mixed use subdistricts. Said guidelines shall be reviewed by the Urban Design Review Board.

So in accordance with that 2006 approval, the applicant is coming before you today instead of coming one segment at a time, they're coming with the overall project, they have design guidelines that have been drafted, have been submitted to the Urban Design Review Board. Those design guidelines have received comments from the Urban Design Review Board. They've also received comments from the Planning Department and the County of Maui Department of Transportation. All of those comments have been reflected in the updated design guidelines which were approved earlier this month, actually early – end of last month and I'll go over that a little bit more in detail.

Commissioner Starr talked about, a little bit about the environmental assessment process and when the original Maui Lani project was first developed they went through a full-blown EIS, but when they came to the County Council and the Land Use Commission for a district boundary amendment,

community plan amendment, change in zoning, and project district phase 1 applications for about a 130-acre area which included the VMX district, the State Land Use Commission, I should say the applicant prepared an environmental assessment. The State Land Use Commission was the authority to accept the environmental assessment and they approved a FONSI in February of 2005. The final environmental assessment was published by OEQC March 8, 2005 and that is the document that Commissioner Starr referred to that is here for your use.

In terms of the Phase 3 process, I've talked about it a little bit and I just want to reiterate that if this project passes the commission, the Phase 2 application, the Planning Department will be reviewing Phase 3 applications for each segment of this project district. At that time, the department is going to be looking for compliance reports in terms of how they have complied with conditions of the State Land Use Commission, the County Council and the Planning Commission. At that time we also have them submit grading plans for each segment and in the grading plans we have them clearly show where the cut and the fill is going to be located. If they're going to be doing a project we ask them to show us how the heights, whether it's in a table, you know, how the heights for each lot is going to meet the required – the height limit for that particular project. And so, that's kind of how the Planning Department takes this process. And at this point, I would like to turn it over to the applicant to take you through the project. They do have a power point presentation they're going to show you.

The one thing I do want to mention that I'm sure you are aware and I'm not sure if SHPD is going to talk a little bit about it but there are two monitoring plans that have been approved by SHPD for this project and some of the comments that you find in the letter from the Office of Hawaiian Affairs includes some mitigative measures and just while they're setting up I figure I'd let you know that those mitigative measures that are outlined in the Office of Hawaiian Affairs letter are already part of the monitoring plans that have been approved and those monitoring plans are attached as Exhibit 41 and 42 for your use in case you need to refer to them when SHPD is up here.

Okay, at this point I'll turn it over to the applicant's consultant Mich Hirano.

Mr. Mich Hirano: Thank you Ann, and good morning Chair Starr and Commissioners. My name is Mich Hirano with Munekiyo and Hiraga and our firm is assisting the applicant Maui Lani 100 with the Project District Phase 2 application before you this morning. We prepared a power point for the commissioners information and to describe the project elements. So we'd like to just go forward and present the power point at this point.

The Maui Lani Project District is a master planned community on the urban fringe of the Wailuku and Kahului. This is Kuihelani Highway, Kaahumanu Avenue is over on the left-hand top side of the screen. This is Waiale Road on the left-hand side of the screen. The overall project district was originally approved in 1990 and it was codified in the Maui County Code under Chapter 19.78.

The VMX District is a new land use concept that was approved in 2006, and this is the outline of the VMX area. As you can see it is adjacent to the Waiale reservoir. This is the Waiale reservoir. The yellow areas are single family development areas. This light green area is the Maui Lani Golf course, the Dune at Maui Lani. This is the regional park that Ann was speaking of, this is a 27-acre regional park adjacent to the VMX project area. This purple area is the new school. This is

Pomaikai Elementary School that was recently opened in 2007.

This is Maui Lani Parkway. It runs through the project district. Right now it terminates at Kaahumanu Avenue. This is, I'm sorry Kamehameha Avenue. Kamehameha Avenue was extended to provide access to the school and currently Maui Lani Parkway is being extended to the northwest and Kuikahi Drive is being extended to the northeast and providing access to the new VMX area.

This is a overlay of the project district on an air photo and it just shows you that Maui Lani is infilling and growing within the boundaries of the Kahului area and the Wailuku area. As you can see this is the outline of the VMX project district. These are the existing roads into the project district. So this is Kamehameha Avenue. This red hashed yellow line will be the extension of Maui Lani Parkway and the extension of Kuhikahi Drive and access to the VMX project will be provided off of Kuhikahi Drive and there will be an access as well from the residential area onto Maui Lani Parkway.

Again, Waiale reservoir just adjacent to the north of the VMX project area, the Dunes at Maui Lani, these are the new residential zoned areas, this is the school site, the regional park. These are the existing residential areas that have been built out at Maui Lani. These are the original subdivisions of Maui Lani, the Greens at Maui Lani and these are the Bluffs and the Islands at Maui Lani and as you can see the extension, the north side of the project district, this is the new Kaiser facility and the dialysis facility is just adjacent to it access by Kaahumanu Avenue.

Again this is the Dunes at Maui Lani, as you can see Wailuku Heights in the background, the West Maui Mountains, this is the golf course as well, the golf course acts as a drainage retention basin and these are some of the water features that also act as a drainage basin for all the projects in Maui Lani.

This is just a photograph of the existing development within Maui Lani. When Maui Lani was originally entitled there was a 20% affordable housing requirement overall for the project district. The VMX project has a 51% housing, affordable housing component and Maui Lani has developed their affordable housing and has integrated their affordable housing within the existing community so as you can see this is a photography of the existing residential community of the Greens at Maui Lani. There are 20% of these homes are qualified for the affordable housing component. Looking at the project district you can't tell which is an affordable house or which is a market house they've been integrated. The concept will be transferred to the VMX area where the affordable houses will be integrated with the market houses throughout the VMX area.

This is the new Pomaikai Elementary School. It was opened in 2007. There was a 13 acre site that was consolidated for Maui Lani within the project district the lands were then dedicated to the Department of Education for the new elementary school.

This is the extension of Maui Lani Parkway. It's moving out from the intersection if Kamehameha Avenue. As you can see it's a fairly wide right of way. Maui Lani Parkway is a regional connector road and it's moving out to the northwest to intersect with Kuikahi Drive. Maui Lani Parkway, the roadways were approved with the original 2006 VMX application and that project district phase 2

application also included the roadways so that the infrastructure could be developed prior to the entitlements of the VMX area.

Phase 2 application focuses on the Village Mixed Use District. This is a new land use district that was introduced to the Maui Lani Project District in the 2006 application. The VMX district as two subdistrict. There is a VMX commercial residential subdistrict and a VMX residential subdistrict.

The VMX commercial residential subdistrict has an integrated commercial and residential component. It's been designed on smart growth principals. It includes multi family residential integrated with the commercial land uses. The village mixed use residential district includes both multi family and single family developments and 51% of the residential units will be affordable.

This is the overall conceptual master plan of the VMX area and as you can see this is the regional park off to the right of the project district and this is the new elementary school. This is the VMX CR component. It's has commercial uses as we all as multi family residential uses on the upper floors of the neighborhoods and the development areas. The area is linked with linear green open space walkway. This provides smart growth linkages that sort of takes the emphasis off of the automobile and allows an individual or homeowners who live in the VMX residential area to actually walk or bike to the VMX commercial areas to pick up goods and services and as well, from the residential areas walk to the regional park or to the school and to do so in a way that would not – where they would not have to cross major roadways. This is all within the urban areas that have been developed for the VMX CR and VMX residential areas. The major roadways would be Maui Lani Parkway and Kuhikahi Drive.

This is a street elevation of the concept that is being developed for the VMX CR where you would have the commercial uses at the ground elevation at the ground floor. Second and third floor would be residential, multi family residential. They would be integrated in a design concept that has been guided by the architectural design guidelines that have been approved or have been recommended for approval by the Urban Design Review Board.

This is the site plan of the VMX residential area and as you can see again, the area, the residential area is marked and landscaped with tree lined streets. This is the linear walkway and this is more of a close up. There's a linear walkway that allows residents to walk from their home to the school, to the regional park and to the school and into the VMX CR area without crossing major roadways.

This is streetscape of the VMX residential area and as you can see these are the multi family units, the single family units. They're integrated as well. They're throughout the project area. There will be single family homes and as well multi family homes within neighborhood blocks. The 51% of the homes will be affordable and they will be integrated as well within the developments. So the idea would be to develop the projects both single family and multi family and have the affordable houses integrated with the market homes.

This is just a breakdown for the commission's benefit of the affordable housing component. As I mentioned, 51% of the units will be affordable in the – up to 80% of median family income range to a 140% of the median income, 10% of the units will be available to those families earning up to 80% of median family income. 15% of the homes will be available to those families earning from

81% to 100% of median family income, 15% of the homes will be available to those families earning 101% to 120% of median family income and 11% will be available for those families earning a 121% to a 140% of median family income. And these will be for both the single family residences as well as for the multi family.

The VMX district was designed and based on the number of environmental design principals and strategies. In terms of the environmental factors, the site plan sort of addresses pedestrian friendly and convenient land uses. There are walking paths along landscape ...(inaudible)... park from the residences to access schools, shopping, commercial areas and the park. It discourages the use of the car to get from place to place and there is a bikeway that is integrated within the project district as well as a bikeway that connects to existing bikepaths within the Wailuku and Kahului areas.

In terms of urban design features, as I pointed out in terms of the landscape site plan, you'll see abundant tree-lined streets. There'll be narrow residential streets that will act as traffic mitigation to slow traffic down. There'll be mixed uses within retail shops and commercial activity and the design guidelines that reflect the architectural character of the region that is coupled with the traditional neighborhood design concepts.

There are as well, energy initiatives that have been incorporated into the design guidelines and into the project. Maui Lani uses energy star appliances. There'll be low flush toilets, the roofs and walls will be insulated. Solar water heaters will be used throughout the project and recycling and use of the green building products.

Some of the smart growth strategies that have been the foundation of the design of the project, Maui Lani is a master plan development. It is integrated with the existing urban areas of Kahului and Wailuku. It has a compact design that reduces urban sprawl and that is the integration of the mixed use of the residential and the commercial areas in the VMX CR district. It has regional location accessibility. Maui Lani will be providing not only access for its residents to the urban areas of Wailuku and Kahului, but it would also provide regional connectivity between Wailuku and East Maui as well as within South Maui where someone can travel from Wailuku into Kahului through Kuikahi Drive and access Maui Lani Parkway into Kahului and that would reduce some of the traffic off of Kaahumanu Avenue.

Transit service has been integrated into the land use site plan. There are bus stops, public transportation that have been incorporated and accommodated within the site plan. I'd like to also mention that within the Wailuku, Kahului area public transit is free and so we feel that it will be very well used, very popular service to access the commercial areas within the Maui Lani VMX district. We also have developed a site plan in terms of multi modal connectivity. Not only is the VMX district well integrated into the road network but it was also connected through with walking paths as well as a bike route and it has as well a regional park and a school that provide public amenities for the community.

The CR district is a compact district allows for an integration of the commercial and the residential components to act together in a complimentary fashion. This is the overall site plan and I know it's very difficult to read but this is the bikeway network of the Maui Lani Project District and within the

VMX area. So this is the VMX area and this is the larger Maui Lani project district boundary. The blue line, there is a line that connects and this is at the Dunes at Maui Lani. There are walking paths and bike paths currently in this area along Maui Lani Parkway with the extension of Maui Lani Parkway and Kuikahi Drive and Kamehameha Avenue there are bikeways and linkages now from Kahului into the Maui Lani project district and as well that would access the regional park and the school. There will be bikeways and walking paths on the Maui Lani Parkway extension as well as the Kuikahi Drive extension. Eventually Maui Lani Parkway within the next – by 2013, Maui Lani Parkway will be extended to the northwest to connect with Onehee Avenue and again, that would allow more regional connectivity to the area of Kahului. And with that will be the extension of walkways and bike paths to connect with existing walkways and bike paths in the Kahului area.

And again, there will be throughout and through it, throughout the VMX project area there are walking trails and pathways that will be developed with the VMX project that would connect to the regional park and to the school and as well to allow those residents within the VMX district to access the internal neighborhood, a linear parkway, walk way that would connect to the VMX CR area and this bikeway has also been designed in cooperation with the Maui County Bikeway group to allow for a bike path that would go around the perimeter of the project district or the VMX area and get the bikes off the main streets again through more less traffic roadways and back onto the major connection back into the Kahului, Wailuku area.

This is where the future bus stops will be located within the Maui – with the build out of the Maui Lani VMX district. Again, the regional park is off to the right with the school. The VMX CR area and the VMX commercial residential and there will be a bus stop that would be located right at the Kuikahi Drive intersection and entrance into the VMX CR subdistrict and this will be a future bus stop that would be on the Maui Lani Parkway/Kuikahi Drive intersection.

The project district phase 2 looks at the infrastructure as well in terms of the overall services and development of the area and we'd like to just point out some of the features of the infrastructure that govern this development and we'd just like to touch upon the grading the roadway development, some of the drainage improvements and touch on water, wastewater and the electrical services to the project area.

Maui Lani has been in existence since 1990, and over that time has entered into a number of master agreements that have been entered into with state and county agencies to mitigate impacts of the project district and the build out of the project. All the infrastructure improvements in the project district have been borne by Maui Lani Partners. They have developed all the infrastructure improvements, the 100% of those costs have been developed by Maui Lani Partners.

They have a VMX affordable housing agreement that was entered into. This was entered into before the workforce housing ordinance was passed, but this provided the 51% affordable component for the new VMX subdistrict. The original Maui Lani project district had a 20% affordable housing component and that as well was entered into through an agreement with the housing and County Council.

There is a master parks dedication agreement and this agreement as it pertains to the 27-acre regional park, Maui Lani is obligated to complete the regional park in 2009. They are obligated to

provide the regional park with grading improvements, grassing, irrigation, they're building a small parking lot and a comfort station as part of that agreement and that will be completed in about 2009.

They've entered into agreement with the Department of Water Supply for a right of entry and operating agreement for water source development. Maui Lani has developed three potable wells within the project district that would service not only this project but the remaining development of Maui Lani and will also provide water to the County that would be sold to the County Central Maui Water System. The water that will be developed at the Maui Lani project district would average approximately 1.2 million gallons of water per day. There are three wells that have – that are under development right now and they're anticipated to be operational in 2009.

Maui Lani has a water storage and transmission agreement with the County of Maui, Department of Water Supply. And in this agreement, Maui Lani will increase water storage within the Central Maui service area.

There's a master roadway agreement with the County Department of Public Works and this roadway agreement outlines all the major improvements that will be carried out with the ...(inaudible-changing of tape)... Lani project district.

There's an education contribution agreement with the State Department of Education. This agreement was entered into and as it pertains to the new VMX district. The overall original Maui Lani project district was covered by as well an education contribution where two school sites were dedicated to the state for school purposes and there is as well additional to that a education contribution agreement for every residential single family development and multi family development within the project district that will be built within the VMX subdistrict there will additional contributions to the State DOE.

As I mentioned and as Ann mentioned earlier, the Urban Design Review Board had reviewed the Urban Design Guidelines for the VMX district and has recommended approval with conditions and some comments on those guidelines to the Maui Planning Commission.

And finally, Maui Lani has two monitoring plans that have been approved by the State Historic Preservation Division and this governs the activities of subsurface and grading activities that will be carried out within the village mixed use district.

This is the conceptual grading plan for the VMX area. As you can see this is the extension of Maui Lani Parkway and Kuikahi Drive. Those two roadways basically set the elevations for the area. Maui Lani is known for, you know, its sand dunes, it's hilly topography and so the red areas within this site plan show areas where the land will be graded, the site will be graded and the green areas are the areas where are the low areas within the existing project district VMX area and those areas will be filled. So these are the filled areas and these are the cut areas and this whole area will be graded and has been graded pretty much to its basic development elevation. And those elevations were really set by the alignment of Maui Lani Parkway and Kuikahi Drive.

These is a roadway plan for Maui Lani VMX area and there are four types of roads within the project district and within the VMX area. There are four types of roads within the project district and within

the VMX area. There are the regional roads and this is Maui Lani Parkway and Kuikahi Drive. Those are considered the regional roads with road right of ways of approximate – from hundred feet to 92 feet for Kuikahi Drive. You have the internal and service roads of the VMX area and those are right of ways of 80 and 60 feet. Then there are the residential roads with right of ways of 44 feet.

This is an existing – this is the existing Maui Lani Parkway near the dialysis center in the north western portion of the project district. As you can see Maui Lani Parkway, it's a divided roadway with the median, landscaped median. Sidewalks on both sides of the street. This is a second of that. And there are two travel lanes. Eventually designed for two travel lanes, but currently – I'm sorry originally designed for four travel lanes but currently built out with just two travel lanes. This is the extension of the Kuikahi Drive extension and it will connect to Maui Lani Parkway in this section of the site.

The internal and service roadways have various right of ways ranging from 60 feet –I'm sorry, just get my notes, from 80 feet to 60 feet. This is a internal roadway. It would have two travel lanes, a parking on both sides of the street and sidewalks or walkways on both sides of the street. The service roads have a 60-foot right of way. They have two travel lanes and sidewalks on both sides of the street.

And then the residential street is a 44-foot right of way street. It's landscaped. It has two travel lanes and sidewalk and walkway on both sides of the street. This is – the picture was an existing residential road in the Maui Lani project district.

This is the overall site plan for the drainage improvements and the drainage patterns within the project district. The off site drainage that is off in the Wailuku-Kahului area runs down, it will be taken underground to a large aluminum culvert that has been voluntarily provided as a infrastructure component for the village mixed use development. And that offsite drainage will continue to be drained off site. It will run through the project district in a, as I say, an underground culvert under Kuikahi Drive and eventually discharge into the Waiale reservoir. And this is the current pattern and that pattern will be maintained for the off site drainage that runs through the project district.

The other drainage improvements and drainage system that will be developed to handle the wastewater runoff within the project district boundaries and within the VMX district, they'll be collected and taken underground through a drainage channel and eventually discharged into the Maui Lani Golf Course and so all drainage will be handled and will be retained, 100 percent of that on site drainage will be retained on site and discharged into the Maui Lani Golf Course, the storm water, I'm sorry.

And this is a photograph of the existing golf course and the water feature and this whole area actually is a drainage area for the Maui Lani project district.

As far as the water infrastructure there will be three potable wells that will be developed for the project district and for this development. This is one of the wells. Right now the design for the pumping and the pump house and the taking this water to the Waiale tank is under review with the

Department of Water Supply, Department of Public Works and is anticipated that the infrastructure will be completed by December 2009.

This is some infrastructure, telecommunication, the electrical conduits that have been developed and are under construction within the project district. As you can see they're pretty substantive electrical and communication infrastructure that will be servicing the DMX development.

Maui Lani has extended the community outreach, has discussed the project with owners and lessees within 500 feet of the project district. There are no residential developments that are outside the project district. The boundaries of the VMX area are really bounded by A&B on the Waiale reservoir and the Kihei Gardens and Landscaping are also neighbors to the west of the project area. The County of Maui have two land areas that are adjacent to the Maui Lani project district. They have the old city dump that is on the west side of the VMX area and they have the transitional affordable housing Kalana O Waiale on the north western side of the VMX project. HRT is the other major landholder within the Maui Lani project district and representatives of Maui Lani have met with all these entities and have discussed the VMX development with these entities and most of these groups are very interested in the extension of the Kuikahi Drive and Maui Lani Parkway and when those roadways will be completed because they will certainly benefit from those new connections.

In summary, just some of the highlights, some of the benefits of the Maui Lani project district development. It's a master planned community. It is providing affordable housing to the community, 51% of the units will be affordable and the market housing will be integrated with the affordable housing. There will be the regional park that has good access or will be is well accessed by linear parkways and walking paths and bikeways from the village mixed use area. Has regional and local roadway improvements that would not only benefit the residents of Maui Lani but will benefit the regions of Kahului and Wailuku and they will provide additional water source supply to supplement the central water or Central Maui water system.

So that concludes our presentation and power point presentation for the commission. Representatives of Maui Lani are here and project consultants are also available to answer any questions that the commission may have. So thank you.

Mr. Starr: Thank you Mich, that was a very full and good presentation. Members, oh Ann, Planner Cua did have something from the archaeological team I think or is now the time before commissioner ask questions?

Ms. Cua: Yes, like I said, I do have representatives from the State Historic Preservation Division and I think this might be a good time to hear from them if you have any questions. I did mention the two monitoring reports. You have both the 2005 letter as well as their 2008 letter, so at this point I'd call them up for any questions you may have.

Mr. Starr: Okay, members is that okay that we bring them up first and ask them? Please, yeah please Hinano introduce yourself and then if you have any comments.

Mr. Hinano Rodrigues: Aloha mai ka ko. I'm Hinano Rodrigues, Cultural Historian and Maui District

Manager for Department of Land and Natural Resources, State Historic Preservation. I have with me Jenny Pickett who is the Maui staff archaeologist. I might just want to add that Jenny, while Jenny and I had been at SHPD for two and a half years, Jenny's experience in the field with respect to Maui Lani is unsurpassable. Jenny worked in the private sector and has a lot of knowledge with respect to Maui Lani. So we're here not to do a presentation but rather at the request and invitation of Ann Cua to answer any questions that you might have.

Mr. Starr: Okay, members? I have one. Well, it looks like it's all been graded. What did you find?

Ms. Jenny Pickett: It's been as you may have already probably known, it has been sand mined for several years in the past there's been inadvertent burials discovered throughout the years I believe since 19 – well in 1992, they did a subsurface sampling and all the inventory survey level testing they actually never came across any human remains.

So when I reviewed the project, I found a letter in SHPD files back in 2005 that reflected that there hadn't really been any findings so I just wanted to – but we just wanted to make sure that when we responded to you folks regarding this project that it was clear that there has been some findings and that Maui Lani has been working with Archaeological Services Hawaii, Aki Sunoto, various archaeological firms as well as Les Kuloloio, who's the cultural representative and with SHPD as well. There are some outstanding issues, but we're working full force to resolve them. So I don't know if that answers any of your questions.

Mr. Starr: Commissioner Pawsat.

Ms. Pawsat: So on the site would you say most of the archaeological resources are all subsurface as opposed to structures above ground like you see at Makena Landing that are pretty overt?

Ms. Pickett: Yeah, absolutely. Everything has been subsurface features.

Ms. Pawsat: And out of curiosity just while you guys are here this is in general, what prevents the State Historic Preservation Society from being more proactive in areas such as Makena Landing and designating that as a historic cultural site to be preserved?

Ms. Pickett: Makena Landing specifically.

Ms. Pawsat: That heiau down there.

Ms. Pickett: You want to answer that question?

Mr. Rodrigues: That seems to be a policy question and I can answer that one. As a matter of practice the involvement of State Historic Preservation is triggered only when there is a permit or change of zoning, a change in boundaries and all that kind of stuff. The law provides us, that's the trigger to get us involved. So in the case of Makena Landing I don't know the facts behind that but if an EIS was done back then or will be done in the future, that would trigger our involvement. So when they do an EIS the contracted archaeologist would actually make a recommendation in the EIS lets say to create I assume a preservation site. So we would have to rely on that process and

on that archaeologist to tell us we want a preservation site. You need to understand that the way the law is written, we really do not have jurisdiction over private property except when something is triggered and you have EIS and then we step in.

Ms. Pawsat: Okay. So there's no chance of State Historic Preservation Society to be more proactive with private landowners about setting aside a cultural resource area. It's still you have to wait for the development essentially.

Mr. Rodrigues: Right, but I would recommend that we not sit back and wait. If you do have a concern please come into our office sit down and then maybe we can sit down with the landowners because most of the landowners on Maui so far in my two and a half years with SHPD are always willing to work with us.

Ms. Pawsat: Okay, thank you.

Mr. Starr: Commissioner U'u.

Mr. U'u: Yeah, question. It states that within the VMX area that it's known to contain isolated and clustered precontact native Hawaiian burial features. One of the features found was drilled dog teeth?

Ms. Pickett: Pendants.

Mr. U'u: Pendants.

Ms. Pickett: Pendants yeah. Like burial goods...(inaudible)...

Mr. U'u: And they also find human Skeletal remains along the roadside Kuikahi Road is that correct?

Ms. Pickett: Yes. There's been – there's skeletal surface scatter sometimes and sometimes we never find where those individuals came from just because there's been such a large amount of disturbance prior to any archaeologist going in but then there's also been a lot of in situ or articulated remains that are still intact beneath the surface. Sometimes there are one individual, sometimes there are multiple individuals, sometimes they're associated with artifacts and grave goods and sometimes they're isolated remains.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: During your testimony almost the last sentence you said something about there are some issues to be resolved or you're working on them. I don't remember your exact wording. Could you be specific about what those things were?

Ms. Pickett: Well, just meant in all the previous sand mining that has occurred we're trying to make sure that the remains that have been collected have a final disposition so that that's one of our major concerns is having a final disposition for the –

Mr. Mardfin: What do you do with them?

Ms. Pickett: It's a case by case basis. It's discussed with the Burial Council. The archaeological firm and the developers prepare a plan, submit it to us, we review the plan and then we bring it in front of the Burial Council and various entities get involved and are able to provide consultation.

Mr. Mardfin: Can you give me two or three typical outcomes?

Mr. Rodrigues: I'll answer that question because as a cultural historian I'm in charge of all the burials on this island. What happens is when a discovery is made, the discovery can be made in two separate scenarios. The discovery can be made as a result of an archaeological inventory survey. That is referred to as a previously identified discovery.

The second one can be made after the EIS has gone through and construction has actually commenced. That is called an inadvertent discovery. When a discovery is made in either scenario, there are two questions to ask. Will the burials be relocated or will they be preserved in place? What Jenny was referring to is, we have several burials there that have – that the issue as to relocate or preserve in place has not been disposed of yet.

Mr. Mardfin: What criteria do you use to make that determination?

Mr. Rodrigues: We use the criteria under Hawaii Administrative Rules and under Hawaii Administrative rules it sets for certain issues that we need to discuss. Number one, is it in an area where there was some kind, there's some kind of significant Hawaiian history or in an area where someone significant, someone significant in Hawaiian history lived. Again, whether or not it is a cluster and the testimony of the community and the testimony of the Burial Council.

I might want to add if in your first scenario where a find resulted from an archaeological inventory survey, the Maui Lanai Islands Burial Council has full jurisdiction with respect to well what do we do now? Do we relocate or preserve in place? If it's an inadvertent discovery, that is to say construction has already commenced, State Historic Preservation has that jurisdiction. So in the case of Maui Lani, most of their discoveries are a result of inadvertent discoveries so SHPD would –

Mr. Mardfin: But you work with the Burial Council to help figure out what to do?

Mr. Rodrigues: I am legally obligated under Hawaii Administrative Rules to consult with the Burial Council, but the Burial Council does not make the final decision. The law doesn't give them the authority and power to make that final decision.

There's another twist there in that, when the Burial Council makes a decision with respect to a previously identified find, they can say relocate or preserve in place. As a result, the next step is to write what we call a burial treatment plan. The burial treatment plan is going to tell us or is going to tell everybody, or what are we going to do? How we're going to take them out of the ground if we're going to relocate? How we're going to curate the human remains? How we're going to treat it when we put them back in the ground? Are we going to build a platform, are we going to put up

plaques to identify the burial and all that? The approval of that burial treatment plan only comes from SHPD.

Mr. Mardfin: I would assume, but correct me if that assumption is incorrect that the normal thing would be to go along with whatever the Burial Council says and it would only be under relatively rare circumstances that you deviate from that or is that a bad assumption on my part?

Mr. Rodrigues: That's a bad assumption. We do consult with the Burial Council, the Burial Council is fully aware that under Hawaii Administrative Rules the decision is to be made by SHPD in consultation with them.

Mr. Mardfin: Let me get this clear. It's not uncommon for them to say keep it in place and you to say, no we're going to move it?

Mr. Rodrigues: Exactly. It's not uncommon.

Mr. Mardfin: Okay, thank you.

Mr. Starr: Okay, Commissioner Guard.

Mr. Guard: Thank you. One of our items is regarding the Kuikahi extension and they're saying that they should be able to finish it by of December 2013. Any of those roadways have they been slowed down significantly by finding burials and is that a realistic time frame from the history looking forward like when we find these burials in the roadway, have they had to slow down significantly or realign the road?

Mr. Rodrigues: With respect to Kuikahi extension I don't know if this came before you, but we do have several burials there. We have come to a resolution as to how we're going to treat those burials. Some of those burials will be relocated. Some will remain in place. However, the relocation will be within a close proximity to the original find. That problem did create a slow down of about I think it is 10 months. Maui Lani was willing to work with us and slow the entire process down for 10 months. And I want to add that as a matter of law under Hawaii Administrative Rules, I am obligated to give Maui Lani or Maui Lani has the right to say Hinano I want you to make a decision in only two days. In two days, under the law, I have to make a decision. Maui Lani has worked with us where it has taken us 10 months to make a decision because we want to make sure that we do everything pono.

Now with respect to whether or not we're going to find any future inadvertent finds and slow the process, my understanding is that most of the grading for Kuikahi and Maui Lani Parkway is pretty much done. Therefore, we do not anticipate running into future inadvertent finds.

Mr. Guard: So most of the grading's been done for the site we're reviewing today?

Mr. Rodrigues: Yes. With respect to the roadway.

Mr. Guard: And then I guess over that 10 months maybe there's protocol in place for future finds

now?

Mr. Rodrigues: Yes.

Mr. Guard: That you have a better idea of how you want to handle that?

Mr. Rodrigues: I was reading Ann Cua's recommendation, and she has I think it's 16 to 21, numbers 16 to 21 are the conditions. Those conditions are the recommendations that the Planning Department is making to the Planning Commission, those recommendations emulate the same recommendations that we make in our letter. Those recommendations also meet the standards under Hawaii Administrative Rules. So we're all on the same page as to how we are going to prevent or how we're going to mitigate any problems.

Mr. Starr: Okay, Commissioner U'u.

Mr. U'u: So Hinano, you're saying most of that excavation is done for the project?

Mr. Rodrigues: Most of the excavation –

Mr. U'u: Of the entire 100 acres roughly?

Mr. Rodrigues: Yeah, no, sorry. Most of the excavation are done with respect to the roadway. As far as the excavation with respect to the VMX, the entire project, I'm not sure. Might want to add that we did find more inadvertent finds not in the roadway itself and we're working on that too.

Mr. U'u: Because I was looking at what they had up on the screen and they color coded the cut to fill ratio and the cut ratio is I would guess estimated at 80% more than the fill they show. So the possibility of finding inadvertent bones is highly probable would you say? Pending that they, you know, that you're going to have to dig deeper for the large aluminum culvert that they going have to install for drainage. There's a high probability that it might run into you inadvertent finds.

Mr. Rodrigues: And this is my professional opinion more than my personal opinion, yeah, I agree with you. There's a high probability of finding inadvertent, more inadvertent burials simply because we're working in a sand dune, number one. And number two, we're working in sand dunes that are known to contain human remains.

Mr. U'u: Question, you guys are a state entity?

Mr. Rodrigues: Yes.

Mr. U'u: And the Burial Council also?

Mr. Rodrigues: The Burial Council is a state commission. The Burial Council's relationship with SHPD is purely administrative. What that really means is that I provide administrative staff and support to the Burial Council, but all determinations, all decisions are made independent of each other.

Mr. U'u: I like the fact that you guys working closely with the Burial Council. I like the fact that Maui Lani is giving you guys time to decide, but looking over the reviewing agencies, I found out that CRC, Cultural Resources Commission had no testimony on the given application. I was wondering why was that? And if I'm not mistaken I seen Perry here, if we could have him comment possibly. You know, it's good to have county input at times, although I highly respect what you guys are doing and what Maui Lani is doing. I just was curious as to why CRC was left out of this.

Mr. Rodrigues: And Mr. U'u, I agree with you 100% and I had a discussion with Perry this morning because I also attend CRC meetings. I think that question might be best answered by Ann as to what their involvement should be.

Mr. Starr: Yeah, Commissioner Artates, are you interested in commenting? Up to you. If you like, come forward, introduce yourself and then we'll have Ms. Cua also.

Mr. Perry Artates: Aloha, Perry Artates. I guess I going be representing two hats. I'm also the Executive Director for the Hawaii Operating Engineers Stabilization Fund. As I was going through the packet I recognize there was a letter addressed to the Maui Cultural Resource Commission. I cannot speak for the rest of the commissioners, and I don't recall really a presentation and as part of the review or our recommendation. So I think so I should defer to, you know, speaking only as an individual, but yet then there's other commissioners that has additions ...(inaudible)...

Mr. Starr: Okay, Ann, why don't you comment. Is there some process that we're missing? I think that's the question, yeah.

Ms. Cua: I can answer that. There's no formal requirement for the project to go to the Cultural Resources Commission. It wasn't sent as a part of this application. The reason it wasn't sent is because of the communications that we had received from the State Historic Preservation Division, the fact that there were two monitoring plans already approved. You know, in the correspondence we had received from the State Historic Preservation Division, we felt comfortable with this area. I mean, if the commission would like this taken to the CRC we could do so, but we didn't take it because of the response received from SHPD and the back and forth dialog to get SHPD to the point where they were comfortable with the project as is and with the two monitoring reports that have been approved for the project.

Another thing is the Office of Hawaiian Affairs as I mentioned had some comments and if you look at some of their specific requirements, and you look at the monitoring plans, some of the specific things that they call out things like individual monitoring for each piece of equipment, that's something that they call out. That's already part of the monitoring plan. That's something that's already being followed and will continue to be followed. I think Commissioner U'u asked are there measures in place in case as they go on with construction they find any additional findings and that's where the monitoring plan comes into play and it sets forth very clearly what you do when you make a find that basically work stops, they contact SHPD if they find something, plans need to document the finding, you need reports to go with that all in consultation with SHPD and possibly the Burial Council if a human remain is found.

Mr. U'u: Yeah, just to comment, yeah, I agree that they're doing extensive work. I would like to see

the County get involved and I would like to ask Perry if he would object if it was, the application be given to the CRC? I like the project I'll be honest. I like the village mixed use. I like the concept. And the sensitive area for me would be the probability of finding bones. It is through history that we find that people were living there prior to us. That's a fact, almost a fact and I think the more people we get involved county wise the benefit would be towards the commission so that when we recommend to the Council that we approve or disapprove of the project we should have people like that's here get involved in the county agencies. I know that the people at the CRC previously has been looking at a lot of the projects file. I have no idea why this was passed. You brought up the reasons why and that might be not good enough to me. Maybe to some of you it would, but I would like to ask Perry if they would object to that being passed to the CRC? I think this will benefit the commission to give a recommendation to the Council. And it would, you know, what if they ask for it? What if they ask for CRC comments, we would stop it here at the planning level.

Ms. Cua: I'm not sure, if I could Mr. Chair, I'm not sure if when the project went through the district boundary amendment, change in zoning process if at that time it did go to the CRC. I'm not sure if the applicant knows that, but I know this particular application did not.

Mr. Starr: Before Commissioner Artates, Mr. Hirano, you have a comment to make?

Mr. Hirano: Just like to comment that most of the grading for the roadways have been done. The roadways are pretty much complete now. There will be no further sort of excavation being done on those roadways. The infrastructure has been kind of completed for that. So, you know, I guess the review of the project in terms of Cultural Resources as it pertains to the roadways, the grading is almost completed for those areas and that has been in consultation with SHPD.

My understanding as well in terms of just the reviews, you know, I think the appropriate agency for burials is the Maui Lani Islands Burial Council and that's been my experience that if burials were encountered during project implementation that it would be reviewed by the Maui Islands Burial Council. If there were other features that included settlement features or other features of historic significance then perhaps the, you know, that would be reviewed by the CRC. But under the normal circumstances of review, in this particular case it wasn't referred to CRC, it was referred to the Islands Burial Council.

Mr. U'u: Well, for us as a planning commission the normal procedure is CRC that I've been known, I could be wrong. And I'm not saying it's an insult that we bypass CRC, but I would like their input if possible and I would like to ask Mr. Artates if --

Mr. Starr: Yeah, please come forward Commissioner Artates.

Mr. Artates: Okay, again I going speak only as an individual and one. But yet then there might be other opinions from the rest of the commissioners as far as this project is concerned. I know past practice there were some developers that came before us that we did recommendations and reviews as well as site visits toward entertaining looking at the projects. So Commissioner U'u ...(inaudible)... answers your question.

Mr. U'u: So you guys would be open to site visit possibly?

Mr. Artates: Well, we have done that in the past practice to do site visits on a big project, you know magnitude projects.

Mr. Starr: I just asked Planner Cua what a mechanism would be if there was a desire to have them look at it but to not delay the project would be, you know, if there were desire to approve this project when we get to that then it could be a possible condition that it go to them after it passes through here.

Mr. U'u: Question. The final authority is the Council or is it the Planning?

Ms. Cua: It's the Planning Commission. This is a Phase 2 application.

Mr. U'u: I, myself, would not want to vote on it unless I get CRC comment because there's other questions for me. I don't want to delay it but I'm saying it's a 10-year build out so I think we have the time to go over the proper procedures. I would hate to vote on it and get something back from CRC and regret my voting pending CRC.

Ms. Cua: If I could comment Mr. Chair?

Mr. Starr: Yeah, proceed.

Ms. Cua: I believe in terms of timing, we just got an email recently that the Cultural Resources Commission will be going off island for its next two meetings I think in possibly September and October and I can get clarification of that. I'm not sure when it would be able to get on the calendar because I know they've been wanting to – oh, do you know that?

Mr. Artates: Yeah, we're going to be going to Lanai next month and then to Hana the following month.

Mr. Starr: Would there be a possibility that it could tie into the Phase 3 process? Because there will also be a Phase 3, am I correct?

Ms. Cua: There'll be probably numerous Phase 3's for this application because it is so large. You know, that could definitely be a condition if you want it go to the CRC prior to us reviewing or approving any Phase 3, but I think what I'm hearing from Commissioner U'u is, for him, he wants CRC's comments before he is able to act.

Mr. U'u: I would like that actually. And I would also probably be asking, you know, being a project of this size, a hundred plus acres and they found burials, I wouldn't mind possibly even, the commission be taking a site visit there. I wouldn't mind. Up to you guys but I wouldn't mind possibly taking our time there and if they could give us a map to look at where the remains are found. I'm very interested in this.

Mr. Starr: We'll be getting to deliberation after testimony and those are things we can certainly discuss. Commissioner Guard.

Mr. Guard: Thank you. Yeah, I agree with Commissioner U'u on that and maybe we could move the public testimony. It's a great project but either for Hinano or the gal in charge on Maui. Just to look at the time line, I think anyone who's lived on Maui as we've seen Maui Lani developed there's a lot of either probably some rumors and some are definitely based on fact for people that have been in the field with all of the archaeological finds out there that I would think – I would have thought there would have been a little bit more about some of the findings. The Safeway that we reviewed we found quite a few that actually I don't know if that was part of the reason that they actually delayed the project on that one as well. I don't know how hard it would be if there was a site visit with SHPD and the Maui agent if there's a few significant features out there or not.

Mr. Starr: Commissioner U'u back again.

Mr. U'u: Not only the bones will be something to look at, the sheer size of it being over hundred acres. For myself I think this is the biggest project that's come before us and I don't want to be rushed into approving something that's the biggest, acreage wise come before the planning commission.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: Could the archaeologist come back up I want to ask one more – at least two more questions and it is for you. I'm sorry I didn't get your name.

Ms. Pickett: Jenny.

Mr. Mardfin: Jenny, I'm not familiar with burials in sand dunes. What's the typical depth or the range of depths at which the burials would have taken place?

Ms. Pickett: It varies as it's a sand dune if there's a naturally undulating topography so we found them in this area on the surface like I mentioned before and up to I'd say 20 feet deep. Some of the features are more significant cut into the sandstone. Some of them are loose ...(inaudible)... and there's really no pattern that we've developed so far that just – they're just randomly placed.

Mr. Mardfin: My second major question, I was reading the EIS which I received a copy of today from Commission Starr, Chairman Starr, and I found that there was testimony, I was glad to see testimony, testimony from, and I apologize if I mispronounce his name, Mr. Kuloloio and Mr. Chang and they both, I'm paraphrasing them but they both seem to indicate that they didn't think that this area was used for normal habitation. That the Hawaiians would have been living in the wetlands more and so while there might be the occasional burial that this was not expected to have any major pre 1778 site nor have a lot of burials. Do you concur with that?

Ms. Pickett: I concur that we haven't found that much evidence of habitation sites but we found a significant amount of evidence for it being a burial area.

Mr. Mardfin: When you say significant, are you talking about 10, hundred, a thousand?

Ms. Pickett: Well, originally the Maui Lani project area was over 1,000 acres, and since there was

no – aside from surface scatters and some findings in the '70's there was nothing found within the parameters of the archaeological inventory surveys initially. So they were trying to pinpoint concentration through the inventory survey testing but they didn't find anything during that testing. So as the sand dunes have been mined and excavated over the years, there are concentrations if you will, that expose or that get exposed through development. So – although there are areas of concentration that contain up to 50 individuals, up to a 100 individuals, and then there's some areas that contain two individuals. It just depends on how you separate the boundary lines.

Mr. Mardfin: But if there are 50 or 100 at a time that gives me my –

Ms. Pickett: Yeah, there's a lot. And they're at all elevations and –

Mr. Mardfin: Understanding of what's going on. But again that still wouldn't be – but you'd concur with the other two people who wrote for the EIS that there– it wasn't a habitation site, but it was a burial site.

Ms. Pickett: Right, I believe recently there has been some midden found in the area, but other than the shell midden that has been found in association with some of the burials, it's mostly burials.

Mr. Mardfin: Thank you very much.

Ms. Pickett: I don't know if Hinano wants to add.

Mr. Rodrigues: Let me elaborate on two of the questions that you asked and you're actually asking really good questions. It's the kind of people I want working for me. Okay, number one, because sand dune are undulating to be really specific we have burials at two feet and as deep as 18 feet so my question is when I – when the first call comes to me with respect to inadvertent burials and I show up out there and I ask those questions, well how come yesterday was two feet and today it's 18 feet well because sand dunes are undulating maybe that 18-foot burial occurred lets say in the year 1300 and then 200 years of wind blowing and now the sand dune is higher that's why we have the two feet. I always ask the archaeologist can you give me a date? I want a date. The only thing is under Hawaii Administrative Rules you cannot date human bones. In fact, most of you don't know you cannot even take pictures of human bones. You can be hit with a thousand-dollar fine per day each day considered a separate violation. So because we can't do that, we can't date it, but then Jenny was talking about midden, things found around the burial. If we got charcoal deposits then we could probably date that but then again, that's very expensive and who's going to pay for that?

Now with respect to your second question whether or not the area at Maui Lani was a habitation site we all need to keep in mind that what we see today may not necessarily be what it looked like three or four hundred years ago. So in our western minds we see the area as dry and we say, oh how could ...(inaudible - changing of tape)... we're not really sure but I just want to remind you of something that I'm very sure of and this is even when I was growing up, this Waiale area was all taro patches and the area, the subject matter of which you're discussing this morning is only within a few yards of that area. So if you want to talk habitation, hey, you're real close, really close.

Mr. Starr: Uncle Les, do you want to comment? If you like. Thank you for being here.

Mr. Leslie Kuloloio: Good morning everybody. I'm Uncle Les Kuloloio and I think I'm the oldest timer on the project. When I first started, we started the beginning of the Burial Council. And thank Maui, Maui is a challenging island that takes thing by the hand and by the bull horns and try to expose what culture means for us on Maui County.

And the process I like about Maui Lani is that and other ...(inaudible)... that I've been one of the most fortunate honored native Hawaiian to have worked in sand dune understanding in the central plains of Maui and Honokohua. Today, I am thankful that to this new Burial Council rules and with the Cultural Resource Commission we have laws to take care as much as we can accordingly to help the understanding of our ancient past.

I am proud to be part or have been part of the construction period from 1990's to today to be Maui Lani's consultant and what does it mean is, I am the one to be sure that the developer, Maui Lani etal, including subcontractors, construction workers, everyone, that is part of this process and you, yourselves, to be part of the bridging and understanding of these findings at Maui Lani. Maui Lani is just a dot, I use this as a sample, of knowledge found that could be thousand years old that is part of the whole Wailuku Ahupuaa, the Kula Ahupuaa, the Hamakuapoko Ahupuaa, the Maalaea Ahupuaa and Mokus. We're beginning to understand, "Hawaiian science" versus science.

In closing, I want to thank the State Historic Preservation Office since you became a statehood to develop programs to give us Native Hawaiians the right to look back into the past. They're doing a very good job. I thank Hinano and others that have sit this position to come up here and take the stand and I thank the questions asked by all of you because that's the kind of questions that Burial Council members should be receiving and the Cultural Resource and yourselves.

What I like is Maui Lani is the only company and I going speak very honest, very honest and straight forward that is perhaps the only company, the only developer that have been challenged in doing accordingly the protection, the preservation and following the rules even if they needed to extend the project so that information would reach all parties involved. I congratulate them, you know, why? Because I'm their cultural consultant. Wow, the arrow is on me. And wow, if that – I don't want to create new toilet paper. And I thank all of you for this challenge and I make sure that they follow the guidelines. We have questions, come and see me individually. This answering can be a long time process, but what is happening with all the parties, the partners, the bridging to protect culture concerns we're doing a good on Maui and thank God that Maui took the step in giving the State a Burial Council program laws not the other islands, Maui no ka oi. That's why Maui got the best Burial Council in the State of Hawaii. And the next ones we're training them will come up and take that leadership roll like all of us and we're going to learn from each other. Ask me questions. Ask me question, I love it. Please, I know you folks have time and I think all the brahdas who asking the questions and those that will be testifying for or against, we have nothing to hide.

Mr. Starr: Thanks.

Mr. Kuloloio: That's all I going say.

Mr. Starr: Hold on, Mich, did you have something and then we're going to go to Commissioner Hedani and you know, if we get more questions I'll ask you to come back Uncle. Thank you.

Mr. Hirano: No, just commenting that with respect to the grading activities of the site, that most of it has been done, as it's been sand mined and graded and the roadways have been graded. That's all I had to say on that.

Mr. Starr: Commissioner Hedani.

Mr. Hedani: Actually this could be for Mich or for Jenny. We kind of had an answer from Jenny on the question that Ward had asked but it kind of wasn't really clear to me. What are the total number of remains that have been found to date? Well, that's the first question. And the second question is, if the excavation has only covered the roadways how much more excavation, what percentage of the total project site has been not excavated yet?

Mr. Hirano: Well, as I mentioned in the grading plan the elevations were set by the roadways of Kuikahi Drive and Maui Lani Parkway. The drainage channel that I mentioned earlier that's taking off site drainage in that culvert that is under construction, it's almost completed. So that work has been completed as well. So the phase 3 and the monitoring plan and the review of SHPD is really for the infrastructure that goes to each site. So as each parcel or block is developed, if there's infrastructure that needs to be conduit or electrical or water, sewer to those areas, then it's that area that will be under review where they'll put in the infrastructure. So the main lines through Kuikahi, the roadways have been done but within the site then they'll be underground connections to service the lots. And that's where the monitoring will be done from here on end.

Mr. Hedani: Okay, is the mass grading for the project completed?

Mr. Hirano: Yes.

Mr. Hedani: The mass grading for all of the sites?

Mr. Hirano: Yes.

Mr. Hedani: So inclusive of the roadways as well as the lots that would have the residential components?

Mr. Hirano: Yes, and then now it's putting in the roadways within the project district or within the VMX area.

Mr. Hedani: Okay.

Mr. Starr: Commissioner U'u.

Mr. U'u: No, that's fine. Go ahead. He answered it.

Mr. Starr: I have a – go ahead Commissioner Hedani.

Mr. Hedani: The other part of the question was how many total remains were found?

Mr. Starr: Yeah, please.

Ms. Pickett: Jenny, with SHPD. Do you mean in all of the whole Maui Lani project or specific to this approximately 100 acre VMX area?

Mr. Hedani: Well I think because we're talking about the VMX or the mixed use area for today, the question would be for that area?

Ms. Pickett: Right, there's been a minimum of six before I started – there's been a minimum of six that I received from the archaeological firm and we're still working very closely with her because there's been as Hinano mentioned before there's been some additional findings against the Kihei Garden Landscaping boundary. I believe there's seven to date over there and then also as we mentioned the Kuikahi extension there was a concentration there and then there's been – I'm unsure on whether the Maui Lani Parkway area where there's been some recent findings is included in this as well.

Mr. Hedani: Okay, I have a very simple mind so you got to give me a very simple answer. Inside of the project area for the VMX site is it six or 15?

Ms. Pickett: It depend on if the Maui Lani Parkway area is included in that. I would say approximately 15.

Mr. Hedani: 15.

Ms. Pickett: Approximately.

Mr. Starr: Okay, I have a question for Hinano. I have a lot of sympathy you know for dealing with the burials, as long as it's respectful, you know, in place that we're creating housing for people who live and work here. I have maybe a little less sympathy over next door where there's the sand mining is being done, you know, for sand that's being shipped away. I'm wondering if the same level of scrutiny is occurring where the sand mining is occurring. You know, and this was an area that was sand mined, now the sand mining has moved further down but it's still continuing, if that gets the same kind of scrutiny as this kind of project?

Mr. Rodrigues: Interestingly, two of the burials that are in the current project area were burials that were found a few years ago as a result of, if I can remember, sand mining. I wasn't here. Jenny would be the best person to ask about the sand mining issue, but yes we did, based on the records that I– I've reviewed to train myself for this job, I reviewed all the Burial Council minutes from 1992, and that is how I created in my mind a history of what has occurred at SHPD so that I could do my job. There were burials found during the sand mining process and the same standards are applied.

Mr. Starr: Okay, Jenny, anything about the sand mining and scrutiny of that that's ongoing?

Ms. Pickett: I think it's being more – it's being dealt with more wholly if you will as the years go by

and as we're more aware of what's found in that area if that answers the question. We've always established buffer zones every time there's ever been a finding it is state law to report it to the appropriate parties and to my knowledge, Maui Lani has always done that as well as the sand mining too.

Mr. Starr: Mich, do you have a comment?

Mr. Hirano: Yes, Chairman Starr. I'd like to just call upon Janine Clifford, the architect and we can go over the site plan with respect to the burial sites that have been found and then she can elaborate on that?

Mr. Starr: Is that okay members?

Mr. Mardfin: Can I ask her one quick question?

Mr. Starr: Go ahead Commissioner Mardfin.

Mr. Mardfin: When you say you find bones are you finding a single bone, a bone fragment or an entire skeleton?

Ms. Pickett: All of the above.

Mr. Mardfin: You are finding intact skeletons? Complete skeletons?

Ms. Pickett: Yes, yes. There's been skeletal scatter on the surface. There's been complete skeletons as well.

Mr. Mardfin: If you find a complete skeleton, I was told – Hinano said you're not allowed to photograph, you're not allowed to carbon date. Are you allowed to measure and you know, figure out estimated heights and weights of the deceased?

Ms. Pickett: You're not allowed to do osteological analysis either. We do mapping, plan view mapping profiles and measurements in that way but not osteological analysis.

Mr. Mardfin: And that I presume the law precludes you from doing those?

Ms. Pickett: Right.

Mr. Rodrigues: Hinano Rodrigues. Let me elaborate a little bit on that. When we find – okay, because I'm the cultural historian, my approach to these finds has got to be from a very Hawaiian approach and it is my belief that we should touch as least amount as possible the iwi. There is a Hawaiian saying kaulai na iwi i ka la which means drying the bones in the sun. That is the most offensive act that you could do against your enemy by putting his bones in the sun. Well, that tells that – so we need to understand the converse of that and the converse of that is that iwi had better not as much as possible see the sun. So since I came on board, I've taken a very Hawaiian approach and if you find an iwi, I show up, I look at it and I determine whether or not, and as you

were getting around that thing, whether or not it is articulated and in situ, and that helps me make my decision as to how I'm going to treat that iwi. So when I see the iwi in the ground and I go, I see the po'o, I see the hands, I see it in the flexed position which is the traditional Hawaiian way of burying, I say stop, cover. Cover him up. That's it. We don't know – We don't need to know any more about that person. I know he was put there intentionally and chances are that I will make the decision that he's going to stay there especially if he's found in an in situ articulated position.

Mr. Starr: I'm going to take a recess and we'll be back at 10:30, and you give us a presentation then.

A recess was called at 10:18 a.m., and the meeting was reconvened at 10:30 a.m.

Mr. Starr: ... Mr. Hirano did you have something you wanted to open up to us?

Mr. Hirano: Yes, I have the project architect Janine Clifford and just wanted to refocus the discussion on the VMX and the burials within that area and ask Janine to –

Mr. Starr: Hold on second, Commissioner Hiranaga.

Mr. Hiranaga: I was saying can we have some order, I couldn't hear what he was saying.

Mr. Starr: Yeah, everyone, please quite down. Go ahead.

Mr. Hirano: I'd like to call upon Janine Clifford who is the project architect and just to discuss the overall VMX development in the context of the archaeological resources.

Mr. Starr: Yeah, please come up Janine, introduce yourself.

Ms. Janine Clifford: My name is Janine Clifford and I'm the architect for the project and thank you very much Chairman Starr and Commission for hearing me. What I'd like to do is just sort of put the archaeological work in context of our existing project. I think you've heard some numbers like 50 remains and a hundred remains. I think the archaeologist was speaking from the standpoint of the entire Maui Lani project and what we're really looking at today is just this 100, this 100-acre area here. And we actually do have an archaeology map that does identify all of the locations of remains that have been found to date. And let me reiterate our site is 95% mass graded and all of the major utilities are in and we have mapped all of the locations of burial remains and it does appear on this map. And so while, yes, there aren't any photographs of it, we do have it all mapped out. And what we're doing is there five major sites and what we are doing is working within the architectural plan with the Burial Council and with the Staff Office to make sure that we preserve these five sites in whatever fashion that they deem is appropriate for our culture and our heritage.

What we would like to do because we are very inclusive and we are willing, as you know, and you've heard testimony, that Maui Lani is very inclusive, we do have to go through a phase 3 process in which we will be putting in utilities to individual houses and while we don't trench very deep we do disturb the soil. So what we'd like to do is invite the county commission if we do encounter any more additional remains to go ahead and comment on the disposition of it during our

phase 3 process if that would be suitable to everyone. But there are these, we already have mapped the locations of the remains and we've worked out the disposition of the Burial Council and with the State Archeologist Office.

Mr. Starr: Okay members? Commissioner U'u.

Mr. U'u: Sorry I came in late, so what you are saying is we just – what are you saying we take it to the phase 3 level?

Ms. Clifford: What I was saying to the commission is that we've completed 95% of our mass grading and we've also put in all of our major utilities, trenching and whatnot and we've encountered five sites. So while there were large numbers thrown out about sites found, that's the entire Maui Lani area and the Maui Lani thousand plus acres and what we're looking at today is this area here and we know, we've already mapped and we do know that there are five sites. And because we've done 95% of our grading we don't foresee that we're going to encounter a large quantity so what we're hoping to do is to, and as I was saying, my Maui Lani has been very inclusive in how we are dealing with the archaeological sites. It's our heritage as well, and so what we would like to do is extend the invitation to the County commission to join the phase 3 and comment on it in case we do encounter any additional burial sites during our phase 3 process. Because we do disturb the dirt a little bit in phase 3.

Mr. U'u: Question. Phase 3 comes back to the planning commission? It goes solely to the Planning Director so I think we'll be missing that boat on that ride if that is the case.

Mr. Starr: I want to ask the Director a question on that. Director Hunt is there a mechanism where phase 3 at least in one specific area could come back to us?

Mr. Hunt: If that's the wish of the commission we would try and accommodate that. I would caution you about usurping our authority and our streamlining abilities but in this particular instance we would try and work with you folks.

Mr. Starr: I mean, I would see it as a streamlining rather than you know, deferring the whole thing. James do you have a comment on that?

Mr. Giroux: Yeah, I think you would have to work with the Director as far as – because he would have the authority at the Step 3 to approve or disapprove.

Mr. Starr: Commissioner U'u.

Mr. U'u: Just a comment, I know prior we had SMA Step 3 approval where we tried to change our mind but it made it very difficult and I was brought up believing that you do it at this level, the Step 2. The Step 3 did not entail certain changes and I wouldn't want to circumvent the system to benefit someone else.

Mr. Hunt: I think Commissioner U'u really brings up a good point is those kinds of issues should be addressed at the Step 2. Step 3 is rather a routine review to see if the building plans and

construction plans are in compliance with that you approved at this stage.

Mr. Starr: Okay, Mitch.

Mr. Hirano: I'd just like to comment in terms of the Step 2 review that we're doing right now, I think that what has been uncovered is during grading activity and the site has been graded. There's – the Step 2 is the conceptual as well. You know, the vertical construction which was reviewed by the Urban Design Review Board at this stage I don't think – the only way that I think more information if there are discoveries would be through site activity, and I think that that is at that time appropriate at the phase 3 because the phase 2 is conceptual design, site plan and it's before you today. That's my comment.

Mr. Starr: Okay, lets continue this discussion when we get to deliberation. Members any other question particularly regarding the archaeological on this? Commissioner Pawsat? Oh okay. So I guess if Hinano guys want to be excused that would be okay. They're certainly welcome to stay around too. Commissioner Hedani.

Mr. Hedani: I guess this would be for Hinano guys.

Mr. Starr: Okay, now's the time.

Mr. Hedani: I guess the concern I have is the area is prone to have human remains. In other cases like in the case of Maui Waena School for example. Certain buildings were erected over sites inadvertently because they didn't know that there were remains in that particular site and it ends up with consequences for the people that occupy the area afterwards. So the question that I would have is although we haven't excavated the entire down to 20 feet or whatever it is to see whether or not there's something there or not there are resources on the island, people that can tell you whether or not something is there without touching the soil. Have you folks heard about people like that or worked with people like that.

Ms. Pickett: I'm familiar with ground penetrating radars is that what you're talking about?

Mr. Hedani: No, I'm talking about people that can tell you if there's somebody buried.

Ms. Pickett: That probably would be a question for Hinano who has just stepped out to move his car.

Mr. Starr: Uncle Les, do you have a comment?

Mr. Kuloloio: On the question that you ask is a very not new but to answer your question one would really have to understand the sand dune system and the make up of the volcanic processes of both summits that made up Maui and how the kahawai system, the valleys before the sand came in while the islands was coming up would cut out the kahawai system. Where in dealing with my experiences we've done 60 feet below the sand dune, original sand dunes and we find riverbed that came out from Iao, Waikapu and little bit of the Waihee Stream. You find all this imu rocks first, the windblown sand came from that the eastern part – northern part of Maui in time and the coral make

up called the ...(inaudible)... make up started to function between the islands of Maui and Molokai, the coral growth.

These sand dunes change every 20 years. The sand dunes change every 10 years. The sand dunes change every 300 years. The sand dunes change in 24 hours. So science contracted to study sand dune depths of archaeological site, why? There's no habitation sites. Habitation mean one who habitats, who chooses an area historically as Polynesian. Why put a house on the hot sand? In doing archaeological studies, Keopulani Park, Spreckelsville, Kahului, Kahului Harbor, Sixth Increment, Eighth Increment, Kaahumanu Center, Kahului Shopping Center, those areas have been graded in the '50's. What we're seeing is as of even my watching this 12, 14 years at Maui Lani, we've seen sand dunes appear in 24 hours on strong, strong, windy day. And so when you talk about depths, I don't think you'll find burials as how we've encountered it just recently at that kind of depths. We did find burials 18 feet at the Ritz Carlton. But every sand dune has its own unique process, nature's process, not man's thinking process, nature has its own way in making sand dunes and science still struggle with that.

So what I'm saying is that to answer your question there are burials that's going to be found three feet normal, six feet sometimes, hard concrete sand like the Waihee Sand dunes being exposed to evaporation, air, wind and weathering, but when you see burials found in Maui Lani for example, it's one of the first ones that wow this is 18-foot, but why 18-foot? Well, make sense, perhaps at that time three feet then the sand dunes cover it up in the past 400 years. So that's why you see the burials are way down there, but when you talk about archaeological studies on EIS, they were recommended just to do limited testings, trenches to give you an approximate finding if any surface or subsurface is within the corrugated place in one EIS. But other than that, the burials at 20 feet, this is the first time that we're finding and that's not new because we think the sand dunes was lower at that time.

Mr. Starr: Thank you Uncle. Hinano, we had a question regarding finding burials by other means and it's kind of getting deep but perhaps Commissioner Hedani can reexpress, he got my interest with the question.

Mr. Hedani: I guess the question was have you folks used people resources that can help you identify where remains may be? People that can walk the site and tell you where the remains are.

Mr. Rodrigues: No. You really cannot tell where the remains are going to be. In some cases though Mr. Hedani, we might have burial mounds and that's the kind of stuff that we grew up with and we notice that but you have like lets say in this Maui Lani where you undulating sand dunes and where it changes through time we'd have no indication over that. Another thing too, and maybe the crucial question might be whether or not we can with substantial certainty identify an area that has human remains. You gotta watch out and I think James can appreciate this, the way the law is written, I can only step in when you find a burial. I cannot say, and I know I made that statement before and I stand behind it as a professional. You have areas that would probably contain human remains one of which is Maui Lani, but the law still gives me absolutely no authority, no power over that until we actually find it.

Mr. Starr: Okay, thank you. Commissioner Guard.

Mr. Guard: Have you ever been out there for like a site visit, I guess in the last two and a half years we haven't seen it.

Mr. Rodrigues: I go to almost every single inadvertent find on this island. In fact I'm quite sure that when I show up in my white car there must be comments made by the people, oh, oh there he comes, that you know what, but the law says that we do a site visit if at all necessary. That's the language in Hawaii Administrative Rules. It is Hinano's practice that I actually go out so that when I discuss this with my boss on Oahu, even with you guys I actually saw it and I knew what I was looking at.

Mr. Guard: Yeah, I mean, we're just going down this line of question because most of weren't here, right for the original EIS and Maui Lani master plan. I've never seen it outside looking – except for looking for golf balls.

Mr. Starr: Commissioner U'u.

Mr. U'u: Just like to thank you Hinano for the education given to me.

Mr. Rodrigues: You're welcome. In fact if you guys want us to do like a short presentation one day on what we do, we'd be more than happy to do that.

Mr. Starr: Absolutely, we'll ask the department to schedule it for an upcoming meeting. What you did today was great. Thank you.

Mr. Rodrigues: You're welcome.

Mr. Starr: And Uncle Les also, thank you. Okay, well, we're – looks like we're done with questions in that particular area, but I'm sure we have some other questions regarding this project. So floor is now open for any other questions regarding the project. Commissioner Mardfin.

Mr. Mardfin: I think Mich is probably the person to answer this for me. Can you tell me, again, I only saw the EIS today for the very first time and I wish I'd seen it early but we didn't get it. On page, could you pass it to me a minute? On page 73 I believe it is, this goes to the calculation of what's affordable and it says "approximately 33% of the unit demand during the next two decades will be at prices or rental equivalents of under \$205,000 in current dollars." Okay, blah, blah, blah, for other amounts. "At present, single family homes and lots comprise more than two-thirds of the offered inventory but projections are for multi family units." The third point, "based on HUD and Maui County guidelines, the 2004 affordable housing price range for low income households, those earning 80% or less of the current median Maui household income of \$60,700 is at \$205,000." And then it goes on for some other amounts. "Note these prices are based on the assumed interest rate of 5.75%." Can you explain to me how, just a process, how you go from median family income, multiplied by 80% to get 80% of that amount to how you get the price that they could afford.

Mr. Hirano: Can I ask Leanne Paci who is the project manager partner for Maui Lani as well in the affordable housing? So the question is?

Mr. Mardfin: I want to know how you go from median family income to what you define as affordable housing?

Mr. Hirano: The formula that is used?

Mr. Mardfin: Yeah.

Ms. Leanne Paci: We actually don't create that formula. It's based on a formula that's established by the Department of Housing. So I'm not sure exactly how it's done, but every year they come out with a spreadsheet that has the affordable housing guidelines on it based on the median income and then they usually break it down by the different median levels and show what the price range would be for the homes were it single family, multi family or rentals.

Mr. Mardfin: So let me speculate as to how they do it. Median family income is calculated based on some sort of survey probably done by the Federal government based on census.

Ms. Paci: Correct.

Mr. Mardfin: Department of Commerce I guess does the census. They calculate median family income for Maui, for the Big Island, for Oahu and so forth.

Ms. Paci: Yes.

Mr. Mardfin: The 80% is easy. You multiply by .8. Because they mention 5.75% interest I presume there is some sort of a multiplier where you multiply – there's some figure there that you multiply that by to get what the market price of the house should be?

Ms. Paci: Yes, the spreadsheet has different interest rates and –

Mr. Mardfin: So at different rates, there's different amounts. So higher the interest rate, –

Ms. Paci: Then the lower –

Mr. Mardfin: The lower the house could be.

Ms. Paci: Yes.

Mr. Mardfin: So if you take 5.75% and you say well, it's really 8% then you would get –

Ms. Paci: A lower house price.

Mr. Mardfin: A lower house price.

Ms. Paci: Yes, and we would be required to meet the guidelines and the interest rate that is current when we build the affordable housing. So what's in the EIS is just an example of what was current at the time that we went through the process.

Mr. Mardfin: Okay. One more question. I didn't, as I had mentioned, I didn't have the EIS when I started to read the stuff about the affordable housing in the document that we did get. And then I saw the EIS and it says that the median family income for 2004 is I think it was \$60,700. But I didn't have that the other day when I was reading this at home. So I went on the internet and I found the County Data Book. And the County Data Book said, and it happened to be 2004 data which surprised me because it was a 2007-data Book so I was hoping I'd get more up to date data, but that's what they had. It said, \$49,065.

Mr. Hirano: I'd like to just answer that. The affordable – the median family income is calculated by HUD on an annual basis and the Maui County Department of Housing and Human Concerns also calculates the median family income for affordable housing purposes. So it may not be the same as what is in the Maui County Data Book. But what is generated and what –

Mr. Mardfin: Is that because there are two sources? Two different agencies generating that number?

Mr. Hirano: I believe so. They're two different sources and maybe a different methodology. But I know that what – when we say, in this particular project affordable, in the affordable range and as Leanne had mentioned, when the time comes to build the units, you have to use the current median family income which is established every year by the Department of Housing and Human Concerns and they put that out, issue it, and then along with that, there is a table that you follow with respect to the interest rates and what levels the affordable categories fall under.

Mr. Mardfin: I want you – will you say that one more time slowly so I can get it. Which one are we going to be used, we're not going to be using the one in the Data Book, we're going to be using the one put out HUD?

Mr. Hirano: HUD and Maui County. Maui County generates a table and the median family income.

Mr. Mardfin: And do you know how Maui County does it? They get it from HUD?

Mr. Hirano: They use HUD as a basis and then they add other factors into their calculations and I'm not exactly sure of the formula.

Mr. Mardfin: At some point I want to talk to somebody about exactly how they do that because I think a difference of roughly \$50,000 rounding up, \$49,650 I'll round that up to \$50,000 and your \$60,700 I'll round that down to \$60. A difference of \$10,000 out of a \$50,000 base seemed – you know, that's a 20% difference and that strikes me as huge. If you use the lower figure, I did a ballpark calculation instead of having –

Mr. Hirano: I think what we have to do is just realize there is a prescribed level that is not debatable. That is what is established and that's what is used.

Mr. Mardfin: Well, lets suppose they somehow got to the point where they were going to use the lower number, that would mean your affordable house instead keeping the same interest rate, instead of being \$205,000 would be I had it here a minute a go, a \$170,000. Lets suppose that

somebody found a mistake in the calculations that you used in the EIS and I know you bring it up to date, but lets just suppose somebody were to determine that the \$9,000 were the correct number and that there had been accident somewhere, what would that do to the price that you sell your houses at?

Ms. Paci: Well, the prices would be lowered.

Mr. Mardfin: You'd just lower the price that you sell. The selling price is coming down.

Ms. Paci: We would have to follow the affordable housing guidelines established.

Mr. Mardfin: So the developer is the one that would eat the difference?

Ms. Paci: Yes, and we have an affordable housing agreement for this project that's executed between the developer and the County. So we have guidelines on how we need to develop the project and keep the project affordable and rental terms and everything. So we have an agreement. Yes, so in any difference in the market, interest rates go up or down, the median income goes up or down, it's all absorbed by us.

Mr. Mardfin: And you make it up how? Because?

Ms. Paci: We'd have to make it up by the market units.

Mr. Mardfin: Selling the other ones at 50% higher price.

Ms. Paci: Correct and part of the balance in this project is because it's village mixed use and because there's a commercial component that we can get a higher price for that gives us some balance in allowing us to provide 51% of our units in this project as affordable. So it's not just a matter of you know, the affordable is going to be subsidized by the market residential, it's also going to be subsidized by our commercial part.

Mr. Mardfin: Thank you.

Mr. Starr: Okay, Commissioner Guard.

Mr. Guard: I was just going to say that Joann Ridao I believe, or in that office they have a pretty good matrix every year. So instead of being hypothetical, we could maybe get that on hand if you want to see that in the future.

Mr. Mardfin: I would actually.

Mr. Starr: Okay, members. Commissioner Hiranaga.

Mr. Hiranaga: I'll limit myself to two questions initially. Who owns Waiale reservoir?

Mr. Hirano: Waiale reservoir is owned by A&B Properties I believe.

Mr. Hiranaga: So when you're draining, using that as a drainage area, you have some type of an agreement with A&B? I'm just concerned about you know, the reservoir was initially created for irrigation purposes and what happened on Kauai with the breach of the reservoir dam, I'm just wondering. I know Waialae reservoir did breach once and the water I guess went all the way to Papa Avenue so I'm just concerned about safety issues on Waiale reservoir.

Mr. Hirano: This is the drainage pattern and what is discharged into Waiale reservoir is the off site drainage and that was preexisting and that is what will continue to drain in the Waiale reservoir. The project itself, the VMX area, that storm water will be collected and channeled and discharged into the golf course. So they're trying to separate, you know, off site drainage that historically and predevelopment wise ran and discharged into the Waiale reservoir. So the project itself, and any drainage within the Maui Lani project district continues and is channeled and discharged into the golf course and the detention basins in the golf course.

Mr. Hiranaga: Okay, one more question. I guess I was looking at the educational agreement you have with the state and how you're going to contribute "x" amount for every closing of a house. Does that money go into a state general fund or does that money go into a fund specifically for Maui facilities?

Mr. Hirano: I understand it goes into the state general fund. It goes into the general state coffers. I don't know how it gets redirected once it goes to the state funds but those are to the State Department of Education.

Mr. Hiranaga: And in the Maui Lani master plan is there a proposed intermediate school because I know you have your elementary school constructed? And then those students go to the –

Mr. Hirano: Well, there is within the project district Maui Waena which is –

Mr. Hiranaga: It's existing.

Mr. Hirano: Which is an existing. And the only now educational area was the new Pomaikai Elementary School site.

Mr. Hiranaga: So Pomaikai and Lihikai School send their students to Waena when they reach to sixth grade, so just was wondering if – I mean, I don't think the capacity is there to receive the two levels of enrollment from those two elementary schools. So I was just wondering if there was plans for an intermediate school in the Maui Lani project.

Mr. Hirano: No, there are not.

Mr. Hiranaga: Thank you.

Mr. Starr: Is this something we can ask Director, do you know, if there are intermediate school plans in Central Maui?

Ms. Cua: If it's okay, I can answer that. Not within Maui Lani project district and we don't know

...(inaudible)... in this area.

Mr. Starr: Do we have any knowledge of the capacity right now of Maui Waena whether it's full or close to? And Commissioner Hiranaga, if you're got some more questions why don't you go ahead.

Mr. Hiranaga: No, I'll wait, I've got many questions. So I'll let other people ask.

Mr. Starr: Okay, Ann are you ready? You want this one?

Ms. Cua: That's okay, I found my book. Just give me a minute to –

Mr. Starr: Okay, Commissioner Mardfin, why don't you ask another question then we'll go back.

Mr. Mardfin: Again, I think this goes to Mich. How do you – I presume there are loads of people who have less than 80% of the median income. How do you decide which of the thousands of people want them for a much more limited number of people that can get them? How do you determine that?

Mr. Hirano: Can I call Leanne Paci back up because she really implements this project.

Ms. Paci: We will have to work with the Housing Department on that. They have an established policy. They have criteria which the applicants need to meet as far as residency and home ownership in the past and that type of thing. Beyond that, I'm not sure if they typically do it by like a waitlist like first come, first serve or if they do a lottery format. I'm not –

Mr. Mardfin: So you guys don't worry about that. They say, give Mr. Kupau the house.

Ms. Paci: We would work with probably their existing policy on how they establish the order and how people are awarded homes.

Mr. Mardfin: It sounds like there's some sort of scoring mechanism. You take into account their income, their – maybe the number of people in the family, whatever –

Ms. Paci: Correct. That affects their median income.

Mr. Mardfin: If they've had a home in the past is that a plus or a minus?

Ms. Paci: You know there's some affordable projects that have limitations that if you've owned a home in the last three years then you may not qualify. I don't know if that's applicable today, if that's currently their policy.

Mr. Mardfin: But you're not the one, the developer is not the one determining this thing, you're getting – basically you're getting the names from the county agency?

Ms. Paci: We would prefer to work with the county and you know, they already have a –

Mr. Mardfin: A system.

Ms. Paci: Yeah, an established system and than trying to create something new.

Mr. Mardfin: Now I notice it says that there's a 10-year occupancy period for the lowest one. So I'm real lucky I pulled the right number or I have the right kind of score I get to buy a house at \$205,000 and if I keep it for 10 years and live in it for 10 years then I can sell it for whatever the market will bear?

Ms. Paci: I believe, yeah, after the 10 years then.

Mr. Mardfin: So it's a windfall to me and it's no longer affordable housing for anybody else is that?

Ms. Paci: But if for some reason they need to sell early or they want to sell early then we have some mechanisms in our agreement where the county will be able to share in the profits or they have like the first right to purchase the property.

Mr. Mardfin: Right. It says simple interest on the buyer's cash equity calculated at 6%. Is that more or less correct?

Ms. Paci: Yeah.

Mr. Mardfin: Thank you.

Mr. Starr: Commissioner U'u.

Mr. U'u: Question, and maybe the director can help me out on this. I like the 51% affordable housing, love it. I know a developer built, I think it was 13 homes upcountry, in the upcountry area and they wasn't able to fulfill the 13 affordable housing and if I'm not mistaken after a certain while it turns back to market. I think it was Dave Goode. Do you know anything about that director? Or how it would affect or does it affect a project like this?

Mr. Hunt: I understand that there are some projects that have had that mechanism in their agreement. I'm not sure if this one does or not. It would be something that it would be between the Housing Department and the applicant.

Mr. U'u: So you're not sure if this would entail or quite possibly fall into what happened upcountry?

Mr. Hunt: This particular agreement?

Mr. U'u: Yes.

Mr. Hunt: I'm not sure. Ann, do you know?

Mr. U'u: Just for clarity on if it actually – I heard 13 people applied for the affordable housing I think it was in Makawao and 12 pulled out and one sold so far. I'm not sure.

Mr. Hunt: In discussions with the Housing Department that issue has come up. It is a issue of concern. I'm just not sure if they've addressed it in this particular project or not.

Ms. Cua: I could comment on that.

Mr. Starr: Go ahead Ann.

Ms. Cua: If you want to follow me, the housing agreement is Exhibit 30, which may be a little challenging to find because we have so many exhibits. But, on page 7 of Exhibit 30 it talks about the sales of affordable housing units and it talks about the period to sell the affordable unit and it does also talk about – okay, so I guess it starts off with the income bracket that they're supposed to be selling it at. And if they cannot find people that qualify within that income bracket, "A" says, "for the next 60 consecutive calendar day period immediately following the affordable sales period, affordable housing units shall be offered for sales to person or families in the next higher income group." So I guess they keep going up.

And then "B" says, "if any affordable housing units have not been sold during the extended affordable sales period developer may request approval to sell and after securing written approval from the Department of Housing and Human Concerns may sell the remaining affordable housing units at market prices without any restrictions."

Then it says, "if within 15 consecutive calendar days after receipt of the request to sell the unsold affordable housing units without restrictions Housing and Human Concerns does not disapprove the request in writing and specify the reasons such request shall be deemed approved."

So what I cannot answer you is how Department of Housing and Human Concerns monitors this and stays on top of this. But it appears from this particular agreement that a request would have to be made. Does that answer your question?

Mr. Starr: Yeah, thank you.

Mr. U'u: Yes, thank you.

Mr. Starr: Okay, I'm going to ask a question or two because I'm not seeing too many hands going up. I, you know, I was happy to see in the documentation that this is a pedestrian and bicycle friendly project and so I figured well, I'll go take my bicycle over there and ride around a little bit last week. You know, I ride afternoons and the most bicycle friendly thing I found about Maui Lani is that it's close to hospital because I almost killed myself a couple of times. Could you go back to a slide that shows the beginning of Maui Lani. I'll try better next time guys. Go back to the one that shows Maui Lani Parkway. Yeah, the one, it's kind of shows the road surface from end on. It was toward the end of the presentation, it was maybe three or four slides before the end. Yeah, that one.

You know, first of all, the bike path does not continue to Kaahumanu Avenue. So you have to go out into the traffic around that kind of dead man's turn there. But then when you do get into the bikeway and the bikeway is split down the middle between the asphalt and the concrete and the

concrete is angled down to the right and then there's – but there's a lip on the concrete and the asphalt is below it by about an inch. And then there are manhole covers that stick up periodically and so, and it's narrow. I mean, it's not like a wide thing. It's only like two feet wide. So you gotta ride down the middle of it and whenever your tire hits that lip, you know, I'm not the greatest athlete in the world it kind of makes you want to go head over tea kettle. So you know, and then I thought well, I'll just go into some of the communities and ride around. But all the communities so far that have gotten built have gates on them, and the gates not only block cars but they also block bicycle and pedestrian access. So I'm wondering if that's more continuation of what we're going to see because frankly it's death defying to try to ride a bike in there right now.

Ms. Clifford: Actually I agree with you and I think I might even for myself I would have a hard time riding on any of the bike ways that are there now. And when we joined the Maui Lani project team that was one of the first things we talked about is not only is there no continuity with the bike plan but also the concept of the bike plan was not children friendly or family friendly. And there's always the argument when you talk to bikers the ones who are the commuter bikers who want to be on the road with the cars and then there are people like me who have like a toddler and you would never get me to – and I, myself, would not ride on a bikeway that's with the cars. So what we tried to do in this VMX area is to create a bikeway or a bike plan that would really take into consideration the young child. You know, the family who's going to ride together and then the biker who just wants to be on the regional road and they want to just zip through Maui Lani and they're really going to commute to wherever they're going. And so our idea is that this is what we're considering the commuter road route which is more of what you saw. It's going to be on the road in a bike lane fashion, but what we did is we created this secondary route that comes through and we tied it in with the whole ribbon park idea and the idea is that you could ride your bike, have landscaping on both sides and go from the commercial area all the way through the regional park and end up at the elementary school without having to get onto these regional bikeways and then the new areas that we're building we were trying to incorporate an area where it's bicycle and pedestrian, not car and bicycle, but then recognize that on the regional roads we really do need to have that biker way that's more of a commuter biker way.

Mr. Starr: Can you get a way where you do put them on the roads from having the concrete and the asphalt with a lip between them because that's really bad news for a bike tire.

Ms. Clifford: Right, and it's hard for us because we have to follow the county standard for the roadways so what we're talking about is the roads in here that would be more private roads where we can actually present new ideas of how we deal with the bikeway.

Mr. Starr: I mean, other major roads don't have that issue. Kaahumanu doesn't have it, Hana Highway doesn't have that issue, Mokulele, you know. Well, wherever there's a bike lane along traffic. That's the first time I've ever seen that where there's that pavement change in the middle of the bike lane.

Ms. Clifford: I'm not familiar with that.

Mr. Starr: I think that's an engineering thing.

Ms. Clifford: I do know the new ones that we're building is following more of the county standard.

Mr. Starr: Mike, could you comment on that? Because what they did they put the drainage swale in concrete and they extended it to the middle of the bike lane and then switched over to asphalt there.

Ms. Clifford: Oh, I see what you're talking about. The concrete gutter and then the paving. We can certainly check our new designs that in the new road and make sure that we have – that we haven't done that.

Mr. Starr: I mean, if the transition occurs you know on the road side of it, that's okay or if the transition – usually the transition's real narrow.

Ms. Clifford: Right, and part of that is we don't have very much control over what the county standard is for the roadway and the drainage requirements and where the two intersect.

Mr. Starr: Okay, how about transit? For people who live there, you know, it's a question we're asking of every project if they want to commute by transit where will they be able to get onto transit?

Ms. Clifford: We actually worked with the county to develop these two locations here and this is at the county's request that we show one here and one there and the thought was as ridership grows, of course, we would revisit it with the county because it would only serve us well to provide additional stops if the county is amenable to that.

Mr. Starr: Okay, who else? Commissioner Mardfin.

Mr. Mardfin: Will the developer give any thought to retrofitting some of those bikeways to eliminate the dangerous situation that our extreme sports chairman mentioned?

Mr. Hirano: I'd like to ask Darren Unemori with Unemori Engineering to come up and just maybe comment on it.

Mr. Starr: Yeah please.

Mr. Darren Unemori: I'm Darren Unemori, civil engineer with Warren Unemori Engineering and I've been – I'm the consulting engineer for Maui Lani. I guess let me answer your question in parts. I ask as far as the existing Maui Lani Parkway and the condition you see where the gutter and a portion of the bike lane sort of seem to split the bike lane. That section of parkway was built if memory serves, about the mid-'90's. One of the things about bicycle facility standards is that they've been evolving over time. One of the earliest type of thinking for where you could put a bike facility easily was in that curb lane simply because you had a lot of roads across the country where you had existing pavements where you could squeeze the vehicle lanes down and retrofit a bike lane. Over time it was realized as was discussed that that's not an ideal situation for a number of reasons. One, you get that grade transition there, sometimes you have curb inlets that really narrow your I guess travelway if you're on a bicycle. When it's raining that's where the water collects. So there's a number of reasons why that's not ideal. And so over time the standards have evolved

to encourage the relocation of bike facilities off the main facility particularly if you're dealing with mixed traffic, people who are you know, toddler age as well as the tour de France kind of guys right. So what you're seeing on Maui Lani Parkway is an earlier example, the bike lanes were narrow and although they were striped with the best thinking of the time, we're finding that those don't work out better, don't work out too well. I guess as far as retrofitting the existing section of the parkway to change that particular condition it would require commitment from the Maui Lani Development to establish a different bike route in a different location. However, for the newer section that's under consideration, VMX, as Janine Clifford has explained, the thinking is to implement the more – the better thinking in bicycle facilities and to relocate as many of the facilities as we can off the street itself. In other words, don't share the pavement with the cars, put them on separate paths, that although they may run along the shoulder or follow the roads, they don't share the pavement with the roads.

Mr. Mardfin: I think what I heard the answer to the retrofitting issue is there is no plan to change it to fix it so that it's better now.

Mr. Unemori: Not in that particular area. Although we could restripe the lanes to make it a little wider. If your question is can may be relocate it entirely off the road, you know, there'd be a need to go find some land to do that. The shoulder is fairly narrow at this point.

Mr. Starr: I think the real issue is where you have concrete and asphalt and the asphalt sinks and then the concrete's above it and the asphalt is at an angle. You have a lip there that is a real safety issue and that is, you know, maybe someone going over there with some asphalt would probably be able to at least ameliorate that.

Mr. Unemori: Yeah, I know what you mean. That tends to happen when you do maintenance over time and there's overlays on the asphalt section and the gutter falls into disrepair. So it would require I guess there'd be some rework of the pavement in that area.

Mr. Starr: Commissioner Hedani. Oh, I thought you had –

Mr. Hedani: It's not for this testifier actually probably Mich is. I have a series of about seven questions. Mich, on the project plan is there any plan for connectivity to the southwest, the entire boundary of the project, you know, to I guess the southwest that would be. Is there any idea as to ownership, what might happen in that area and whether or not there's connectivity possibilities between.

Mr. Hirano: This is Kamehameha Avenue, this is the Pomaikai Elementary School, and is this area Commissioner Hedani you're talking about?

Mr. Hedani: Right.

Mr. Hirano: Well, the idea is to, of course, these major roads within Maui Lani would eventually be turned over to the County. Right now this terminus is into the park but it can be extended. Of course, the adjoining lands are owned by A & B Properties. They have I guess a large project district development Waiale community or planned development. So it is possible to extend it but

Maui Lani's jurisdiction just sort of ends right there.

Mr. Hedani: So you don't know from their project plans how that might integrate into your project plans?

Mr. Hirano: No, I don't. But obviously it would provide the access. I would think that an adjoining landowner would want to use that to connect and access the school and access, you know, Kahului and the parkway. And I think that would be – I mean, that is available, the roadway just terminates there because that's the limit of Maui Lani's ownership and jurisdiction.

Mr. Hedani: So there would be only one access point that would provide interconnectivity at this point?

Mr. Hirano: At this point in this area. Maui Lani, you know, the other points of connectivity as well or the main one would be the Kuikahi Drive.

Mr. Hedani: Another question that I had was on signalization. Are there plans for signalization and if so, are those signals going to be synchronized? I'm constantly faced with situations where you know, you can see the next light but you know as soon as your light turns green that one's going to turn red.

Mr. Hirano: The plans for signalization within the project, Maui Lani had signalized recently Papa Avenue/Kamehameha Avenue. The plans are to eventually signalize this intersection, Maui Lani Parkway and Kuihelani Highway. This intersection will be monitored and as warranted will be signalized. And this signal Waiale Drive and Kuikahi Drive will be signalized as well. So those are the main intersections and as far as synchronization, I don't know if they've gone that far in the design to see if, you know, that would be appropriate. So I think that's an element that as part of the warranting will probably be determined. Commissioner Hedani, I think Ann –

Mr. Starr: Yeah, go ahead Commissioner Hedani, then we'll come back to Ann.

Mr. Hedani: Well, I'm always told that synchronization is difficult if the distance between the signals is more than a half a mile.

Mr. Hirano: It's quite a distance.

Mr. Hedani: But in situations where you know, you have a signal that's within two or three hundred yards of another signal and they're not synchronized it just drives me crazy.

Mr. Hirano: Yeah, eventually access into – you know, this will be monitored. The intersections will be monitored as well so maybe these might be synchronized but that's quite a distance in the future.

Mr. Starr: Okay Ann.

Ms. Cua: While you're on that subject if I could for the commission's benefit refer you to the last

page of our report, Exhibit 59, that might shed a little bit of light. The applicant provided a table of the status of the improvements required under Maui Lani's master roadway agreement and there's three basic columns. One reflecting what has already been completed. One which shows which improvements are underway and the final column discusses what's remaining to be done and most of the signalization is reflected under you know, what is still remaining and Mich talked about a couple of those, but this is a good table for the commission to look at in terms of where they're at and we thought this would be helpful to you in your deliberations.

Mr. Hedani: Okay, the third question that I had was when you look at the project on the VMX commercial side versus the VM residential side, was there a reason why the residential side didn't have a commercial element in it as well?

Mr. Hirano: I think the idea was to keep this as the village mixed use and it has residential and commercial and to develop this as more like the subdivisions within the Maui Lani, with – but the element, the difference with this residential area is that it mixes the multi family and the single family and to keep the commercial areas in a separate area. The comments received during the EA when the original entitlement for the VMX occurred was there was some concern to separate the traffic. This area would generate far more traffic so the idea was to separate the traffic and keep less traffic through the residential area. But through the pedestrian linkages make it accessible, easily accessible from the residential area into the commercial.

Mr. Hedani: So it was never the intent of the project to have commercial in the entire VMX ... (inaudible) ...

Mr. Hirano: No, that's right. Yes.

Mr. Hedani: The other question that I had was on the water. Have the wells been tested and determined to be potable and what is the salinity of the water that you tested?

Mr. Hirano: The wells have been tested and they are potable. I don't have the details of the salinity but –

Mr. Hedani: They're within acceptable levels?

Mr. Hirano: Yes, they are. They are within acceptable limits.

Mr. Hedani: And they've been pumped for a period of time?

Mr. Hirano: The pumping tests have been concluded and they've – there is in the – which is in your package I guess the rates at which the pumpage would be allowed in the project district. So over a period of a cycle, a long cycle, it's maximum 1.2 million gallons per day that could – within a shorter period of time they can pump 1.8 million gallons a day, but that cannot be sustained over four or five days and then on the long term average, it's 1.2, but there is capacity there.

Mr. Hedani: So the 1.2 has been proven?

Mr. Hirano: Yes, through the pump test

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: You weren't finished.

Mr. Starr: Go take one.

Mr. Mardfin: A couple quick ones. Back for the affordable housing issue a second. Is there any difference between a house that would be sold to somebody at 80% of median family income as opposed to the house that would be sold at the market rate?

Mr. Hirano: The market rate house – I think the finishing would be different and usually the market rate homes are a little larger.

Mr. Mardfin: Okay, you have somebody behind you that wants to help answer.

Ms. Clifford: Actually what we're planning to do is Maui Lani has always made it one of our design criteria that you wouldn't be able to necessarily tell the difference between an affordable unit and a market rate unit. But recognizing that that people who pay full price for the unit want to do special things we are offering an option package but you do have to pay more money for it. So the base house would look identical but there are options –

Mr. Mardfin: Inside and outside.

Ms. Clifford: Inside and outside. And then if you did purchase a market rate home or I guess if you did purchase an affordable home and you manage to get additional money and you would like to upgrade, they are offering packages to people to help them upgrade their home for two reasons, one is to keep the community looking similar and the other one is to help the new home buyers so that if they wanted to, you know, not have the same color as the house next door they could pay a little more money and they could get stone flooring or they could get things that would personalize the unit itself.

Mr. Mardfin: And so if I were in one of the homes I wouldn't know whether my neighbors were an affordable housing or not?

Ms. Clifford: Correct. That's the intention and that has always been our design mandate from the beginning.

Mr. Mardfin: I think that sounds like a real good idea.

Ms. Clifford: Thank you.

Mr. Mardfin: Second question. And this has probably been answered Mich and I was probably spacing out or something, there is a discussion on page 33, –

Mr. Hirano: Commissioner Mardfin is the staff report?

Mr. Mardfin: Staff report, page 33 or 32, there seems to be a discussion between Department of Public Works and the project as to the improvements to the final segment of the Maui Lani Parkway and it looks like it's going back and forth between DPW wanting something and you guys not wanting that and I think I see an agreement but could you go over that for me?

Mr. Hirano: Yes. Maui Lani as I mentioned in the agreements that have been executed with state and county agencies regarding project implementation and infrastructure and mitigation, one of the agreements was the master roadway agreement. And that had established all the improvements that were to be carried out with Maui Lani. When the VMX project came into being and was approved that went through the State Land Use Commission as well because there was a district boundary amendment. There were additional conditions put on with respect to traffic mitigation that were outside the project district boundaries which were agreed to by the applicant and those were as well, reiterated in the change in zoning. So we had these two agreements. One was the master roadway agreement and then there as well other agreements that came with the VMX entitlements. Maui Lani's position with respect to the timing of the implementation of the parkway improvements were really dictated and governed by the master roadway agreement and that had a specific implementation program for that. It was tied to increments. This is the area in question where right now this is the intersection, this is the extent for the VMX project, for the extension of Maui Lani Parkway and this particular piece of completion of the Maui Lani Parkway was tied in the master roadway agreement to the implementation of these sections of the project district. And they were tied to that and so Maui Lani wanted to at least maintain the integrity of the agreement but had agreed to specific time line to extend Maui Lani Parkway out to Onehee and that's been the back and forth. And that was acceptable to the Department of Public Works.

Mr. Mardfin: So has that part been built yet or not been built?

Mr. Hirano: No, that will be built by 2013. That is the piece that would be built by 2013. This particular roadway section that would service the VMX would be completed prior to the occupancy of the VMX project. So these roadways would be in place when the VMX project is ready for occupancy. And this section will be developed and the commitment by Maui Lani is to develop this by 2013.

Mr. Mardfin: And DPW is happy with this? And I have third one but I don't want to –

Mr. Starr: Go ahead.

Mr. Mardfin: Commissioner Starr mentioned that, I think it was him, mentioned that there were a bunch of gated communities here and that pedestrians and bikes can't get through is this part of the general idea?

Mr. Hirano: There will be no gates within this VMX development and the only gated communities within the Maui Lani project district are the Bluffs and the Islands, this section in here.

Mr. Mardfin: Thank you.

Mr. Starr: Commissioner Hedani.

Mr. Hedani: Yeah, I have just three more questions. The Waiale reservoir, to me I think the actual portion that's occupied by the reservoir is like half of that area and the other portion is basically like a reserve area in case it needs to overflow you have additional flows that come in.

Mr. Hirano: That's correct.

Mr. Hedani: Is there an opportunity to improve that so that it can be used for passive recreational use when it's not filled with water?

Mr. Hirano: Well, –

Mr. Hedani: Well, I know that it's not your property for one thing, but – It looks like a 30-acre opportunity.

Mr. Hirano: there were some areas, this purple area is an open space area and so, you know, this has been designed and planned into the Maui Lani project district to compliment I guess and extend the open space area of the Waiale reservoir into the project district but the ownership of the Waiale reservoir is beyond the jurisdiction of Maui Lani. It's owned by A & B.

Mr. Hedani: So I guess we take that up with A & B when they come in for their project district? Okay, two more questions. One is on lighting. I assume everything within the project would comply with the lighting ordinance and be fully down lighted?

Mr. Hirano: Down lighted shielded, yes.

Mr. Hedani: And the last question that I have is the toughest probably. Although it's not part of the village mixed use, it's part of Maui Lani and the question that I have is with the mass grading for Maui Lani in general, is the Palama Street situation going to be resolved or is there a possibility that that would reappear in another location?

Mr. Hirano: Well, as I mentioned with this slide, Maui Lani really is a neighbor onto itself with the VMX. It adjoins the school in this area. This is a single family subdivision but it's part of Maui Lani, it's part of the overall site grading. It will have a relationship to the adjacent land use. The Waiale reservoir. This is the County of Maui owned property and this is the Kihei Nursery Gardens. So we don't think that there will be an impact of, you know, the height issues with the adjacent properties or with – in this particular area of development. The overall site has been graded, so within itself, the heights have been site plan to relate to a common grade.

Mr. Hedani: Okay, let me point out the areas where I'm concerned about. Okay, this is the Palama Street problem over here where we had the grading problem with the neighbors existing and then they filled this entire area to the point where it's created a problem. My concern is as to whether or not the rest of this boundary has the possibility of creating similar problems for the residents in here.

Mr. Hirano: I don't think there is a real grade difference in these areas as there was in this area. This has been developed. This section of Maui Lani the first increment has been built so that's completed. And this is –

Mr. Hedani: At grade?

Mr. Hirano: At grade, yes it's been developed. I don't believe that there are those issues in this particular area as well.

Mr. Hedani: Okay, as a follow up is there any resolution to the Palama Street problem?

Mr. Hirano: I think there are a couple of possible resolutions but I'm not, you know, I haven't been part of the – there is litigation that is pursuing on that. There is as well a possibility of a legislative solution to look at heights and to clarify the determination of heights, but beyond that I'm not familiar, you know, I'm not intimately familiar with the issues of the Palama Street situation.

Mr. Hedani: Is there a representative of Mills, I mean, of Maui Lani that can answer that?

Mr. Starr: And also the civil if he's here.

Mr. Hirano: Steve Miller is the commercial project manager of the VMX.

Mr. Steve Miller: Commissioner Hedani, I don't like Mich, know details of that, but I just wanted to clarify that while that is within the Maui Lani project district it's not one of our projects that there are many different landowners within Maui Lani and part of the property you pointed to on the area over here which is up by Kuihelani Highway is owned by HRT, who is also the owner that developed the land for the Kaiser Clinic and the new dialysis center and office building and they have other property within Maui Lani as well. But that property you're referring to which call is as Phase 1D was sold to another developer Val Peroff, and he's the one who is dealing with the whole issue of the lawsuit. So we're only part of the project district, but not the developer.

Mr. Starr: Can we have the civil come in and maybe assuage any fears that we have that this may be repeated.

Mr. Darren Unemori: Again, my name is Darren Unemori, civil engineer. Where'd you like me to start? On your question regarding the –

Mr. Starr: Commissioner Hedani, why don't you give him some direction.

Mr. Hedani: I don't really need a civil explanation. I mean, the explanation that Mich gave me was sufficient as far as you know, at grade for the remaining properties. My concern was more relative to Maui Lani as a whole. So like you know, Mr. Miller from my perspective whether it's sold to a third party like Val Peroff or HRT or somebody else at the time the property is conveyed to somebody else if it's part of Maui Lani my perspective is it's your kuleana in order to make sure that whatever happens, happens in a way that's pono to the neighbors in that area. That's just my perspective.

Mr. Starr: Okay, just, you know as far as what we're looking at, are there any major grade differences or steep slopes involved in this area that we're looking at today, the two VMX areas?

Mr. Unemori: In the VMX area?

Mr. Starr: Yeah.

Mr. Unemori: Well, there's certainly significant elevation difference across the project site. The I guess the primary concern about Palama Street is its proximity to an existing neighborhood. That's really not the case in the VMX area although there will need to be significant amount of earth work to, you know, develop the community and much of it has already occurred. I guess the situation is somewhat different because of the area's removed from occupied neighbors largely.

Mr. Starr: So you're saying that there will be deep cuts made?

Mr. Unemori: Well, there actually already have been deep cuts made.

Mr. Starr: Are there going to be additional deep cuts made?

Mr. Unemori: Probably not on the magnitude that have already been done. The area's largely been shaped for final development. Usually you need to do a little more cutting and filing simply to level pads for buildings and those types of things, grade Internal roads, but the vast majority of the earth work for the area under consideration has already been done.

Mr. Starr: Commissioner Guard.

Mr. Guard: Just because we're running out of time I wonder if we want to let people from the public speak so they don't have to sit here for five hours. I think we've all went over due from what we thought this would take.

Mr. Starr: Okay, I have a couple of questions. I know Commissioner Hiranaga does too. Want to go ahead with them or you want to open it up for testimony, Commissioner Hiranaga? I know I've been making you wait.

Mr. Hiranaga: I guess we're approaching lunch time so you may want to open it up to public testimony.

Mr. Starr: Okay, if no one objects then we'll do that and then we can continue questions and deliberations. So at this if there are any members of the public who would like to give testimony on this item, please come forward and let us know who you are and try to keep it brief.

a) Public Hearing

Mr. C. Mike Kiddo: Thank you Chair Starr. C. Mike Kiddo of Pacific Resource Partnership. Just some brief general comments. Appreciate the flexibility of the agenda and also the completeness of the planning report. Just a curiosity question, who determines the mix in the commercial area

looking at the ordinance there's a variety of permitted uses. And the second is, more curiosity question and the interface of the DOT policy on Koa Ridge as it applies to intersecting their roadways how the EA reflects of that. Thank you for the opportunity to testify.

Mr. Starr: Thank you. Members any questions? Commissioner Hiranaga. Wait please stay up.

Mr. Hiranaga: You mentioned a Koa Ridge?

Mr. Kiddo: It's a development by Castle and Cooke on the Island of Oahu that preceded some changes in Department of Transportation policy, is it reviewed permits and there was some tinkering with the EIS law last session to try to accommodate some of the concerns of different parties.

Mr. Hiranaga: Thank you.

Mr. Starr: Commissioner U'u.

Mr. U'u: I'm sorry, but I had to run to the bathroom. Could you repeat your testimony?

Mr. Kiddo: In deference Chair Starr, real briefly is two questions. One is who is the review authority yourselves or the Planning Department as far as the commercial mixed uses since the ordinance outlines a number of different uses. Some of them are more compatible than others. The second was just a curiosity question on the EA whether there's, it applies the DOT changes to the permits that they've been reviewing in light of the Koa Ridge decision.

Mr. Starr: Okay, thank you very much. Any other members of the public wishing to give testimony please make yourself known. Come forward, please. Introduce yourself. And thank you for coming down.

Ms. Claire Apana: Thank you very much. My name is Claire Apana and I live in Sandhills which is right next to this project. And three years ago I feel I was given a kuleana by a visitation in my house by a Hawaiian woman and what has ensued is looking at how many burials and how much of the burials have been disturbed in this area and I really thank Uncle Les because I know that he would take care of them in the very best way, but I'm still concerned about the history of this area and the way that it has developed.

I don't see anything coming from HRT or Maui Lani Partners to give back to the Hawaiian people for the history that has been disturbed in this area and I would hope to see that. And I don't know if this is the appropriate place to do that. I mean, I see that Palama Street has still no resolution and as of last week they're still filling that place. I'm just wondering, you know, we take a little piece of this, but this is the developer that owned the whole piece as Commissioner Hedani said and how do you take a little piece when there's this huge piece that maybe is crying out for some resolution and I know that in my own house I've had the disturbances of the other kind and it's not easy to come up in public and say this because it's not generally maybe accepted in some places, but it is true that it has happened in my neighborhood.

I worry about the project in that it's a village mixed use in the commercial side and the project next to my house is a village project too and they want to put up a shopping center that's really, really big. I mean, it's as big as the Kihei Safeway Shopping Center. That's not a village to me. I'm wondering and hoping that you are looking at.

I'm wondering about the fill because I see right next to the low cost housing there's fill going on there and not so much about the neighbors in this one, but about maintaining the ordinances which were made to protect the people, protect the neighborhoods such as Palama Street to prevent Maui from becoming a place of fill so that we can have view lots, to protect the natural topography and the neighbors. And I'm hoping that you will take care of that too.

And then the last one is about the Cultural Commission. I think that was a really good call and I think your feeling about the size of this area and the impact that may be and taking it slow because I don't think that this area has really been studied in terms of the historical impact and I know that the Battle of Kakanilua happened in this area. I cannot pinpoint it exactly but I know from the oral history which is all I have to go to as a citizen, the oral history of the most famous historians in Hawaiian history has placed the battle in this area, coming through this area and it says below the sandhills and this where the battle occurred. And it's as important as the Battle of Iao. I think going slow and really looking at it and sending it back to the Cultural Commission would be really a good idea and if they can take a good look at it and they say well, hey you know, there's nothing here then that's, you know, that's the best we can do.

I really appreciate the developers for coming up with a thought of mixing affordable and higher priced housing and making a place where people can actually have a village type thing where you can walk to. And I really appreciate that and this is not about their project in that way, but just that the fact that they have never really looked at the history that we may lose.

I love Uncle Les's idea of Wailuku Ahupua'a and I wish that someone and I hope it's this development and these developers will look at that and say yeah, maybe we can give back to the Hawaiian people and preserve the history of Wailuku and we could make a place where you could learn about the battle that happened in this area. It's hard. The hills are shaved down, the land is filled, it's hard to imagine 800 warriors pressed against the sandhills and dying in one day. But thank you very much for letting me say this and I hope that you will take it slow and remember the culture that might be there. It's hard to believe there's only seven sites in that huge area from the history of the rest of the area. So anyway, thank you very much for letting me testify today. And thank you for your diligence and your questions.

Mr. Starr: Okay, members any questions. Okay, thank you for sharing that and I learned something from your testimony. I did not know about that battle, how great that was. Thank you. And please come forward, introduce yourself.

Ms. Jocelyn Costa: Aloha, my name is Jocelyn Costa. I'd like everybody to take a moment and just close your eyes and just imagine Maui Lani built out. A lot of families running around with their children, the homes are there, the green grass, the parks and the street, the busyness of the day and then a hundred years go by and the economy has gone flat. People have left the island, everything has gone desolate and there's no more grass there, there's no more homes there,

there's no more people there. Then a new developer comes along and says, I think I want to buy this up and build a house and if I do an archaeological study and if I do the history there's no one anyone would live on the sand. No way. A hundred years prior they weren't there, so how would they know? And it's no disrespect to anyone here, but we are making educated guesses without really knowing.

I stood here a week ago, well, I think two weeks ago, in front of the Burial Council. The people that you revere so highly. And they sat here in frustration pinned to their seats not having any teeth or authority to really make a difference with this project. And what I heard from them was, "when is this madness going to end? When is this madness going to end?"

I understand that these maps are to show you exactly how versatile and friendly this project is. But when you go down deep below the skin, you'll see how much injury it actually has. When I came in front of the Burial Council they were discussing an inadvertent find of 62 burials. And what was posed to the Burial Council was moving this road is not an option. I'm here to ask you, would you like to leave it or move it? And I came to the Burial Council and said, how's this? Disturbing our kupuna is not an option. If this is the road that we, as human beings, will have to take then there should be no more graveyards in Maui at all, at all. Find a little pit, build a wall structure and anyone who dies from this day forward, toss them in because it would inconvenience the next developer that has to go through this process. If you want to stack up containers and throw these bones into cardboard boxes so be it. That's where our kupuna are right now. That is no different from what happened a hundred, two hundred, a thousand years ago. These people have faces, these people have history, these people are people and you are treating them like things and dots on a map.

There are no triggers to stop work order. I've asked. And because it has become an inadvertent which is an ugly word to me, find they have their permits and entitlement and they can go forward. Why are you being asked questions? Do you have any power to do anything? Can I come here and request a stop work order today? I would like to. Can you guarantee me that that's not my family member that's being put into a box? I don't know. They can't even identify these people.

Mr. Starr: Okay, try wrap up.

Ms. Costa: I sat here for hours listening to them present themselves and now I am asked to wrap up. I have a problem when they present things in chunks. When they chunk this map. Our people didn't live within their chunk. They lived within complexes and sites. So you may not be looking at the full picture. I'd like to know if the developer would have a map that has an overlay of the total burials found in this entire site so far. I think that way it will give you a clearer understanding of what is happening there. And as far as site visits, the Burial Council asked them, in fact, they said what happened to the last request we had? And there was really no precise answer for them. Just as you're requesting now for a site visit. And so they said, well will you wait until we can arrange it? And they said you mean stop work? No. But you can come and visit anytime. What happened to the kanaka maoli? What happened to the human factor?

Mr. Starr: Okay, please conclude.

Ms. Costa: I'd like you to seriously consider what is happening in this area because there's hundreds of burials and when they were asked if we go to the next phase, pretty much we're probably going to be finding more burials? It was not denied. So every time you ask a question about digging more deep, possible burials, it's evasive. They don't give you a clear answer. Please think about it. It might be one of your kupuna there.

Mr. Starr: Okay, thank you. Members any questions? Please come back. Commissioner Pawsat.

Ms. Pawsat: Considering that we don't know where these burials may be or something like that and if there is some sort of process that you would be not necessarily, you know, who knows how it will work but that would be amendable to you. Like lets say, like right now this project for me has done a lot as far as just common sense urban planning, mixed use, all these other things and in particular I like the way they've woven the park system through it. I wish the parks would more replicate something like golf courses so they're more meshed and accessible within the community. But lets say, and I feel like they need to take more design, be more design oriented in the construction of the green space. Like right now they have the regional park and then it kind of weaves through and ends up in the commercial area. But it's not designed. Like there isn't the stream, like a ribbon park and then it ends in like, you know, some sort of open space at the end of it with some sort of art sculpture or something like that, like Hawaiian art public space. So lets say, there was more work on designing the green space and that any burials within the whole district if they could be reinterred in some sort of public monument at the center of this area and have an actual monument for the people who lived there. Would that be something that would be agreeable to reinter in land marked site within the development in a landscaped area?

Ms. Costa: I wouldn't be able to speak on behalf of the families that actually belong to those bones. I think there needs to be some respect as far as what their last wishes were as well. Some will have the opinion that the bones should be left there. Some would have the opinion that the bones should be moved because it's disgraceful. To just take them – because it's happened already they take them and they lump them up and they throw them in little pockets between homes and if not, then they're just placed in boxes and stored away. That would need to I think have a deeper thought to it because we are dealing with people. To toss them into a park, an open space, you know, sometimes I wonder, why don't we just leave them there where they lay which is where they wanted to be and like this last find of 62 burials they were intentional, they were prepared so they were intended to be there. That is where they were placed. And I try to do some of my homework in the law library and what I discovered was there was a law back in the kingdom law which actually rolls into the HRS that's what it's revised off of, it stated that when a person is interred into the ground, ashes to ashes, dust to dust, the families of that person has an interest because now that land is part of their family because his dust is part of the soil there. And to disinter let alone just disturb the area would be considered criminal trespass.

This is just something right off the top of my head. What if we just leave them where they lay because that's what their last wishes were and every home that is sold in the Maui Lani area contains a disclosure that you will be living on burial sites and see who would want to live there. I think they should also have a disclosure within their sales pitch that where the bones actually existed and what they did with the bones in order to bring these gated communities and other families in to have a home. They need to know the thorough history of where they're living and how

they got there and what happened to the people before. I think that will give a clearer understanding of what kind of neighbors we'll have by who would want to choose to live there after.

Ms. Pawsat: So these 62 burials are in this new VMX area?

Ms. Costa: It's a roadway. I'm not sure exactly because I'm not – you know, that was the first time I came to the Burial Council. I was experienced to speak in front of them and you know, I was moved to stand up and speak just on behalf of mainly emotions but also from understanding the culture as best that I understand it. And so I'm not familiar exactly where the road was, but one of the pictures with the roadway and trees, that's the type of picture that they did present except it was plus dots all over the map, the picture to show where our people are interred. And I find that also offensive because there should be a face instead of a dot. It just kind of like disassociates right a way when it's just presented as a dot.

Ms. Pawsat: Well, that's kind of funny. I mean, you're right how it's presented as a dot, but then you aren't allowed to take photos or do anything. It's like you aren't allowed to touch them though ... (inaudible)...

Ms. Costa: And I think that's part of the problem. That even the developers as diligently as they want to create a good atmosphere they sometimes are prevented by the law. Hinano and Jenny want to do their job, they're prevented by the law. The Burial Council wants to do something, they're prevented by the law and I think maybe if you folks can come up with something, ordinances, legislative laws, whatever you need to do, we need to kind of clarify that.

One of the suggestions I would have is because they already know what they're going to do ahead of time because they have to present you with a plan, why not have the archaeological study done prior to a bulldozer because they go in phases, prior to a bulldozer getting there so they can at least do a clearer investigative study and not have it signed off until after the project is done because it's kind of like backwards. They need that in order to get their permits, but they do just that subsurface like they had said, like Hinano had said, but because you're doing that everything thereafter becomes inadvertent and because of that they can just plow right there. It's a loop hole that allows them to do what they do best which is make the dollars.

Two weeks ago in church, and it's not that I'm preaching but it says, "seek the truth and the right way as hard as you seek silver and gold."

Ms. Pawsat: I just want to mention that I agree with you. I feel like the preservation, State Historic Preservation they should do surveys before developers get there and assess resources before so it's not a last minute thing. So oh, they come upon some bones, oh well, we've already had the plans done you know, what are we going to do? You know, these things should be found first and then dealt with because I have a lot of faith in the fact that if you really design public space well, and public green space and give it, you know, accesses and landmarks and termination points and it be integrated in the community that such a public space system and park system can accommodate the iwi and the cultural resources and be integrated into that public space and so there's this problem won't happen any more. And so the archaeological survey is done before the development comes and the green space and cultural resources are put into this infrastructure of green space

and then you build the buildings around it. But I just want you to know that I agree with that process and so now it's a point of being able to come up with some sort of design, green design where that can accomplish those things I think.

Ms. Costa: The way I'm looking at it and as I sat in that meeting the other week, you know, I think if the application was presented with the information you now know, you know, would it have been actually pushed forward? So yeah, hindsight is 20/20 but there are processes that prevent you folks from actually making the right decision because you're hands are tied. Like Keamoku said, "my hands are tied to the seat, I can't even move. I would rather be standing on the other side with my spear because of what I know." And I cannot. I cannot. And you need to realize that all of what State Historic Preservation is going to base their approval on is what the developer presents. Not an independent, not what you find, only what the paid staff from the developer presents. Then after the fact, you know, I'd be curious to find out what the inventory to figure out what is a previous find as opposed to what now today is – how many inadvertent finds. I'd like to see the ratio on that as far as the difference. Has it exceeded what they found prior? You know, I heard Jenny say they had no human remains found in the beginning. I don't know if they did and then they have previous finds and that's good, but how many compared to how many inadvertent now have been found so far and we're not near completion. I think it's like close to 300 burials already, somewhere around there.

Mr. Starr: Thank you very much. Thank you for sharing. Any other members of the public wishing to give testimony please. And we're way over time so please try to keep it short for us.

Ms. Johanna Kamanu: My name is Johanna Kamanu. I live in Waihee, and I've taught in the schools in this district. And when you brought up the issue about the schools what's going to happen if we have a population that the schools aren't prepared for? I can only give you what happened at the school I taught at. First we converted teacher's workrooms into classrooms, and then we took teacher's lounge and converted those into classrooms, and then when they took my supply room, my storage closet and converted that into a counselor's office so he could counsel students, no windows, nothing in there, that's getting pretty bad.

Now you have to understand I had high hopes that one day the County would turn over a building for the use of the school. I started there, my son was just entering sixth grade and I was involved with the PTA at the time hoping that before the year ended, that's where my mind was in those days, we might see the building in our schools facility as part of the facility.

My children, five children, are all through that school. And it was still years before that facility became a part, that building became a part of the school facility. I'd like to say that I was with that school for 12 years. And in the 12 years, we crammed children into every nook and cranny of that school. It was not nice. I would dare say that if you lost electricity for this room for one hour, this would not be a comfortable place for you. But our kids are going to school in situations like that for years without any change. So it surprised me when I heard that you had no plans as to what to do with the students that may come from that area.

The other thing I wanted to bring up was about median income. And I have to tell you I really appreciated hearing these questions today. I was surprised, pleasantly surprised, but median

income is a concern with me and it goes back to the school system again. A school can qualify for what we call Title 1. It's a way of supplementing incomes, the lunch income for the students who are not able to afford it. Well, believe it or not, at one point our school couldn't qualify in this area for Title 1 and it came down to the fact that the median income was too high. I was going, how can that be? We have five low income housing units in the Wailuku area. How can that be? Surely not just because the Heights, it changes the whole income situation for our population. Well, believe it or not it does. And so we didn't qualify for Title 1 and it's always been a struggle for that particular school.

Now that particular school is still limited in size and I don't know how the heck you're going to add more students to that school without, what shall I say, we have the small piece and you just keep squeezing more kids into that piece. You can't even do that safely in prisons to put more population than the land can hold or the building can hold and we're doing that with our schools. So median income, I'm really concerned about how they decide what is median income and there has to be some other way to come up with a formula that addresses the needs in our community because if anything, you're putting affordable housing farther out of the reach of the very people who need affordable housing.

Next is –

Mr. Starr: Okay, please try wrap up, you're way over time.

Ms. Kamanu: Sure. And the last thing was, employment. Sorry, but I've had to in my job capacity assist a lot of people with – they need financial help and I find I'm helping people who are here simply because they're following the construction jobs. And they tell me freely that they've come because, one told me, I came because my union found me this job and asked me if I wanted to come here and work for a year. Had jobs for me. And I say where are you from? And he say, oh over in the mainland. His union in the mainland helped him find a job here. I find that houses on my street, a couple, well, one on my street housed construction workers and they are no longer here. I found my brother-in-law was managing a building that was bought out by a developer.

Mr. Starr: Please finish up.

Ms. Kamanu: Okay. So bottom line is, talk about affordable housing, you talk about employment for our people, but I don't see it happening. Not a lot of it anyway.

Mr. Starr: Okay, thank you. Members any questions? Is that an intermediate school you're talking about being full?

Ms. Kamanu: That's correct.

Mr. Starr: Thank you. Any other public testimony? If so, please come forward and make yourself known. Okay, not seeing any, public testimony is closed. We're going to take a recess until 20 minutes after 1:00 p.m. for lunch.

A recess was called at 12:20 p.m., and the meeting was reconvened at 1:20 p.m.

Mr. Starr: ... of August 12th is back in session. When we recessed for lunch we had just finished taking public testimony. Now the floor is open to members for additional questions, discussion, even motions, though I know there's some questions left. Who wants to lead off here? Commissioner Hiranaga.

Mr. Hiranaga: I was just wondering if staff has been able to determine if a intermediate school is planned in the area?

Mr. Starr: In the district.

Ms. Cua: What I did check was in terms of what kind of application, I mean what kind of information is provided in the application. I believe you asked about, there was a question about the capacity numbers of the schools and I don't – I didn't see any under the existing school impact area that was provided by the application nor did I find anything in the Department of Education letter about actual numbers for all these Kahului schools that we're talking about.

Mr. Hiranaga: Follow up question for the applicant, the proposed project will generate, I'm sure you have an estimate number of students that I guess eventually will be going to that –

Mr. Hirano: Pomaikai.

Mr. Hiranaga: Pomaikai Elementary School and once they graduate from that school where would you think they'd be going for 6th grade?

Mr. Hirano: I believe the 6th grade would be held at Waena, Maui Waena, intermediate Maui Waena.

Mr. Hiranaga: Possibly lao because it's right –

Mr. Hirano: Or lao, yeah. It could be lao as well. But we don't know.

Mr. Hiranaga: I guess I have a concern about, you know, I know it's not your fault but when you contribute to the State General Fund it doesn't necessarily mean that these monies is being contributed by the applicant will in effect benefit the impacted area. And I guess as a statement hopefully maybe we could have more home rule that – on that issue, I know you don't have any control over that.

Ms. Cua: I could just make a quick comment. We've had this discussion before. You know, when the Department of Education is in a position where they are able to require an impact fee from the developer, you know, that goes into the Department of Education fund. What this body has been doing which has been very proactive in terms of getting direct benefits to the students on Maui in the impacted area of the project is when you have projects that come before you that do not have any Department of Education requirement, you know, we start communicating with the applicant before they even come to you indicating the need to try and mitigate impacts to the extent practical and we have received quite a number of developments with voluntary contributions towards particular school programs, in Wailea, in Kahului, in the Kihei area. So that has been happening where at least you are in a position where for those particular projects where DOE is not collecting

you have been able to receive some funds that have gone directly to benefit our schools here on Maui and these schools have seen in some cases immediate results within the school facilities.

Mr. Hiranaga: Just one final follow up question, so who built or funded Pomaikai Elementary School?

Mr. Hirano: Department of Education built it.

Mr. Hiranaga: So they determined that a new school should be built there?

Mr. Hirano: Yes, and originally there were two, five-acre sites within the Maui Lani project district elementary school. In fact, one of the sites was in the VMX area. However, in 2004, the – we did an application on behalf of Maui Lani Partners to consolidate those two school sites into the present 13 acre Pomaikai School site. So that when the original project district was entitled, the Department of Education allocation for schools, elementary schools was in the area of 5 acres per elementary school. That's what they had for elementary schools. That standard had risen over the years and their elementary school sites are now in the order of 10 to 12 acres and so, that site was consolidated, the two, five-acre sites that were allocated for schools was consolidated into the present 13-acre site.

Mr. Hiranaga: Thank you.

Mr. Starr: I have a question which is the affordable housing on this project. Which I understand is 51% of the total.

Mr. Hirano: Yes.

Mr. Starr: Is any of that being used for any other projects?

Mr. Hirano: No. The Maui Lani – the original entitlement was 20% requirement. That is still operative and applicable for the areas outside the VMX. The VMX area itself is 51% and that is for its own project. It's not an entitlement or it's not a affordable housing project that will be allocated to any other development.

Mr. Starr: The commercial uses in the mixed use area usually we think about, you know, this type of project as being small shops, you know, grocery restaurants. Is there a limitation to that or you know, could we end up seeing big box or Safeway or something like that. What are the controlling and who developed the list of commercial uses there. Let me preface that to Ann and maybe the applicant as well.

Ms. Cua: I can briefly touch on that and I think the applicant can address it a little bit better. The design guidelines that we spoke about that went before the Urban Design Review Board do talk about that and they do address it and there's even a comment from the Urban Design Review Board, I'm trying to find it. Something to the effect that, you know, if the project gets to a point where they're not able to achieve that balance, then the Urban Design wants to see the project again and maybe, if where they can start commenting I can find what the Urban Design Review

Board said about it.

Ms. Janine Clifford: I'm sorry for returning from lunch a little late, but –

Mr. Starr: Yeah, introduce yourself first.

Ms. Clifford: Janine Clifford, the architect for the project. So when we first worked with Maui Lani on this VMX CR area that was one of the main concerns was first of all, no big box. Second of all, is how do we protect the small business so that we always have a mixture of say like the grocery store and the drug store and the smaller business. So what we did is we set up these zones and also to keep in mind that we do want this very nice community of mixture of residential as well. So what we did is we set up these zones. So if you look at these blocks here, maybe if somebody could turn down the lights. The idea has always been that on two sides, there will be on two sides, those areas have always been set aside for the smaller shop and then the residential on top. And behind here in this area is where the larger say grocery store or whatnot would go. And again, we're not doing big box. So whether it's this side or that side, it's always going to be at least two sides, and also the other thing we worked with the Urban Design Review Committee was to locate the doors so that there wasn't just one big door on the back side of the building for the larger drug store or whatnot but that they actually provided an entrance that was near the smaller retail stores. And then again, as Ann mentioned, the whole concept was should we not be able to achieve this block configuration then we would go back to the Urban Design Review Committee so that they could relook at what they approved. And so it wasn't just a blanket approval.

Mr. Starr: What's the largest store that will be allowed?

Ms. Clifford: We didn't really put a limit on it, but we definitely know what a big box is. You know it and I know it and we're saying no big box in the development.

Mr. Starr: That's meaningless if there's no limit. What would prevent a, you know, except that they would have to call it something else?

Ms. Clifford: Right. The footprint itself is 30,000 square feet. So it would be 30 to 50,000 square feet. So it would be like Longs Drug Store.

Mr. Starr: So someone could put in a 30 to 50,000 square foot big box store.

Ms. Clifford: But they would have to wrap it on at least two sides and then make sure their entrances don't just squeeze out the little mom and pop shop, right. See if they put their entrance on the back, and if you were just trying to go to Longs Drug Store and you never had to, you parked in this parking lot and you never had to walk pass any of the small shops then the chances of them surviving is very low. So what we did is we made sure that they were within our design guidelines and that was one of the things the Urban Design Review Committee brought up.

Mr. Starr: Members? Commissioner Hedani.

Mr. Hedani: I guess this question would be for Janine. The site plan shows some pretty big parking

lots. How do you reconcile that with the concept of smart growth and village commercial?

Ms. Clifford: That's another issue that we debated for a long time with the Urban Design Review Committee and we also debated it internally. The reality of needing to provide a center where people can buy things at a reasonable price and a variety of things that they expect within a community. And also, trying to touch back to the communities that we remember that we love where there is a space for the shaved ice stand and there is a space for the dry cleaners and the things that you need in a normal everyday life to make it so you can get out of your car and you could do everything that you want to do after work in the community that live instead of, you know, driving to one place and then driving to the other. So what we did is, we tried to take these larger parking areas and make sure we always line it with either a landscape strip or a series of small shops and then within the parking lots themselves, we set – working with the Urban Design Review Committee, we set a minimum or a maximum I should say, size of an open area parking lot and then we went beyond the design guidelines that just says one tree for every so many stalls. And we tried to landscape it out and provide this alternate experience along the perimeter. And there's no question that that there are going to be more cars than a traditional neighborhood where everyone could actually walk. And you know, that's one of the realities of the way we live today.

Then the other thing we did is what you're not seeing is that on top of this big box is another level of parking. So we actually took off a surface level of parking from the project and put it up above so that from down below we could start breaking up these large parking lots and adding parks and having the additional land instead of devoting it all to the parking, we'd actually have land to create open space, landscape strips and the like.

Mr. Starr: Is there residential mixed on another level?

Ms. Clifford: Yes, actually, and again, this is hard to see, maybe we could switch to the elevation. So if you keep this block in mind and then we'll switch to the elevation. Our concept is that if you remember that big block and sort of that L-shape around it, our concept is that this would be sort of the more heavily pedestrian walked street and again in front of it is diagonal parking so that the traffic slows down, there's more parking and the parking is right in front of the smaller shops. And then up here, in the second and third story kind of in an L-shape if you remember that big block will be the residential area and behind that, on top of the larger retailer is the parking area. And the idea is, you see here, this is the entrance to say if this were a drug store. So that that the drug store actually has to have an entrance so that the pedestrians going by or coming out of will actually go by the smaller shops.

And again, the idea was to mix not just do this facade across for the residential area but to kind of step it back a little bit recognizing that what occurs down below is a little different from what occurs up above. And then to try to create an architectural context that brings it down to the human scale and sort of a walkable pedestrian, very tactile environment.

And on page 2, Exhibit 6, or page 54, Item No. 4, one of the conditions was that we would break up parking areas No. 4, No. 5, –

Ms. Cua: Mr. Chair, I think she's referring to Exhibit 54 which is the letter from the Urban Design

Review Board dated February 15, 2008 and that's the letter I was trying to find that has, had identified all the concerns of the Urban Design Review Board, two of which you brought up right now, and one is, you know, what happens if the mixture of large and small commercial tenants is not realized. And you know, that's comment No. 6. And the other one, the comment you're talking about right now is No. 4, you know, the department as well as the Urban Design Review Board had some concern about parking area 4 and 5, if you could point that out.

Ms. Clifford: So those are this one here and this one here. So we went through a whole process of breaking it up, adding more trees. At one time there were no buildings here. There was no landscaping here. We had the parking lot turned the opposite direction especially this area here, we also had it turned the opposite direction and not as much landscaping. But the whole idea was to mitigate the idea that there was so much parking in addition to the fact that we've already moved a significant number of cars off of the surface area to just get the asphalt off the ground.

Mr. Starr: In both the EA and this document you talk about how this is going to be energy efficient project. Does that mean you're going to go for LEED certification or if not that, then what other techniques are you going to use to make it energy efficient and green that being certainly the policy of both the county and the state?

Ms. Clifford: We know that it's the county and the state's policy to try to move towards LEED certification and the like, and Maui Lani as the major developer will be selling these parcels right to individual developers. So what we're thinking of doing is creating a series of guidelines that everyone needs to follow and then as they come in with their plan 3 approval, at that point, the county would get another chance to review it.

Mr. Starr: So you're not making any commitment now is that what I'm hearing?

Ms. Clifford: We are making a commitment to the things that were shown on our slide. Building with solar water heating, insulating the building –

Mr. Starr: That's the law, you have to do that now.

Ms. Clifford: Yes, right. Insulating the buildings, that particular one yes.

Mr. Starr: You have to do that, that's a law too.

Ms. Clifford: Yes. Low flush toilets, energy star appliances, recycled material when we can, and then a lot of our concepts are really brought together in how we design the master plan.

Mr. Starr: It sounds like you're just doing the minimum that's in the building codes and calling it green.

Ms. Clifford: We are complying with the codes and then we're going to create a series of recommendations for the people who are building and it's included in the design guidelines.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: Just a follow up question. You said that you would be developing lots and selling it and those individuals would be coming in for review so –

Ms. Clifford: Under the plan 3 review process, but they have to follow our master plan and the design guidelines that were approved by the Urban Design Review Committee.

Mr. Hiranaga: So it's not Maui Lani 100 LLC's intent to build this project out. They're going to subdivide it and then sell parcels for development with CC&Rs in place?

Ms. Clifford: Some of it and some of it Maui Lani will actually develop themselves. It's actually going to be a mixture.

Mr. Hiranaga: Just another follow up question. Your conceptual design map, that you had up previously, it's really hard to make out what's there especially the lower left hand corner, what are those?

Ms. Clifford: Down here?

Mr. Hiranaga: Yeah.

Ms. Clifford: We're envisioning that this would be more industrial uses because if you remember across the way here, is the old landfill. So in our minds, you know to be good citizens that next to an old landfill kind of reserving those properties for more industrial uses of the mixed use zoning categories would be a wise and prudent thing to do.

Mr. Hiranaga: If the chair allows, can you give us a quick tour of that map because it's really hard to figure out what's proposed. There's no labels or they're all roof tops.

Ms. Clifford: Sure. So this is how we envision that – this is how we sort of envisioned or developed this master plan. I think Mich mentioned before it was always the intention that there was going to be sort of this mixed use commercial area and then this sort of mixed use residential zone. And the way we view it is really that as the designers as that this is sort of like a decompression area where we're going from this very, very high activity, mixed use, commercials, industrial area and we want to step it down through the community so the idea was that this residential area would become this higher density residential area would be this decompression zone. And then going from some of the givens on the site, for example, the reservoir here, the reservoir tank, the water tank, the reservoir here and the landfill here, the idea was to try to push more of the industrial predominately industrial uses out to the edge. So that would be along here and up here. And one of our thoughts and our guidelines actually allow it is to really explore a true mixed use community. So one of the areas up here is reserved for the concept of a mixed use industrial use where say for example that you were an artist or you assemble windows or you have an electrical company and you really would like to live on premise where you do your work. The idea was that that area would be up in that upper corner and the architectural form if you will, was to replicate the storefront look. So your customers would come to what you consider if you were the resident, your back door. Or if it was your warehouse, right, it would be the backside of your warehouse because the front side would be where you would do all your loading. But this is where you would kind of interact with your

customers. And then we put your front door from the residences coming down, it would come out onto a landscape street. So the backside would look industrial or the front side if you were thinking of this as an industrial use and the other side would be more pedestrian friendly, a little bit more of the public realm. So that was the idea for that area up there.

And then the whole concept was that we would try to locate a lot of these smaller retailers within walking distance of each other. So if you were trying to get a shaved ice for your kid or you were trying to do your laundry and then go grocery shopping, or you trying to, you know, mail something and buy stamps or whatnot, you could do it all within sort of a locality and that these periphery building would be more like we need a dentist office, right? Wouldn't it be great to go home and then go to your dentist or go home for lunch and go to your dentist rather than you know, making an appointment on the weekend or whatnot. So the whole idea was to try to -- and then again, the thought was to leave it open ended where there's the capacity to actually build residences above it. So couldn't a dentist have a ground floor office and then his residential unit above.

And then the whole idea was predicated on this ribbon park that would actually take you from the VMX CR area through some of this, through the VMX, through the regional park and to the elementary school where we're all tied together. And yes, we haven't -- to answer one of the commissioner's comments, we haven't actually designed the park yet because we're in the phase 2 application. And during the phase 3 application, we will be coming in with the actual detailed design of the park and it's intention though will be set in this phase 2. It is going to provide for bikeway access, pedestrian access, some pedestrian activities scattered throughout the site in sort of an event fashion where you start off here and there's a progression along and the other end of the piece is supposed to be the regional park and the elementary school.

And again, the small shops are located here. All of our diagonal parking that brings all the parking together is aligned here and here with the smaller shops around it. And again, we've been trying to also bring in another access point here. So that would happen along here and here. So you can see the L-shaped relationship and the thinner buildings here which would be dedicated either to professional or smaller retail shops.

Mr. Starr: Commissioner Guard.

Mr. Guard: About what's the distance say from like the reservoir to the bottom industrial lots? All these things say not to scale so I just have no idea.

Ms. Clifford: From here to here?

Mr. Guard: Yeah. Just so we have an idea of like what a quarter mile might look like or -- is there any type of scale on any of these?

Mr. Steve Miller: This section of the roadway and --

Mr. Starr: Take the microphone please. Take the microphone and identify yourself.

Mr. Miller: Steve Miller, Maui Lani. This section of the road is about 3,000 feet each of these. So

from here to here might be 2,000, 1,800 feet.

Ms. Clifford: And yes, like I said before, I know where the question is leading is this really a walkable community? And --

Mr. Guard: Or just how long is it?

Ms. Clifford: Right, just how long is it. But it's -- so the idea was that there are these nodes and if you were living here, yes, you probably wouldn't walk but you might bike. If you were given a very nice bike path that was safe and reliable and you might even put baskets on your bike, right and then you would go to the grocery store that way as opposed to getting in your car. Well, that's my hope as a very optimistic urban designer.

Mr. Guard: People could walk. I guess the main issue is everything says not to scale. So I thought that was a concrete piece. We know how big the parcel is so I just thought something might have been able to tell us what a quarter mile look like or a half mile look like. That would be helpful on any of these drawings.

Ms. Clifford: Right. Well, if this 3,000 feet, a quarter mile is 1225, am I right, 1250, so that would be about that much would be from there to there. So if you drew a circle you would get something like that which would be the VMX R area, VMX CR.

Mr. Starr: Okay, Commissioner Mardfin.

Mr. Mardfin: With your permission, can you go back to the before JB's question you had one up there and then I'd want to go up to the screen and ask you a question specifically. When you pointed, you were saying they're going to walk through to the school.

Ms. Clifford: Oh, no, no, no. They're going to go, this whole ribbon park has been --

Mr. Mardfin: Here?

Ms. Clifford: Right. And this if you think about it in terms of scale. This is a house lot so that ribbon park is more than if you envision your own house lot, it's way wider than that.

Mr. Mardfin: So the people going to school are going to walk along this?

Ms. Clifford: Yeah, the idea was if you see --

Mr. Mardfin: And then this?

Ms. Clifford: No. If you see all these little cut throughs, we've created all these greenways.

Mr. Mardfin: Yeah.

Ms. Clifford: Where the kids can actually cut through all the developments, end up on this larger park and come through and make this turn and end up at the regional park, correct.

Mr. Mardfin: But if they're going to go to school, they're going to go like this and then down here?

Ms. Clifford: Actually we tried to work out an opening here but we were just given this one with --

Mr. Mardfin: Yeah, because this looks like all houses here, so they're not going through there.

Ms. Clifford: Correct. We were given no access. We were actually trying to get an access point right there. Right where you proposed.

Mr. Mardfin: But you didn't.

Ms. Clifford: We weren't allowed to have that one.

Mr. Mardfin: So you're basically going -- then there's no point in going down here. Then you go up here, this way --

Ms. Clifford: Actually there is a reason to go down there. The other thing we tried to do was create these little nodes for kids to play. So at the end of this walkway is another little tot lot node for the kids of this community to have a place to play in within walking distance.

Mr. Mardfin: But if they're going to school that doesn't --

Ms. Clifford: Well, they could -- if they were coming from here, they could walk up here and cut across along the green ribbon and come to the regional park.

Mr. Mardfin: So again, going to school you're basically following this.

Ms. Clifford: Yes.

Mr. Mardfin: Then down here.

Ms. Clifford: Yes, you go through the regional park.

Mr. Mardfin: Then across this.

Ms. Clifford: Right.

Mr. Mardfin: And then they're into the school here.

Ms. Clifford: Correct.

Mr. Mardfin: And this is a parking lot?

Ms. Clifford: Actually yeah, and I believe --

Mr. Mardfin: This is the school.

Ms. Clifford: I believe you're right, that's correct.

Mr. Mardfin: Okay, thank you.

Mr. Starr: Who is it who said you couldn't make more than that one entrance into the park?

Ms. Clifford: The Parks Department who referred us to their planning group. So it was the landscape architects and designers for the park who worked it out with the state and gave us that location. We actually tried very hard. What we were really trying to do was create this all inclusive community and we've been through many additional meetings to try to resolve a better location really for the benefit of the community and the fact that we even have this one entrance I think, you know, it might be a sad statement, but it's a win. We feel it's a win because their first initial pass was maybe we would only get access from one of the public roads and not be able to put in a access point through the VMX R area.

Mr. Starr: You mean, they were saying you would have to drive to the park?

Ms. Clifford: Basically yes.

Mr. Starr: Wonderful.

Ms. Clifford: Which is right. I'm in your camp. I think that that's crazy. I think that a regional park to be well loved and well used needs many access points and not one big parking lot. But unfortunately, we don't have control over that portion of our project.

Mr. Starr: Okay, members? Commissioner Hiranaga.

Mr. Hiranaga: I was reading the agreement you have with the Parks Department, and you can correct me if I'm wrong, but is your obligation to provide grading and grassing for the regional park or do you go beyond that?

Mr. Hirano: It does go beyond that Commissioner Hiranaga. It's grading, grassing, irrigation and then a small parking lot and comfort station.

Mr. Hiranaga: But as far as the baseball field that's depicted there, you would not be developing a baseball field?

Mr. Hirano: No. That is a conceptual site plan. The Parks Department is doing their own planning for the facilities. ... oh that is? I'm sorry that is their --

Ms. Clifford: This is the conceptual plan that we were given by the consultants for the Parks Department. And I believe the parking lot that they're doing is this one down here with the comfort station. And then they're doing this, and again, this is several months old so I'm not sure if they've updated, but this is what we were given to work with. And then this access point here was also what we were given to work with.

Mr. Starr: Go ahead, one more.

Mr. Hiranaga: Second question and I'll yield the floor. I was looking at your matrix of roadway improvements and I couldn't find when the Kuihelani/Kam Avenue extension would be signalized. Where the Dunes Golf Course exits to Kuihelani Highway. I can't find when that's going to be signalized or if it's going to be signalized.

Mr. Hirano: It will be signalized and it depends on the traffic warrant studies that are going on right now, but the design of the -- as I understand it from Steve Miller, the design of the intersection and signalization has been submitted to State DOT for approval as well as the warrant study. So it can be done fairly soon. As soon as they're approved then construction will start on the signalization.

Mr. Starr: Okay, Commissioner Hedani.

Mr. Hirano: That's that intersection right there.

Mr. Hedani: Yeah, my question was for the architect and the concern was it the County Parks Department that was preventing access to the regional park or is it county or state or ?

Ms. Clifford: It's the state to the school, but also to our park because -- to our VMX area, so we were given just that one access point. Actually the way it was given to us, it was here's our plan and that's where your connecting. So -- And we've tried. We talked about it at length.

Mr. Hedani: And they weren't interested?

Ms. Clifford: They go through their own process and they actually, you know, design it and they think they're doing --

Mr. Hedani: They wouldn't want access to their park to be a primary consideration.

Ms. Clifford: They think they're doing a good job, right. And they think they've designed --

Mr. Hedani: Of keeping people out.

Ms. Clifford: They think they've designed a great park and we had suggested perhaps several connector points and we were given one. So we're trying to work with the one that was given to us.

Mr. Hedani: My concern is from a planning standpoint, if you sell single family homes along the edge of that, it's going to all become private property and you're not going to have access to the regional park in the future even if you wanted it.

Ms. Clifford: Correct. Yes.

Mr. Starr: Yeah, I think, you know if we had an opportunity it would be great to have Parks Planning come and talk with us.

Ms. Clifford: Actually it came up with the, it came up as a comment during the Urban Design Review. The discussion about the relationship of the park to the VMX R and the VMX CR and how one would traverse and I don't think anybody commented on how many access points there were to the regional park.

Mr. Starr: Yeah, Commissioner Pawsat.

Ms. Pawsat: Yeah, can I go up to the thing?

Mr. Starr: Sure. Yeah, grab the mike.

Ms. Pawsat: Just concerning the ribbon park. I mean it's really nice and things like that. I know you said you hadn't designed that yet so I'm a little unsure how we're supposed to take the finality of this design. But the only thing that really irritates me is that you have kind of a beginning point as it goes through and then it just stops right there and nothing happens. It just kind of evaporates. And so it would be nice if that went away and became, and this became a terminus point for this ribbon and then also that this became beefed up as a green access that goes through and that goes back to someone's comment earlier about, yeah, this is an excellent opportunity for more foot trails and that you can see foot trails around here, the reservoir and then an access here. A clear access all the way through so it's more articulated. And then within that I don't know what to say about all the interment issues but I feel like there should be a plan. I mean, what you talk about that little park right there is a really good idea and to have more of those, maybe there's some sort of, you know, know I guess a lot of talking would have to be done about this, determining if there had to be interment, but making some sort of pocket parks or something where reinterment could happen as necessary but to make spots within in the site that are nice and landscaped and some sort of architectural feature within that for reinterment. Those are all my comments.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: This is a different tack, but you've been talking about the impact on schools and it sounds like you're focusing on elementary schools. Is the assumption only people with young kids are going to move in or are you also talking about impacts on high schools?

Mr. Hirano: Well, I think our impacts were discussed in the context of the mitigation and the agreements that were entered into with Department of Education and the provision of the elementary school site as part of the Maui Lani project district entitlements.

Mr. Mardfin: But probably there'll be high school kids moving in there with their families.

Mr. Hirano: Yes, I would think so, yes.

Mr. Mardfin: And where do they do go? Baldwin High School primarily?

Mr. Hirano: They would go to either Maui High or Baldwin. They're very close.

Mr. Mardfin: Do they get any money from this?

Mr. Hirano: For the contribution for the education impact fees go to all schools. It goes to DOE in general. It's approximately \$5,278 I think for single family and \$2,200 and whatnot for multi family. So those are the –

Mr. Mardfin: Is that a one-time payment or an annual payment?

Mr. Hirano: No, it's an one-time payment, yes.

Mr. Starr: Commissioner U'u.

Mr. U'u: Question with all the development during your studies, I haven't read the EA, how much kids you guys expect to be total build out in 10 years?

Mr. Hirano: For the VMX project will have approximately 500 – sorry, 375 – the total population or the total units is really based on a more detailed site plan and the densities are 10 units per acre for single family, 15 units per acre for multi family so those will determine the ultimate build out of those areas. The site plan reflects approximately 375 units and so if it was two kids per family or 1.2 kids per family it will be in the order of 370 to 500 students.

Mr. U'u: What district do they fall under in high school? Maui High or Baldwin High? I know where you live, there's a point where –

Mr. Hirano: I'm not sure of the exact boundaries Commissioner U'u but Baldwin High is right here and I believe Maui High is just off of Papa I think it's just on this area, could be up in that area there. So they're very close. You know, the project district is very close to both schools. So I'm not sure which ones they will go to.

Mr. U'U: When you say 1.2, that's why you said, 1.2 kids per household?

Mr. Hirano: Yes, I mean, that was just an average that I used.

Mr. U'u: That's China, but we're in America or Hawaii. I mean, how can you use the same? I've got five, so I'm well over that route. I mean, lets be serious, so you could be at a thousand and you're going at 375 based on 1.2? I mean, that's –

Mr. Mardfin: One to two.

Mr. U'u: 122 or one to two?

Mr. Mardfin: He said one to two.

Mr. Hirano: 1.2 to 2. Yeah, I mean, those are averages.

Mr. U'u: Wow, I had no idea. I'm way over above average. I'm above average that's good news.

Ms. Clifford: Actually maybe I could –

Mr. U'u: Most Hawaiian families are way above average by the way.

Ms. Clifford: I'm at 2 and 1 so I think we're below the average, but the State – Maui Lani worked with the State Department of Education and while we have our own projections the State actually takes our plans and determines what they think the community needs and they have a bigger, broader look at the entire region. And so I our understanding was that the children who pass the elementary school level would get absorbed by the existing intermediate schools because we weren't asked to provide an intermediate school. We were asked only to provide an elementary school for the community and that's based upon their own demographic studies by the State Department of Education.

Mr. U'u: And that is possibly why we in this mess though with the school system.

Ms. Clifford: Yeah, and our community as well, right. I agree.

Mr. U'u: I agree.

Mr. Starr: I wish we knew how many spots were available in intermediate and high school. Commissioner Mardfin.

Mr. Mardfin: In this area, how would the high school kids get to school? Would they walk or do you guys have bus service over here?

Ms. Clifford: Actually there's the public system that's going to extend into the community and maybe Mich you can comment on what the school's provide.

Mr. Hirano: As we mentioned before there will be a public transit stop here and one at Maui Lani Parkway and Kuikahi Drive. You know my feeling, I drive up Kaahumanu to Baldwin and I think most of the students either walk or drive or are driven.

Mr. Mardfin: Okay. I just didn't know how you'd do it on the site.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: This may be a question for staff. There is mention of areas that were going to be filled. So how does the height requirement apply? Is it the same as residential where it's existing grade or finished grade whichever is lower or higher?

Ms. Cua: Until the definition is changed, the height is measured the same all around. It's from existing or – natural or existing grade whichever is lower. So if you're filling, you don't measure from the fill.

Mr. Hiranaga: That applies to commercial uses also?

Ms. Cua: I believe so. Yeah, height is height.

Mr. Hiranaga: One more question. The water wells that are proposed, are those going to be dedicated to the Department of Water Supply?

Mr. Hirano: Yes, the right of entry agreement has a 10-year period where the Department of Water Supply has an opportunity to take over those wells. But they wanted that 10-year period to just ensure that the water quality will be consistent throughout that period and the idea is to turn over the improvements over to the County.

Mr. Starr: I have a follow up question to that which is, you told us that the wells, the three wells will develop 1.2 units of water, 1.2 million gallons per day of water. That will be pump capacity. How much water is going to be allocated in meters to Maui Lani against those wells?

Mr. Hirano: In total, I believe it's in the order of 800,000 gallons.

Mr. Starr: 800,000 gallons. Now the usual allocation for wells is 45% of pump capacity because you derate it by a third for operational factors and then you derate it by another third for load factors. So you end up with 45%. So 45% of 1.2 million –

Mr. Hirano: No, that's net, Commissioner Starr.

Mr. Starr: What?

Mr. Hirano: That's the net capacity. So that's 45% had been factored into that I believe.

Mr. Starr: What's the net capacity?

Mr. Hirano: 1.2 million.

Mr. Starr: So you're saying that the pump capacity is how much?

Mr. Hirano: Well, the pump capacity per well is 500 gallons per minute.

Mr. Starr: Yeah.

Mr. Hirano: But combined pumpage of all three wells, this is in the agreement, shall not exceed 1.16 million gallons per day over any 30 consecutive days or 1.44 million gallons per day over any consecutive 180 days or 1.2 million gallons per day per monthly average. I believe that these are the net taking into account the 45%.

Mr. Starr: I don't think. It sounds gross because – like a gross capacity. What happened with the joint venture wells? Where you had a similar situation where three wells were drilled in proximity and there was an expectation on the joint venture partners to pump all three of them at once. It turned out that you cannot because you end up with a severe upconing and, you know, upconing I'm sure would occur a lot faster than that. So it seems like that 800,000 means that it's going to cost the county water from another source. Is that agreement been signed?

Mr. Hirano: Yes, it has and I believe that the – there will be, I believe there will be excess capacity that the county will benefit from these wells.

Mr. Starr: That's phantom capacity because the actual pumpage will end up to be 45% of 1.2 million is the actual usable.

Mr. Hirano: I believe that's been taken into account.

Mr. Starr: Okay, members, more questions, motions, whatever? Commissioner Hiranaga.

Mr. Hiranaga: I just have two more questions. First one, I know you used the word smart growth a lot, and you're proposing this integration of single family and multi family housing and I saw some of your conceptual designs but, so it's a proven practice to put a multi family structure next to a single family structure and have them distributed through the subdivision. It seems odd that you'd want a high density project next to a single family home.

Ms. Clifford: Actually it's not what we would consider to be a normal or traditional style of development pattern in our typical subdivision where we separate multi family and we separate single family. But what this does is it allows say for example, I have a family of three. So I would prefer a single family home. But my mother who's alone and single, my father has since passed away, she would actually like a smaller place. So the ideas that you can start having multi generational families and also families of different income bracket. Because when you say single family of a particular grouping we generally start also grouping them by socio economic strata. So the concept is to try to mix the types of uses so we get a homogenous community and actually this has been quite successful. We are also the planners and architects for Ocean Point in Honolulu where we mixed multi family and single family on the same block with a rear loaded alleyway and as you know, I'm not sure if you're familiar with Ocean Point on Oahu but it's a thriving community for young people sort of middle income people and now they're adding on sort of an upper scale component that's in the \$700 to a million dollar price point. And again, it's all on this mixed concept of uses.

Mr. Hiranaga: So Exhibit 16, I don't know if you can put that up.

Ms. Clifford: Sure. And again, this is being done across the country not just in Hawaii.

Mr. Hiranaga: Exhibit 16. That one. So that large multi family dwelling proposed there is a 12–

Ms. Clifford: Yeah, actually I should have probably explained the slide to you as well. Starting from this end this is a two-story, single family residence that's rear loaded. So this you're kind of looking at the park elevation. So it's rear loaded along an alleyway. This is another single family. Then this is a 12-plex where it's three-story, and these units open onto the park and then there are some that open onto the side and some that onto the back. Then this is a multi family building as well, but it's made to look like it's just a very large house. And those are either six-plexes or eight-plexes and again, what we did is situated them at corners. So some of the units exit on one street and some of the units exit on the other street and then there's an interior court that exits off of another driveway. So the idea was that you wouldn't see more than two or three of your neighbors at any

given time. And then what we tried to do was mix them on the alleyways so you get this sense of yes, it's a little more dense than what you're used to but there's a lot of activity and everybody has access some sort of greenway or green space. And then we're trying to scale it so that you know the community kind of undulates and that we don't have all the six-plexes next to all of the single family and that kind of thing. Except where like around the perimeter of the park we did those as sort of single family because we struck with kind of the width of the site as we came across.

Mr. Hiranaga: I guess maybe we need to schedule a site visit to Oahu because I mean, the demand for housing is much greater on Oahu than Maui. I just couldn't see myself living in that single family dwelling next to that 12-plex.

Ms. Clifford: Actually one of the nicest things about this sort of mixed use community is not only does it become or the opportunity for it to become multi generation is high, but those alleyways become like the people's backyard and like on 4th of July and whatnot they roll up their garage doors and they have big, sort of not block parties but alley parties and the they really, the community really takes possession of that alleyway and actually the more people, the better at that point.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: This has to do with the previous interchange between Mich and Chairman Starr. This strikes – this water capacity strikes me as a crucial issue. And Mich opined that it was a net figure and Commissioner Starr thinks it a gross figure and I think we need to know what it is with two different opinions. Who would be able to provide us with that answer?

Mr. Starr: Is your hydro geologist here Mich?

Mr. Hirano: No, we don't have a hydro geologist here.

Mr. Mardfin: But that sounds like – to me it's a critical issue, a crucial issue.

Ms. Cua: I can just add a comment if – the document, the report from the applicant indicates that the three wells could produce an average of 1.4 million gallons per day. That was the figure that we reported in our report.

Mr. Mardfin: Is that gross or net?

Ms. Cua: It just says an average. This is the 1.2 net.

Mr. Hirano: That is the available water. So –

Mr. Mardfin: If it's available it sounds like gross. I'm just trying to figure it out.

Ms. Cua: That's 1.4.

Mr. Mardfin: I don't know the answer. I'm trying to find out how we get the answer because I think

that's a crucial. If you're saying they're going to use 800,000 and the 1.2 is the net after 45, in other words they're producing something like three and 45% of that is 1.2, I know that my math is a little bit fuzzy there. Then it's okay. If the 1.2 is the gross, 45% of that is something like 400,000 and then you're in a negative. So I mean, it's a really crucial issue. At least as far as I'm concerned.

Ms. Cua: The Water Department in its letter reported that they're concurring with the project engineers potable water demands estimate of approximately 500,000 gallons a day, so I'm not sure

–

Mr. Hirano: The 800 gallons is to satisfy not only the VMX area but the balance of Maui Lani as well. So there will be some available for that. But my understanding as the right of entry agreement was negotiated between the County and Maui Lani is that it was always understood that there would be a surplus beyond Maui Lani's needs that would be available for the County of Maui for supplemental source supply for the Central Maui system. And so, to me that indicated that there would be a surplus beyond what would be used for the Maui Lani needs in the project, the VMX project and the Maui Lani project district in general. A further refinement to that formula is that the allocation to Maui Lani for their particular use requirements would be an average of 200,000 gallons per year for over a five-year period or four-year period to get to the 800,000.

So the capacity of the wells was 1.2 million at the onset when they are finalized and operational in production. That 1.2 million of that for the first year, Maui Lani would be allocated 200,000 gallons a day of that water. The county would be using a million gallons. The second year, Maui Lani would be and have the right for another 200,000.

Mr. Mardfin: I get that picture. It still boils down to whether that 1.2 is a net or a gross figure because if it's a net figure then you're absolutely right. If it's a gross figure you're absolutely wrong.

Mr. Hirano: Well, my assumption is based on the agreements and the understanding that the Department of Water Supply and Maui Lani had when they negotiated that agreement and to me that was the net result.

Mr. Mardfin: That they were talking about net.

Mr. Hirano: Yes.

Mr. Starr: I know from reading the EA it sure sounds to me like the County is going to be losing 300,000 gallons a day of water to them, but you know, though it was the Water Department who negotiated it, it sounds like though they did a bad deal.

Mr. Mardfin: Who would provide the information so we would know?

Mr. Starr: The Water Department and the hydro geologist for Maui Lani neither of which is available to us today. Commissioner Hiranaga.

Mr. Hiranaga: You may want to make a call to the Department of Water Supply and see if someone's available and we can continue our discussion if that's important to Commissioner

Mardfin. But I do have a question.

Mr. Starr: Yeah, go ahead.

Mr. Hiranaga: This goes back to the burials. You know there's a lot of testimony regarding existing burials and potential for discovery of additional burials and for what I could gather from SHPD's representative, if he determines that the discovery is I guess a planned burial, then it remains in situ?

Mr. Hirano: The disposition of that is under the jurisdiction of the Maui Lani Islands Burial Council. That is if those burials were identified during the inventory survey, what they call the AIS, Archaeological Inventory Survey.

Mr. Hiranaga: They would make the determination whether their remains can be reinterred or would have to remain as discovered?

Mr. Hirano: Yes.

Mr. Hiranaga: Because I know in certain areas in the Maui Lani project they've created these preservation reserves.

Mr. Hirano: There's a burial preservation area within the overall Maui Lani project district area.

Mr. Hiranaga: But I think there's several. So those don't necessarily mean that those are in situ, they could be reinterment?

Mr. Hirano: Yes. When the project district was created this is a burial preservation area that was established within the land use plan for the project district.

Mr. Hiranaga: But there's other preservation –

Mr. Hirano: There are other burials, yes, that are preserved in situ.

Mr. Hiranaga: So as you start developing and you encounter sites, the Burial Council would determine if a additional preservation area needs to be created?

Mr. Hirano: Yes, or SHPD. Either Burial Council or SHPD, yes. I'd like to – Steve Miller also may have a comment on the water.

Mr. Steve Miller: Steve Miller, Maui Lani. I just wanted to point out that the numbers that Mich gave you before are from the Department of Water Supply and from the agreement and in the development of the wells and the approval to drill the wells, and the subsequent approval of the Director of the Department of Water to say that this project has a long term reliable source of water between the hydrologist and the Department of Water Supply they came down to these net numbers which were basically maximum sustainable yields which is met that these wells could pump per day and the numbers again were on a 30-day basis, consecutive 30-day basis, a

maximum of 2.16 million gallons per day. The 1.2 that you've been talking about is 1.2 million gallons per day per monthly average which is long term conservative sustainable yield. So those are basically net sustainable yields and the project that we're talking about, the VMX project in total upon completion and full occupancy would require somewhere in the neighborhood of 300,000 million gallons ...(inaudible)... So I just want to make that clarification.

Mr. Starr: I know for me sustainable yield is a term you use specifically when you're talking about an aquifer, you know, on this aquifer only had one million gallon, but anyway members, what would your preference be? Commissioner U'u.

Mr. U'u: I'd like to make a motion if possible.

Mr. Starr: Yeah, please. It's in order.

Mr. U'u: I'd like to make a motion to defer. You know prior to this I actually thought we had a cushion where we could – the Council was the final vote and I had no idea. I guess bad on me that we were the final decision makers. Also found out that the Phase 3 goes to the Planning Director not the Planning Commission. So this is, you know, the buck stops here. I got some concerns obviously –

Mr. Starr: Okay, before you go – do we have a second to the motion.

Ms. Domingo: I'll second.

Mr. Starr: Okay, so we have a motion by Commissioner U'u, seconded by Commissioner Domingo to defer and we can have discussion on that. Commissioner U'u.

Mr. U'u: Well, I'd like to defer it, I would also like to defer it back to CRC, Cultural Resources Commission.

Mr. Starr: How about we make a list of different areas or items that we would want answered if the motion passes?

Mr. U'u: That's one. One I would like to have the EA.

Mr. Starr: Director, you're writing this down, yeah?

Ms. Cua: I am.

Mr. Starr: Okay, Ann has got it covered.

Mr. U'u: I haven't gotten to read the EA. I would like to read the EA.

Mr. Starr: So copies of the EA for all members.

Mr. U'u: And also I would love a site visit.

Mr. Starr: Site visit. What else have we heard before? Schools capacities?

Ms. Cua: That is something that came up.

Mr. Starr: Water from the hydro geologist and the Water Department. Commissioner Hedani.

Mr. Hedani: One of the things that was requested by Jocelyn Costa was a overlay of the burials for the Maui Lani project.

Mr. Starr: Okay. Ann got that? Members? Commissioner Mardfin.

Mr. Mardfin: I think we ought to revisit the Parks Department about access to the park through at least two spots. Give me one second up there.

Mr. Starr: Yeah.

Mr. Mardfin One about here so that people coming down to this park can go zipping along this way. So you need something in here. And maybe if they go, like this, something maybe in there.

Mr. Starr: Okay, so additional access from Parks Department and the Parks Department to come before us. Either Pat or Tamara. Members anything else? Commissioner Hedani.

Mr. Hedani: I'd like somebody from Urban Design to also be present at the next meeting, get some direct input from them on the concerns.

Mr. Starr: That's the commission's or the planner for the Urban Design.

Mr. Hedani: The Urban Design Review Board.

Mr. Starr: Ann.

Ms. Cua: You're asking that a member of the Urban Design Review Board be asked to attend your meeting?

Mr. Hedani: The Chair.

Ms. Cua: Okay. I can ask.

Mr. Starr: Yeah, Corp. Counsel said he's a little confused. But how about the Chair or the Chair's designate?

Mr. Giroux: No, I mean for the purpose. I guess my concern is the purpose because the board, their board would have to take action to authorize somebody to actually have the scope to talk in their favor. I'm not understanding the purpose of the –

Mr. Hedani: From my perspective, I still have questions relative to the design of the project itself

and I needed input from the Urban Design Review as to what their perspectives were relative to it.

Mr. Giroux: Would you rather just send it back for recomment or to actually – I mean – just for –

Mr. Hedani: I don't think they can chew it over that way.

Mr. Starr: I think it's in order because they made specific– they made recommendations regarding the parking and the massing which are confusing to us.

Mr. Hedani: Well, let me explain my concerns. Part of the project looks like – don't get me wrong. I like the project. I like the architectural. I think the architectural are fantastic. I like some of the concepts like the ribbon park. I still seen an emphasis on automobile where it's automobile driven as opposed to people driven in the design and it's reflected in the very large massive parking lots that are reflected within the site which also appear to have been a concern of the Urban Design Review Board.

Mr. Giroux: I'm sorry to interfere with this, but I'm just trying to look at their recommendations and I'm wondering if what you're asking for is maybe you want to throw this concern out and have them rereview it? I mean, I'm just concerned of having just the Chair here to defend their comments. I don't know if they'll be comfortable with that or if the Chair would be comfortable with that. If I'm understanding what you're asking for.

Mr. Hedani: I would just like advice from them at this point.

Mr. Starr: Director.

Mr. Hunt: I think there's two options. One is you could ask them to review the project again as a board. The concerns that we have it be similar to somebody asking for one member of this body to represent this whole body and you can see from the discussion today that's not fair.

The other option would be to simply direct your questions regarding architecture or design to the applicant's architect and just have dialogue with them. Ask for further information. I'm not saying today. I'm saying during the deferral the applicant's architect could come back and respond to the questions that you have.

Mr. Starr: Would you want further comments or further consideration by the Urban Design Review Board?

Mr. Hedani: I think what I'd like is to have the Urban Design Review Board take a look at some of the comments that we made today like for example, the Parks thing doesn't make sense. Why would they accept a situation where you have only one access to a park and you have no inner connectivity between the residential area and the park and those kinds of comments are what, you know, we should get input from Urban Design on. Or if that was something that they wanted but they ran up against a brick wall from Parks in which case we should have Parks here to say why they're proposing something like that.

Mr. Starr: We've already asked for Parks. Should we just let it go with that? Okay Ann.

Ms. Cua: Thank you. You know, in looking at the Urban Design's letter which I'm sure all of you read. It's Exhibit 54 and I was in attendance in that meeting. We spent a lot of time. I mean, the Urban Design Review Board spent a lot of time talking about this project and they came up with eight concerns. A lot of which you discussed here today.

The park issue they may have touched on it a little bit but it didn't make onto the eight bullet point that got included in this letter. Again, I would have some concern with just having one member. If you have specific questions about what may have happened at that meeting, I can try and answer that for you. You know, if you look at the parking lot situation which we looked at a little bit and the areas four and five which both – you know, the department and the Urban Design Review Board said, you know, if you look at area seven, which I don't know if somebody has the, you can point out area seven, that area they have it broken up with more buildings. Yeah, it's further down that way.

Mr. Starr: Ann, I think that was off the table to go back to them.

Ms. Cua: Oh, oh, okay. All right.

Mr. Starr: Members you ready to call the question? Okay, there's a motion on the floor that's been seconded. The motion is to defer and it's to – it's pending additional information which Ann will read back for us the areas.

Ms. Cua: Eight seems to be the magic number, well, actually no, I have seven if we take out Urban Design.

Number one would be having the project go back to the Cultural Resources Commission. I did put a call into the Cultural Resource Planner to see if we could get on the November agenda because I told you that September they're going to Lanai and October they're going to Hana. And they've been trying to get out to these areas for quite some time. So I don't believe we'd be able to get scheduled until November.

You would like a copy of the EA to all members. I question I have is, do you need a hard copy or are you okay with electronic?

Mr. Starr: Hard copy.

Mr. U'u: Hard copy.

Ms. Cua: All you guys want hard copies?

Mr. Starr: Yeah.

Ms. Cua: Okay. Also, you'd like the department to schedule a site visit.

Mr. Starr: Yes.

Ms. Cua: You would like to get some numbers on the capacities of the schools that will be serviced by this project.

Mr. Starr: Yes.

Ms. Cua: You would like clarification on the water issue with regard to the three wells in terms of whether the gross or net –

Mr. Mardfin: Being very careful about how much the gross capacity is and what the net capacity is. So if we have two numbers then we can clearly identify which is which.

Ms. Cua: Okay, so gross and net capacity with regard to the three wells.

Mr. Starr: And the agreement that's been signed.

Ms. Cua: I believe that's –

Mr. Starr: Okay, Commissioner Hiranaga.

Mr. Hiranaga: That community you spoke of on Oahu with the mixed use residential, if you could provide photos? I'd prefer a personal visit but photos will suffice.

Mr. Starr: Okay, so that's nine items.

Ms. Cua: I was at five was water. Six was the overlay of the burials on the site.

Seven, you would like to get the Parks Department here. We can do that.

And eight would be photos of the, what was the name of that development? Ocean Point development.

So I do have eight bullet points.

Mr. Starr: Okay, Commissioner Hedani.

Mr. Hedani: Can we request information on any project plans for the property for the south, I mean, the southwest?

Mr. Starr: Okay, so information about adjoining property to the southwest.

Mr. Hedani: I guess that would be the A & B.

Ms. Cua: A & B Waiale.

Mr. Starr: Yeah.

Mr. Mardfin: Ann, for clarification. The Parks Department just so they're not blind sided, in particular we want to talk about different access to that.

Ms. Cua: Parks Planning is who we would be asking for.

Mr. Starr: Okay, ready for the question?

Mr. Guard: Call the question.

Mr. Starr: Okay, all in favor please raise your hand?

Mr. Starr: All opposed please raise your hand. Director what do we got?

It was moved by Mr. U'u, seconded by Ms. Domingo, then unanimously

**VOTED: To Defer the Matter in Order to Address the Concerns Raised by the Commission and to Schedule a Site Inspection.
(Assenting - B. U'u, D. Domingo, K. Hiranaga, J. Guard, W. Mardfin, W. Iaconetti, J. Pawsat, W. Hedani, J. Starr)**

Mr. Hunt: I'll mark that as eight in favor and none against.

Okay, so the item is deferred. Going to take a recess till 2:45 p.m.

A recess was called at 2:38 p.m., and the meeting was reconvened at 2:46 p.m.

Commissioners Starr and Pawsat was excused for the remainder of the meeting at 2:38 p.m.

Vice-Chair Guard took over for Chairperson Starr after Chairperson Starr excused himself for the remainder of the meeting.

Mr. Guard: ... Commission of August 12, 2008 is back in session.

Mr. Hunt: The Planning Commission's next item involves Matt and Sandy Daniells requesting the following land use changes for the Hanzawa Variety Store expansion and subdivision at 1833 Kaupakalua Road, TMK: 2-7-014: portion of lot 044 in Haiku. There's a State Land Use Boundary Reclassification from Agriculture to Urban, change in zoning from Interim from B-CT Country Town Business and Rural 0.5 and Robyn Loudermilk is the planner assigned to this project.

2. MATT and SANDY DANIELLS requesting the following land use changes for the Hanzawa Variety Store Expansion and Subdivision at 1833 Kaupakalua Road, TMK: 2-7-014: portion of 044, Haiku, Island of Maui:

- a) **State Land Use Boundary Reclassification from the State Agriculture District to the State Urban (approximately 2 acres) and the State Rural District (approximately 1.93 acres) (DBA 2007/0001)**
- b) **Change in Zoning from Interim District to B-CT Country Town Business District and RU-0.5 Rural District (CIZ 2007/0001) (R. Loudermilk)**

Ms. Loudermilk: Good afternoon Commissioners. I will have Mr. Wil Spence come up and do a brief power point presentation and then I will complete the department's report after his presentation.

Mr. Wil Spence: Good afternoon Planning Commissioners. My name is William Spence. I am helping Sandy Shishido Daniells and Matt Daniells with their change in zoning, district boundary amendments. I'd like to introduce them.

Ms. Sandy Shishido Daniells: Good afternoon.

Mr. Spence: We also have Jim Niess, the project architect and will be here to show you the project and answer any questions.

Okay, what this is is as the director stated for two changes in zoning, two district boundary amendments. So why would we want to change the zoning on these properties? Right now, if you don't know Hanzawa Store, it's a little store in Kaupakalua. It's been there over 90 years. It's most definitely, you know, your mom and pop kind of store. I've been very honored to help them with this application.

Both properties are in the State Agricultural District. They community plan designations are business commercial and rural and I'll show you on the map in a second. And then they have county interim zoning. So business is not allowed. It's a whole – interim is a hold over from the '50's. So the store's grandfathered in but it's also at risk if there's a fire or hurricane. There's a one-year time limit to reestablish the use, and if you can't reestablish, you know, you're pau. Right it's taking six months, eight months just to get a building permit. So you know that they couldn't reestablish the use let alone rebuild.

The community in the area has grown beyond what the store can provide so they need to expand that way. At the same time, the expenses of running a small business have outpaced the ability to bring in income so they need to expand just to stay in business and Sandy may tell you a little bit about, you know, the expenses of running a small mom and pop store.

The project implements, the goals and the map of the Paia Community Plan. And it's just plain good planning. You want to put stores, you want to put at least some commercial out where people live.

Regional map, Haiku Town, Pauwela, community center out on Hana Highway, Makawao Town and then somewhere between is Kaupakalua and Hanzawa Store.

The service area for the store, they get people from all around here but also out in Huelo even out to Wailua.

Location, right at the corner of Kaupakalua Road and Awalau. West Kuiaha and East Kuiaha here. Upper Ulumalu is nearby.

The lot configuration. This is one big lot here. Well, not a big lot, it's just over 3 ½ acres and then you have this one little finger lot here that's .4 acres. So what they're going to do, well we'll get to that. The store is here at the corner. This is the old family house. This is a dilapidated home here.

These are the community plan designations. About two acres on commercial and then the other part over here is 1.9, just over 1.9 acres. So this is what already exists on the community plan. So the applications that we filed are consistent with this plan.

Aerial photo. This is an outline of the properties. The store is here. The old dilapidated home. The family home and then this is the smaller parcel here with the existing home on it. This would be the rural area. This would be the commercial area here.

Little bit of store history. Going to introduce Sandy Shishido Daniells.

Ms. Sandy Shishido Daniells: Good afternoon. The picture you see is Taichiro Hanzawa and he is the brother of my grandfather. He came to Maui in 1904 at the age of 17 to sign a contract as a laborer with the sugar plantation and he did that for many years. He worked hard. He saved his money. He ended up leasing some land in Kaupakalua and he started raising pineapples and ended up buying the building that houses Hanzawa Store. That was about 1915.

Tetsuji Hanzawa is my grandfather. He's Taichiro's brother and he came over shortly after to take over the family business. And Taichiro actually left to open Paia Mercantile. Those were hard times when, you know, people were pineapple farmers and money was tight so the store extended credit to a lot of the neighboring people. And occasionally the store never got repaid for. It was also a time when the store was taking orders from people and delivering groceries to their homes. Actually during the war years, my grandfather Tetsuji and his brother, Taichiro, were interned in New Mexico for four years and my uncle, Ralph Hanzawa who was running the store as well left for the army for a couple years.

Mr. Spence: And I just wanted to show you that safe that was in the previous two pictures is still in the store.

Ms. Shishido: Have to have been some good quality equipment then. This is Ralph Hanzawa in one of his pictures when he was in the army. During the time they were gone, my mother, her sisters, and relatives were running the business. Actually it was a busy time for the store. It was – we had like 20,000 plus Marines stationed at the 4th Marine Camp and they all patronized the store which was really good. It was a good time for the store.

Store was a real gathering place for everyone. They liked to shop, talk story, and on the weekends, watch movies and it was a real tight community.

Eventually Uncle Ralph came back and he was operating the store with his dad, my grandfather, for many years. You see the store in the original building.

Ralph retired in 1989, and I came over to take over the business in 1988. This picture shows the old building but the store actually burnt down in '74, and it was rebuilt in '75. That's another old shot. It doesn't look really nice there. We still have the old gas pumps in front of the new building. But we did do some upgrades and this is what it looks like today with the new gas pumps.

Mr. Spence: Thank you Sandy. Commissioners this is what I want to explain is what we want to do, what the Daniells want to do with the rural and what they want to do with the commercial.

So first with the commercial. First, where did this come from? This designation came from a very long public process during the last community plan update when the 13-member citizens advisory committee met 21 times over 325 days. The Planning Department reviewed those recommendations including this designation for commercial and rural, included that in their recommendations to the planning commission who then considered it, who then passed it on to the Planning Committee, and then finally to the full Council. All the way along, these two designations were supported.

So what is proposed? To expand the store by 800 square feet. So from 3,100 to almost to 3,900 square feet and then in addition in order to keep some kind of income coming in, to build three small buildings about 3,400 square feet with a truck turn around area, 20 new parking stalls in the back of the building while eliminating the on-street parking, and I'll show you an illustration in a moment.

The kinds of people the Daniells want to offer the space to are businesses for the community. So we're talking about small office space, a coffee space, a mail store, you know like a Postal Plus so people don't have to drive to Haiku to pick up their mail, those kinds of things. They're not interested in a McDonalds. They're not interested in chain stores. They're not interested in art galleries, nothing like that.

When we went to the community and we've had like three, four meetings with the community, this was initially what we came up with. And architect, Jim Niess will talk about it a little bit more, but in this illustration we kept the on-street parking, added a new driveway and had a truck turn around area and then these were the three little buildings here. Original store just to be expanded in that.

So after going to the community once, we took some of the concerns back and we made some changes. So we got rid of the on-street parking. That was the very first thing. Got a right turn lane in, redesigned the truck turn around area and then Jim will talk more about other things. But you know, it's – what it is, you can walk through the whole thing. Put another entrance to the store so people can easily walk from here over. All design that we do will have to follow the country town design guidelines.

Now what's – as a planner I look at, so what is the need for additional commercial? This is a chart of growth in Haiku. The blue is the number of homes that have been built and then the red is the census. I don't have census information for pre-1960, but you can see how, and this is the entire

area covered by that map I showed at the very first time with Haiku/Pauwela/Kaupakalua out to Huelo. So you can see from '60's, '70's, '80's, '90's and into the 2000 it's grown tremendously. The projections that are in the general plan forecast are well over 10,000 for that area. At the same time, there has been no new commercial space built in the last 30 years. So have, you know, the canneries are no longer canneries, they've been turned into some of those stores, some of it light industrial, but at the same time, you have this huge amount of growth, you have these huge amounts of growth of homes yet there is no additional commercial space.

So we don't have population data for within a mile. So I went, I crunched the real property tax numbers. Within a mile radius of the store there are 490 parcels and there are 547 homes. Again, this shows the growth, mostly taking off right at the '70's, boom, '80's, '90's, 2000 and that's still expected to go up. And to be fair, I cannot account for, you know, what's been demolished in the earlier years, but still the growth pattern is consistent with what's happened in, you know, in the Haiku region. So when you talk about is there a need and you want to talk about smart growth and you want to talk about people not driving as far to get the services, you know, this is a very logical location to expand for a small amount of services.

So what are we going to do with the rural? This is the designation here. This is the one little lot. Pretty much we're going to consolidate and resubdivide. This lot line here will disappear. This lot will become one, this one over here. This one is just over one acre. This one here will be just under one acre. And this is – this was a topic of discussion with – in the community meetings is, you know, are you going to – how many lots you're going to put in, all those kind of stuff because we have to get at least two. One is to be sold to help finance the commercial construction. The other one is going to remain in the family. And we requested in our application that there be a condition on the zoning that the applicant can only get two lots and that's the extent of it.

And I should also point out you don't want to let it remain in interim. Interim zoning, if you have this almost two-acre piece here and you have this area over here, interim zoning allows one house per 6,000 square feet. If out, and your not connected to the public sewer system, it be one per 10,000 square feet because you have to have room for a septic. So in actuality if you say, okay two lots, you're actually reducing the density from what there – you know, potentially the zoning could allow right now.

Other issues that came up in discussion with the community. There's an abandoned irrigation tunnel right under, it goes up Kaupalua Road and then this is the store right here. There's the old Kaupakalua School or at least where it used to be. They're runned underneath the property and then off towards the East Maui. This is an abandoned ditch. It was built about 1904. We called EMI for information. They have very little. But they said it was built in 1904 and ceased in the 1920's some time. I called A & B Properties, they provided me with this map, and the surveyor there had some pretty good knowledge of it.

What I did is overlay that map onto the TMK map so you can see the ditch runs up across the Hanzawa property here and then up over other properties.

There was two concerns with regards to this tunnel. First off, contamination. There are people in the area that, there are several openings I believe one here and we know there's one up in this area

here. People use that for irrigation. We don't know where the water comes from. It could be seepage, it could be, – you know, it rains a lot out there. We don't know where it comes from but it's – people do use it in dry times for their cattle or for irrigation, those kinds of things. On occasion people use it for consumption and so the two concerns contamination and then also if we would physically damage the tunnel itself.

Okay, in terms of contamination, when we build the project we have a cesspool right about here. That cesspool will be abandoned and filled in and we will be required by Department of Health to build a new modern system. This red line here, the department rules require – the Department of Health treats this as a surface source just like a stream if it was running on the surface except it's down in the ground. They require that any septic systems be at least 50 feet away. So we know the tunnel runs under here right under the mauka side of Kaupakalua Road. This is a 50-foot line here which means we would have to build the septic system somewhere back here. So abandoning the cesspool, building a modern system and I should note that there are a lot of cesspools in the area. You know, this is not the only – if the water's contaminated, there are other cesspools that could be contributing to it.

So the question about are we going to damage it with any construction? Okay, what we did, and we talked with one of the neighbors in the subdivision next door. He has, I shouldn't call that an entrance, that should be erased. It's an opening to the tunnel. I suspect it's a vent for high pressure situations or something like that but it is connected to the tunnel. So what we did is we took their subdivision plat and we took our topo subdivision plat and we compared the topography. It turns out the store is 36 feet higher in elevation than this entrance to the tunnel. So that means if the tunnel were perfectly level which we know it's not, we know it descends, the store is still 36 feet in elevation above that. So that tunnel is at least 36 feet down. The surveyor at A & B Properties says his best knowledge is it's 50 feet down. So when you consider that our architect says we're going to be building footings, you know, we're going to excavate about 18 inches that should not be a problem. We're not going to get anywhere close to it. In fact the slabs, that we're – you know, there'll be slab on grade, you know, they'll probably help stabilize whatever there and provide some more protection.

I also threw this water line map in. As you know, okay, Kaupakalua Road here. We know the ditch runs through the property over here. We have a 12-inch line that runs up, crosses the road and over. We also have a six-inch line and a six-inch line that runs up Awalau. They often put those water lines very far down into the ground. So we know there's been a lot of trenching in this area in, you know, the not, horribly distant past. So we know that that water line was trenched down at least five feet, maybe 10, maybe 15 feet. So you know, there's been a lot of trenching in the area. Never heard anything with the tunnel. So we know, you know, we're pretty safe with what we're doing.

Traffic issues. This is, of course, a large topic. As you saw in the graph the area has grown tremendously. People say that there's a lot of traffic out there, and yeah, granted there is, but the traffic comes from the residential growth. There's 547 Homes just within a mile of the store. Everybody's going to work, everybody's going to the store, everybody's going you know, some place else where other services are.

The traffic report says 50 trips in the morning and during the peak – this is with the new commercial and with the expansion of the store, 50 trips estimated in the morning, 63 in the afternoon. The interesting thing about this is 60% of those trips will be pass by trips. In other words, people are already on the way to somewhere and they stop to pick up a cup of coffee or some groceries or a six-pack and then they keep going. So actually you know you do the map, there's like, there's going to be like 20 trips in the morning, 25 in the afternoon that are actually new trips where the commercial is a destination. People actually got in their cars and went to the store. The traffic report concludes that Awalau Road intersection with Kaupakalua will operate at level of service A, so even after the fact, after everything's built, you know, traffic will still flow very freely.

Support. We handed out this morning, we have 42 letters of support thus far. We have a petition with a 122, excused me, 162 signatures in favor and we went the extra mile with these – with the petition and the letters. We made sure that everybody took a look at the plans and we showed them this is what we want to build. So they knew specifically what they were signing, you know what the plans were, so you know, it's not a mystery. They're not just signing a blank piece of paper for whatever reason. They knew what they were signing.

Thank you commissioners. We'll be happy to entertain any questions or Robyn?

Ms. Loudermilk: Commissioner just want to add some additional items, bring that to your attention that was not part of the power point. First of all, Hanzawa's employs 10 full-time and three part-time employees and they all reside in the Haiku - Pauwela region. Store hours are from 7:00 a.m. to 8:00 p.m., Monday through Saturday. They also provide self-service gas. As indicated in the power point they're one of the few remaining mom and pop stores remaining on Maui. And they have been serving the needs of the Haiku-Pauwela region since 1915.

In reviewing the proposed project the department looked at the Country Town Business Guidelines for the Paia-Haiku area to ensure that the proposed drawings met the various elements such as architectural site design, street and utilities. And it was concluded that the proposed design of the project does meet the design elements of the business country town.

There are a number of community plan goals and objectives relating to land use to preserve the region's small town ambience, to preserve the existing environment, cultural resources, economic activities as well as town design.

As indicated earlier, the commercial use is an existing nonconforming use. The store was in existence way before the adoption of the state land use districts in '60's, community plan in the '80's and we are celebrating the 50th anniversary of the interim zoning district this year. So we have –

Archaeological and historic and cultural resources. Inventory survey was conducted on the property and the project site itself is identified as a historic property with two architectural features and one archaeological feature. The two architectural features are 20th century plantation style houses used by the family. They're both considered significant for providing information to the prehistory of Hawaii and both features will be demolished to allow for the proposed improvements. One archaeological feature was found and basically it was the family dump.

Mr. Guard: Excuse me, Robyn is this all in the report?

Ms. Loudermilk: Yes, this is all in the report.

Mr. Guard: Okay.

Ms. Loudermilk: So basically for the archaeological the SHPD has basically recommended that stoppage of any – a proposed condition that should the event that historic resources be found that everything stop in the vicinity.

Regarding traffic, traffic and the like the nearest bus stop is Haiku Market Place.

Public Works is going to be requiring the urban standard for subdivisions including curbs, gutters, sidewalks, road widths, right of ways. The applicant is requesting that they not be subject to that. The Planning Department would support that.

And then lastly, in addition to the letters of support there are a number of letters in opposition and protest as well as a petition that was signed and that concludes the report.

Mr. Guard: Thank you. Because of the time, I know we're going to lose a few commissioners soon and we have a few people in the audience who have been here all day. If the commission's okay with it, if can take public testimony first and then we'll bring up the applicant for questions? Any problem with that? Okay, so why don't we open it up for public testimony.

a) Public Hearing

The following testimony was received at the beginning of the meeting:

Mr. Gregg Blue: Good morning, my name's Gregg Blue, 20 years plus in Haiku and I'm here to speak about Hanzawa's. Nobody asked me to come down here to testify. I came on my own behalf. Two or three years ago when they first decided to come public with their project I was the president of the Haiku Community Association and we set up a meeting. They came down, opened themselves up, put themselves in a vulnerable position and this meeting was also filmed and shown on Akaku and basically what happened is a small contingent of people that live near the store that had bought into a small subdivision which had just recently been approved came down and, you know, sort of viciously attacked the project. They were grabbing onto anything they could to try to send the project sideways and as, you know, I was running the meeting and tried to keep it under control, it was sort of difficult and in the end, you know, Sandy Daniells went home in tears. It was a pretty ugly meeting and I advised Matt at that time not to come back. He had come before the public, he had gotten the feedback and you know, go down to Planning and do what you have to do.

Well, he went home and took those criticisms, personal attacks aside, reworked their plans. We had another meeting and the same group of people, I don't know if they're here today to testify or not, same group of people came down and this meeting turned even uglier and I threatened to stop the meeting if the personal attacks weren't stopped. I stopped a physical altercation at the end of

the meeting. This was also viewed on Akaku and it was a pretty embarrassing situation me as running the meeting and the Daniells as, you know, being attacked again.

So what I'm trying to say here today is that if these people come down here and have a problem with the project that's great. They can air their concerns, you listen to their concerns, you know, safety issues, community issues, whatever, but if you feel that, you know, there's a personal agenda and any of the testimony starts going sideways and gets into a personal nature like it did at these other meetings I would ask the Chair to stop that testimony and tell them to refocus on the issues. These people, you know, opened up to the community. You know, they sat there and they got attacked. It was just – the reason I came down here is I will never forget that. So I'm just asking the commission today to take a good look at the perspective of anybody who testifies here and whether they're testifying –

Mr. Starr: Please wrap up.

Mr. Blue: Community of they actually have issues for the project. Thank you.

Mr. Starr: Thank you. Anyone please. Ms. Perreira welcome and please identify yourself.

Ms. Jocelyn Perreira: Good morning. Aloha to Planning Commission Chair Starr and fellow commissioners. My name is Jocelyn Perreira. I'm the Executive Director and the Tri Isle Main Street Program Coordinator for the Wailuku Main Street Association, Inc., Tri Isle Main Street resource center that addresses and advocates for the needs of small towns in Maui County.

Aloha. The organization that I just mentioned has reviewed the conceptual design and the revised plans for Hanzawa Store expansion. Working with our Main Street Committee, utilizing input, community input along with a team of 12 professionals we have also developed a Haiku Strategic Plan. Our review is based upon the blue print and information submitted, supplied to us by the owners of the Hanzawa Store and their representatives along with a careful study and analysis of the area and issues associated with this project. We offer you the following.

The project is consistent with the County community plan designation and will help fulfill the implementation of the plan.

Secondly, the project is in the neighborhood center, in a neighborhood center and serves the needs of the community and its growing population. I passed out a map to you that shows you, this is indicative of what's happened in the area. Many people cannot see it because there's many gulches and gullies and whatnot, but this is kind of what's been taking place.

The 2000 Census shows a steady growth trend. The General Plan forecasts the population to grow to 10,000 and there has been no commercial space that has been added for 30 years in that particular area. This project reinforces smart growth planning that compact, connected and complete and it provides shopping and services where people live.

The community has grown beyond the store's ability to meet its demand. Expansion is necessary to help the area achieve self-sustainability and to help contain traffic in and around the area of

service thereby providing a reduction of traffic generation trips into and through other neighboring villages to get basic goods and services.

The new store business country town design was done in 1996. The store burnt down in '74, '96 was when it started to look like you wanted it to look and the expansion design also reflects and incorporates important architectural elements that reflect the unique flavor and character of this special rural area. The project is based upon strict adherence to business country town guidelines which has been adopted in county ordinance 19.15.

For the above, and for our continued efforts to support and retain our traditional mom and pop local businesses we urge you to support the applicant's request. Mahalo and thank you for this opportunity to come before you.

Mr. Starr: Okay, thank you. Members any questions? I have one for you. It sounds like your organization is in favor of this. Do you have any opinion as to whether there should be a sidewalk to allow pedestrian access in front of this project?

Mr. Perreira: If that could be incorporated for public safety that could be something that you would may want to consider. We wouldn't have an objection to that.

Mr. Starr: Okay, thank you very much. Anyone else wishing to give testimony on any agenda item at this time please make yourself known. Please come forward and identify yourself for the record.

Mr. Roger (inaudible): My name's Roger (inaudible- not speaking into microphone)... I'm a small contractor in Haiku. I've been there for about 12 ½ years. I just think that these people provide a lot of services above and beyond what they have to in their job description as it were and I think the community ...(inaudible)... there. And I think that they need more room around their lot. I see the place get jammed up. There's a lot of traffic in there. Gas is expensive, people should be able to do what they can right there. Thank you.

Mr. Starr: Okay, thank you. Members any questions? Seeing none, anyone else wishing to testify at this time please raise your hand.

This concludes the testimony received at the beginning of the meeting.

Mr. Guard: I don't know if there's a list over there or not.

Ms. Loudermilk: There is no sign up list.

Mr. Guard: He might have taken it with him. We'll go with the honor system. If there's any people that previously signed up first and if not, if there's any members in the public that wish to provide any comments, try to limit it to three minutes. State your name for the record.

Mr. Tom Wittenbrock: Good afternoon everyone. My name is Tom Wittenbrock and I actually live Peahi. Nobody seems to have mentioned Peahi any more but it's right by Haiku there. And my wife and myself have been there for about 20 years. Thanks for this opportunity to speak in favor

of Hanzawa Store. Excuse me.

We've watch Sandy Shishido Daniells working very, very hard to provide all the products in her store to the community. Hanzawa's provides a great variety of products and we especially appreciate the convenience of having fresh produce, a deli and a gas station so close by.

The proposed additional 400 square feet of retail space will allow an even greater variety of products to be available locally and Sandy works really hard on requests if you have something special that you want her to get. She tries really hard to get it for you even in that small space ...(inaudible - changing of tape)... and we feel that they've earned the privilege to maximize the potential of that property.

When I used to deliver pallets of dry goods and chilled frozen from Young Brothers and I used to back my truck into the existing place to offload, I'm telling you it was scary stuff. And then when I got in there and started offloading the stuff I was wondering where we were going to put it all because there's such a small place to store things there. Sandy has what she calls an office in the middle of the storage area and spends six days a week there trying to run the business. So the 400 square feet of stock room space and the break room and the office space really have been needed for a very long time.

And then when the big trucks come, the beer trucks, our favorite trucks come which we always like to see them but they take up most of the parking. So it's hard to find a place there when the trucks are offloading their goods. So that proposed new driveway with the truck loading and turn around area would be a very, very nice improvement.

And then with regards to the proposed new three small commercial spaces, we're in favor of that as well. They would be built on property that's now occupied by a very old, run down unsightly house. We'd rather see some locally advantageous businesses and we agree with the Daniell's selection of potential new stores there such as a mail store or coffee shop, a hardware store would be great, even a little veterinary facility there would be awesome.

And then of course, the gas is being sold there as well and with gas prices the way they are, I think all of us would appreciate not having to drive so far to get it. And in our opinion these changes are in keeping with the community plan and they're advantageous to the community. We need to support our local small businesses.

And remember, Hanzawa Store is owned by Sandy Shishido Daniells and her family and they've already given the community excellent products and services for over 90 years. We feel that they've earned the privilege to once again, optimize the potential of their property if anybody has, yeah.

And then during the time we've lived in Haiku, we've seen a lot of changes in our neighborhood for sure and change is inevitable and as long as it's for the better, we feel that's a good thing. And we think these changes are a good thing. Thanks for listening.

Mr. Guard: Any questions? None? Next testifier.

Mr. Jim Niess: Good morning Commissioners. I'm Jim Niess from Maui Architectural Group. We are architects supporting this project, but I also on a personal note I would like to give some public testimony because this is my country store. I live a mile up the road. I've lived there for 35 years and if I didn't have to work for a living, I wouldn't have to leave my neighborhood because this store provides everything. This is a true general store. Everything from stationary to dog food, fresh produce, cold beer, Spam, often the lowest gas prices on the island. Because these folks don't gouge the neighbors. And in fact, my outfit today is completely from Hanzawa's. I got my button fly Levis, I got this shirt, my polo, all from Hanzawa's. I didn't bring the rubber boots because it's a little hot down here. But the point is this has been a really big asset to our local community. And as Wil mentioned with his bar graphs and it's clearly seen from these TMK maps around Ulumalu Road the population in Haiku has tripled or quadrupled since I've lived there and the store has remained the same size since 1975.

In the mid-'80's, Ralph Hanzawa was aging and we worried about the future of the store but we were greatly relieved Sandy Shishido Daniells, Ralph's niece gave us a successful nursing career on Oahu to come back and manage this family business. And this family as she mentioned, has been providing services, not just here at Hanzawa's but Paia Mercantile and her father owned the, what is now the Haiku Town Center Building. So this family has really been serving our community for the better part of a century.

And how many of our mom and pop family run businesses have disappeared in the past decades? I've made a brief list I'm aware of and I'm sure you guys can fill in a few more. Peggy and Johnny's, Noda Market, Wakamatsu, Fujia, TK Superette, Ah Fook's, but no, I think they're back, and recently Ooka's. That's all in town here, but in Makawao there's Matsui Store, Iwaishi's, Club Rodeo, Kitada's, Suda Store in Kihei, Kawaharada's on Kuiaha, in Paia, Bersamin's, Ikeda's, Kobayashi's, Hew Store and Restaurant, Horiuchi's, and sadly recently, Nagata Store which was our last place to buy fresh fish with Bersamin's gone and Horiuchi's. There are only a handful of these mom and pop operations left. Komoda's, Morihara's up in Kula, Hasegawa's out in Hana and of course, Hanzawa's.

The problem and the primary reason this issue is before you today is interim zoning which is a sort of, now here's my notes I'm going to have to revise my notes, I call it a 40-year-old joke, but it's actually a 50-year-old joke. When comprehensive zoning was put in place in the late '60's, properties that didn't fit neatly into the categories were put into this interim zoning category. And 30 years passed before anything was done about it. And at that point, all of Hanzawa's competitors, Fukushima's, Ohashi Store, the Kawaharada property, Toma's were given, these are immediate competitors, along with 90 other commercial properties were given blanket unconditioned country town or B-2 zoning. Hanzawa's was excluded on a technicality because it wasn't within the state rural district or urban district. Now in 1974, the store burned to the ground. Today if that happened, as Wil pointed out or any other natural disaster, the store couldn't be replaced.

Mr. Guard: Got to wrap up.

Mr. Niess: I'll wrap up. I'm right there. Could be years. Recall Hasegawa Store when it went down to an arsonist in the mid-'80's trapped by this very catch-22 interim zoning, the property has not

been rebuilt to this day. So, anyway, I'm just respectfully requesting that you recommend approval for this modest expansion and conforming zoning for our friends at Hanzawa's. Thank you.

Mr. Guard: Thank you. Any questions? One question.

Mr. Hedani: Jim, I really like the architectural that you came up with, you know for the expansion. But real question that I have was if your entire outfit was from Hanzawa's. What about the underwear?

Mr. Niess: What makes you think I'm wearing any?

Mr. Mardfin: Go commando.

Mr. Guard: Follow up testifier?

Mr. Matt Daniells: Ladies and gentlemen of the Commission I wanted to read this --

Mr. Guard: State your name for the record.

Mr. Daniells: My name's Matt Daniells. I'm Sandy's husband. This is just a little letter I'm going to read from Pat Curell who was going to testify here for us and he cannot, so he wanted us to read this for him.

It says, "To Maui County Planning Department from Pat Curell. I was unable to stay for the planning meeting to discuss the Hanzawa development plan due to the meeting's delay. However, I'd like to submit the following statement in support of the application.

My wife Rosanelli and I live within the 500 foot distance. When the project was first proposed we were concerned about the impact it might have on the new Hamakua Ditch which exits onto our property, TMK 2-2-7-14:86. Specifically we were concerned about the tunnel depth at the Hanzawa location. We are satisfied with the determination that puts the depth at approximately 40 to 50 feet and we appreciate the applicant's visit to inspect our tunnel opening and their addressing our concerns.

We were also concerned about the impact of RU 0.5 lots, half acre lots and we appreciate that only two lots will be created in that area. They have requested rural zoning rather than three.

We support the store's expansion and believe this will help the community of Kaupakalua. We also appreciate the service the store has provided and continues to provide in Haiku. Thanks, Pat Curell." Any questions from anybody?

Mr. Guard: Any questions for the letter? Next testifier.

Mr. Fred Amigo: Council members, my name is Fred Amigo. I'm a drywall contractor. I've been on Maui since '83. I did Betsill's drywall when they first came over for five years and then John Dillaway. Anyway we bought a lot within 500 feet of Hanzawa Store and this is real difficult. I'm not

much of a public speaker, but Sandy and Matt, our children grew up together, play together, I still consider them friends. Tom and Ann are friends. But Tom and Ann live all the way down by Ulumalu Road. They don't have to deal with going and get their mail.

That map you show there, there are a couple real sharp turns as you come to the store and I had a letter I wrote to you guys, and I don't know if you read it or not, but my kids are 13 and 14 and they go to the store every morning to pick up their -- get their bus. I worry about them every time they go up there because there's no sidewalks, there's no -- I mean, not too long ago, a couple years ago a guy died because he came drunk around that corner there and flipped his car over right in front ... (inaudible) ... Caires' which is like hundred feet from the store. I am in favor of them expanding the store, 100%.

I would love to see them get the interim changed, but I'm against the three additional stores because there's no way in my mind I can see how that's not going to bring additional traffic to an already dangerous, very dangerous situation. Even with the parking in the back, there's still cars have to come out to get out of the store onto Kaupakalua Road and the way some people drive, I mean I sit there, a lot of mornings I'll take my kids if it's raining and I'll sit there with them and the way people drive by going to and from work it's like scary. There are a lot of crazies driving on that road. The three stores, I just -- I don't see how it would not add to the congestion there and my questions are why do they need -- they said that they needed you know, it's hard, because it's hard not to get personal. I don't want to get into a personal thing, but my feelings are you know, I would like to know why they need to build the three stores.

I was told, I heard the other man say that it was in order to finance the additional, making the store bigger, but my questions are, we had a meeting at Haiku Community Center about a year ago, and stated similar worries, that my kids have to walk up that road. I don't let my kids ride bikes there, and after I was done stating my points, I got up to talk to Matt about this issue, and you know, I want to say Matt, I'm sorry, I disagree with your wanting to build the three stores. I'd like to see you make the store, yourself, bigger and a bigger parking lot, a better parking lot, but I'm against the three stores, and before I got a chance he just stood there like this to me and said, you know what Fritz, I got nothing to say to you, everything you said was, pardon my French, bullshit. Now this is what Matt Daniells said to me right, and you know, I scratched my head and I thought for a couple seconds, now, why is my opinion, my negative opinion getting underneath this guy's skin, this friend who watched my kids and who I watched his kid, why is this getting under his skin so bad and I started thinking about it. Well, I'm so naïve you know, I'm convinced it's all money. There's money going -- they sold, it was all hush, hush, secret thing, the land that Pat Carelli bought and turned in to a little subdivision behind us, Hibiscus Acres, right behind my property where Corinna Caires' cattle would run, is now a six or eight houses, and you know, that was kept secret.

Mr. Guard: Wrap up.

Mr. Amigo: Nobody knew about it until the last second then boom all of a sudden it's sold to Pat and it's a done deal and I don't know why that had to be a secret. My opinion is, and what's to stop after these three stores are there, what's to stop Matt and Sandy from selling the place and who knows what kind of store my family's going to have to deal with.

Mr. Guard: Try to wrap up please.

Mr. Amigo: I guess that's it. Thank you for your time.

Mr. Guard: Any questions for the testifier? Thank you. Next speaker.

Mr. Charles Pflug: Aloha, my name's Charles Pflug. I go by Sandy. I'm good friends with these folks. I'm also good friends with the architect. I live next to him. I'm a mile away too. I became aware of Hanzawa Store in 1972. Used to be the only place I could buy Levis long enough for me. They've always been that kind of store. They've always been a store that has what the community needs.

Pretty much what I wanted to say has been said. I don't want to be redundant this late in the day, we've all been here long. The two points I'd like to make from what you really haven't heard yet. I understand Fritz is it? I understand Fritz's concerns. I was there at that first meeting. I don't remember the conversation going exactly the way, but it was heated and one of the real concerns was the traffic on Kaupakalua Road as well as coming out of Awalau Road and the parking lot. What I see with this redesign, that's really beneficial to that situation. I've come across where I've turned right off of Awalau Road and somebody's got surfboards sticking halfway out in the lane because they're parked against the store the way it is now. That would be gone. That would be sidewalk, that would be a clear area.

I'm not an expert at all on any of this stuff, but when I look at this plan with the three other commercial, I understand why they want them because they're trying to optimize their commercial interest. I think with the way the community's been allowed to grow so fast, the pastures are disappearing, the open spaces are disappearing, everything we're used to all these years and the people many, many years before me. I'm still a newcomer, but I've lived up that road for 20 years. It's all disappearing.

I've heard concerns about the two lots, the two, one-acre lots setting precedents for other people to do that. Well, I could show you right now on Awalau Road lots that have been, two-acre lots that have been condominiumized and have two full size houses on them. I don't understand how that can be when my two-acre lot I can only put another extra house, 1,000 square feet. So people get around that somehow. That was a concern. I'm concerned. I don't want to see that kind of thing happen, but I don't think that's what's going to happen here.

And the other thing I see about with these stores, these extra businesses being added and the turn lane, I think that and the entrance to the store and the road parking cut out, I think that would enhance the whole safety issue of that area immensely.

One thing is Fritz lives that side of that store and I understand his concern, there are, everywhere on Maui these people drive like complete idiots. I see them coming up that road too. When I come out of Awalau I know I have to be careful and very slow and watch what I'm doing. There's people many times come close. I go slow so it doesn't happen. I stop. I would think that those stores, when you're coming up the road, that way coming up Kaupakalua Road you really don't see Hanzawa Store. The people that aren't familiar or aren't thinking about it, they're not seeing a

store, hey there's something here, I better pay attention. You add these three stores, you're going to see them. Everybody driving up that road is going to see there's a commercial area here, there's something going on here. I would think that that would wake up at least some of the people that you see. Some people you're never going to teach.

Mr. Guard Try to wrap up.

Mr. Pflug: So that's basically it. I think everything else I had to say has already been said. I'm totally in favor of this. I would think that for me if Hanzawa Store for any reason would disappear there would be a huge part of Haiku would be gone. With so much else disappearing it would be almost like taking the heart out of Haiku.

Mr. Guard: Thank you. Any questions for the testifier? None. Thank you.

Ms. Leina Shirota-Purdy: Hi, I'm Leina Shirota-Purdy. I'm a property owner within 500 feet of the store along with my parents who are within the 500 foot area of the store. I did turn in our petition. I know you have a copy of it. And that petition is people within one mile. We have 97 signatures of the store. We didn't feel that we needed to go outside the one mile. We wanted it right within the area.

As you can see from some of these pictures here, you're seeing just the store. My property along with several of our families we're directly across and down the street next to Fritz. So we are right within that whole area.

We are opposed to it. That's why I'm here. And you know, just to say a few things about the traffic. You know, I don't know what time the traffic study was done, but if you'd like to go there around 5:30 to 7:00 or before the store closes, it's definitely a death trap trying to get out of that store. That area, the road is poor, it's not wide enough. People are rushing to get to the store before it closes.

Now as far as the need for the three commercial buildings there, I don't see how we need it in that area. There's so many, if you look through Makawao, Paia, right now, there's so many vacant places for lease that have shut down. You know, there's at least four or five in Makawao Town. Paia, I counted eight on Hana Highway. For us to go to a store, you know, we'll got to Hanzawa's we've always been to Hanzawa Store since I was a little girl walking up there, you know.

As far as do we need -- first they propose a veterinarian's office, a coffee shop, a mail shop. All those things I think are within not too far a distance of Makawao, Haiku. You know Haiku Post Office maybe five-minute drive and I don't see how much that is, how it's too much for us to drive out of our area to these places that are already there and established. You know we do support the store, the expansion. We've always said, the store expanding you know, it's a good thing. We've seen it go from smaller to bigger and little bit bigger, sure why not. But improve what you have there.

And as far as the last meeting that we had, you know, a council member had told the Daniells, you know, come back to the community with a better plan and they never did. So we were a little bit upset, you know, when they agreed to come back to the community another time to discuss this

issue.

This papers that you all have a copy of, those are the people within the 500 feet of the store that I have 15 signatures of and I have one more to add to it also.

And also what we brought up at the community, Haiku Community Meeting was the people that hang out at the store after hours where the lighting is poor. There's a lot of questionable characters that live or not live that hang out at the store that we don't feel is very safe for the people who live around there. And as they said there's been lots of accidents on that road.

And as far as the Water Department is concerned, they said that the water does not run through there, well we see the Water Department on Kaupakalua Road a lot, ...(inaudible)... broken lines. Some of them are coming right off the embankment. Thank you.

Mr. Guard: Is that it? Any questions? Thank -- oh, one question.

Mr. Hedani: You know, some of the concerns that you mentioned were that they didn't come back to the community after your first meeting. After seeing the changes on the plan itself, do you have any concerns?

Ms. Shirota-Purdy: That's what they showed us the first time around. And what we were concerned about was there --

Mr. Hedani: You've seen the modifications?

Ms. Shirota-Purdy: That's exactly what they showed us. And what we were concerned about was, you know, the truck turn around and everything else. The lighting, how is the lighting going to -- I mean, if any of you have gone up to Hanzawa Store, I mean, I ask you to please go up there and see what we're dealing with. You know, that this is, it's a very narrow street. Awalau Road going up is horrible. You can basically only fit one car at a time going up Awalau Road. If you have a big SUV you have to pull over to the side, you know, to let somebody else go. And Kaupakalua Road, it's you know, right in front of the store, you have houses right across the store.

And then also my opinion, well not my opinion but my problem also is that, you know, we have lived in this area, our family has been in this area since the 1940's so does our, you know, where we live does it not count because we've been there less than they have? Because what I've been hearing is that because they've been there for so long that they should be granted this change in zoning. Thank you.

Mr. Guard: Thank you. Question Doc?

Mr. Iaconetti: Yeah.

Mr. Guard: Oh one more.

Mr. Iaconetti: If they decided not to put in the three extra stores, would you still be opposed to it?

Ms. Shirota-Purdy: And just expanding their own Hanzawa Store?

Mr. Iaconetti: Yes.

Ms. Shirota-Purdy: I wouldn't be opposed.

Mr. Iaconetti: Thank you.

Ms. Shirota-Purdy: You're welcome.

Mr. Leal Caires: Good afternoon everybody. I was ready to spend the night over here today. I know it's been a long day for everybody. I'll try to get through my testimony really quickly. My name is Leal Caires. I'm testifying as a individual. My cousin Leina, we're basically fourth generation families that live in the immediate area, we live in Haiku. Basically what Leina had already highlighted.

The Hanzawa family basically has been a great asset I must say to our community in Haiku and I have a lot of respect for the applicant even though I have observed that you know, basically this project has affected everybody's friendships and generated this public discourse in the community. You know the business has been around for many years as we all know. However many of the families that lived in the same location for the same amount of time or even longer and they have been engaging in agricultural activities. This is a predominantly agricultural area.

For many years the community has always worked together, always got along. Our family has helped Hanzawa's family numerous times, but somewhere along the line you know this thirst for this non agricultural economic benefit has made everybody suffer.

You know unfortunately today my testimony is not in support of this application. It's a difficult decision for me and it's not a personal one towards the applicant. The reason for this is the request for the changes of zoning does not meet all the criteria for a change in zoning to be granted. This project seems like a great idea, great design and I believe it will work great in another location at a different time.

This proposed increase in non agricultural activity will have an impact on the cultural economic character and the quality of the surrounding area. This project is located as I mentioned in a highly agriculture area. When you cross one lane of the street, on this side, there's a cattle pasture. When you cross this side, that's our family's grazing area for our cattle. And on the other side, is Mrs. Pfirmman, she wasn't here today, she submitted her testimony, she's in a wheelchair.

It's difficult for me to support this application because there are many questions that are not accounted for and I'm just going to mention a few to you guys. You know, has the applicant sincerely exhausted, you know, the existing agricultural uses that come with the property such as boarding facilities, animal boarding facilities, riding academies, farmers markets, minor utility facilities. Now our family has actually worked with the family, we used to raise cattle in this area so we know that the value of the agriculture area is there.

How does this project promote, you know, our energy self-sufficiency when it would demand an increase of energy for the area? That's what our community plan recommends. Basically in renewable energy, I work in this sector that when we lose ag zoning or those types of zones we lose the ability to produce renewable energy. You know, basically if the applicant had come to me today, essentially because we live in a high, such a valuable wind regime, you know, potentially we could put a wind farm there and subsidize their business. So there's a lot of opportunities that haven't been exhausted yet.

You know from encroachment, being that we live across there, I'll wrap up, being that we live across the area, does that mean that our family and our agricultural use we have to basically control the odors, noise, smoke, you know, disposal of manure. Our family already talking about redesigning our family farm business plan to increase the density of livestock in the immediate area and now I just learned that there may be a café across the street. Now those types of situations create these problems, these tensions between these different uses. So when you have ag right next to commercial it's not really desirable situation to be. You're asking for trouble.

This is basically similar to if I was to buy property in the middle of Wailea, change the zoning and have a pig farm there just because it's a little bit more cost effective fuel wise to provide pork to the hotels by doing it there. That's basically what this project creates in the opinions of a lot of the surrounding neighborhood.

And last point, you know, being compassionate for a long standing business, you know, I'm very compassionate person, you know, but I'm also compassionate to both sides of the story, you know, and I think that's really important and balance. Like I said, there's always been a compromise, but when you don't work with your neighbors, it makes it difficult for everybody. So this is just a great learning lesson for everybody. You need to work with your neighbors, and if you don't, it's really tough. You know, the reason why there's not a lot of commercial space is because this is an ag commercial area and there's a news article from Maui News in June of this year that talks about the abundance, a surplus of commercial space. So we don't need it. It's already there in the industry and I have a real estate license so I'm aware of this as well, but thank you. That's all.

Mr. Guard: Any questions for the testifier? One question. Director.

Mr. Hunt: In terms of the zoning, you understand the concept of a nonconforming use that the store isn't allowed by the existing zoning?

Mr. Caires: Right.

Mr. Hunt: Do you have a problem with the zoning being changed to make the existing store or even expansion of the store conforming or is it the additional commercial uses that would be then allowed by that zoning?

Mr. Caires: I have a two-part answer to that and actually it's kind of a question to make sure I understand the question. My understanding of interim was granted at a point in time where they really didn't understand what would be the best use for that particular land area at that particular time. So, because it's in interim does that necessarily mean it has to move into a more less

agricultural type of use or it can it go actually backwards into a more agricultural use? So just because it's interim does that mean that it has to go forward away from ag or can it go back to ag?

Mr. Hunt: Yeah, there's no requirement that if it's interim it has to go one way or another. The Planning Department is indicating because of the community plan designation, that gives us guidance. But again, I guess – what I was trying to get at is you seem intelligent about zoning and you talked a lot about the zoning, but what about the non conforming use of the store and would you support a change in zoning that just allows the store to become conforming without the additional three stores.

Mr. Caires: Okay then basically yeah I understand the question. I was always taught you got to compromise and that's how neighbors get along. You got to find a common ground and I think that would be the common ground. If worst case scenario came to it, you know, we feel that we could support the expansion of the store on the conditions that there is no new vendors or new commercial activity in the area and it's to support the store. Now if those conditions would be imposed then certainly we would be more likely to be comfortable with that idea.

And in terms of somebody mentioned a hardware store. Pauwela Cannery had a Ace Hardware, but shut down and went out of business. So what I would like to see is, sure, I mean, if that's something that everybody's happy with, I would be happy with it because I have to live with this for the rest of my life and I raise my family and I want to keep good relations. It's all about having good relations you know, with people and that's just how we're raised as country people. And so, sure that wouldn't be an issue. But those conditions would have to be certainly in writing for me to be comfortable with it and maybe review it.

Mr. Guard: Commissioner Hiranaga.

Mr. Hiranaga: Yeah, I'm just wondering would you be opposed if a use was restricted to some type of ag related commercial activity? Because you need support services for agricultural. So if it had to be ag related, I'm not going to say what is ag related but – a feed store, it could be a farmer's market, it could be something ag related versus something like you know, a coffee shop, retail store, clothing store.

Mr. Caires: Yeah, yeah. That's already a agriculture use is those farmer markets. Those are within the county code from my understanding as far as when you're saying less restrictive or more restrictive ag use.

Mr. Hiranaga: Well, restricting the commercial use to ag related versus just an open-ended commercial use.

Mr. Caires: Again, I think it would be, that's kind of a tricky situation because we could limit it to agricultural use but in terms of we could still allow the three buildings to be built on the property.

Mr. Hiranaga: Right, as long as the uses –

Mr. Caires: Ag related.

Mr. Hiranaga: Ag related commercial use. You're concerned about a coffee shop or a mail drop, you know, but something that supports agriculture.

Mr. Caires: Yeah if I could see, yeah basically if I could see like what those would be restricted to then I would want to take a look at it definitely, would be open to that.

Mr. Hiranaga: Thank you.

Mr. Guard: Thank you. All good. Question?

Mr. Iaconetti: This has nothing to do with what we've been talking about but the tanks, the gas tanks that keep the gas pumps going, how deep are they and what is their relationship to this ditch that is –

Mr. Guard: Maybe we'll save that for the applicant. Lets get through the public testimony. Good question though.

Mr. U'u: Question.

Mr. Guard: Commissioner U'u.

Mr. U'u: Leal, you live just across?

Mr. Caires: Yeah.

Mr. Guard: We live right here. This is a cattle fence right here. Our family has houses right here, right here. Actually from back here which almost to East Kuiaha Road our family's boundary line runs adjacent all the way to here, all the way down to East Kuiaha half way. Maybe a quarter mile past East Kuiaha. So this whole adjacent street right across is where our family's ag operation would be potentially exposed to this. That's why we're here, you know, it's because it's happened in communities and there's literature to share that those are conditions that will happen when you put commercial and ag really close together because we're not raising sugar cane over here, we're raising livestock and cattle and stuff, so this whole area is grazing and we potentially – the thing we would hate to do is with respect for our neighbor is would we need to adjust, lets say if we put a pig farm and some Guinea Hens and some chickens over here, does that mean we have to not do that because it's going to affect them? That's the problems that we're looking to have.

Mr. U'u: You know I can attest to some of that. We had a pig farm in Paia, 99 years and the people who built, obviously Paia has changed over the time, we got high end housing next to the ocean. The first thing they did is complain about the pig smell.

Mr. Caires: Exactly.

Mr. U'u: That's the first thing they – hey, get rid of that, you know, blah, blah, blah, yada, yada, yada, and that is sustainable, raising pigs.

Mr. Caires: Exactly.

Mr. U'u: And you know, I heard comments from the testifiers all good and creditable people who testified on behalf of the project for and against, but then again, the people who testified in favor said they lived at Peahi or a mile away not the people directly across the street. So I would give leverage to your testimony and I will take into consideration everyone's testimony but you going be affected by 24/7 other than the other ones who going have to drive from a mile away can drive back that mile and be out of their minds. So thank you for your testimony.

Mr. Caires: Thank you.

Mr. Guard: Thank you. Next testifier coming up. Give him the –

Mr. Robert (could not get gentleman's last name - was not clear): Good afternoon, I'm Robert ...(inaudible)... here to speak in support of the Hanzawa expansion. First off, I want to bring the traffic, supposed traffic problem up again, but mine is with an example. In other rural areas that have businesses, take downtown Haiku where the Post Office is, there's two grocery stores, six or seven restaurants, a taco stand and a whole bunch of other businesses, probably 40, 50 businesses in all and there's never, ever a traffic jam there. you may wait 60 seconds to get out of one of the three parking lots, either Fukushima's or the big parking lot on top or the one by the Post Office. And there's never been and I've been doing that for 25 years, six days a week to get mail and it's never been a problem. It's the same type roadway. It's a two-lane road, Haiku Road coming up to Kaupakalua and then of course, Haiku Road turning is two lane which is narrower than Awalau, but Awalau doesn't get a lot of traffic, not huge. Then also you have Pauwela Cannery area that has a bunch of businesses, two-lane road, never ever, ever, ever, ever a traffic jam there. People aren't going to go faster coming down or going up Kaupakalua because there's three more stores there. It's not going to happen. People will save gas by being able to use those stores rather than going to town. There's a lot of people in the Kaupakalua/Haiku area that don't like to leave Haiku. I wouldn't if I didn't have to myself.

Also, as far as the family that's been running the store for 93 years, a number of generations, have not shown any greed. They have kept prices low. There are many things you can buy in that store cheaper than you can buy in town and they don't have the buying power of Ooka's or some of the stores that have closed and Star and Safeway and not even talking about the big box stores. And as far as Levi's everybody mentions Levi's because that's a biggie and they've been the lowest price on the island forever. I even, God, 15 years ago or something I checked out the prices at the dollar store in Wailuku and they were – Hanzawa's was cheaper than them and my product that was in their store was cheaper there, less expensive there than any of the islands in the state and California coast from Mexico to – well, West Coast to Alaska, cheaper than anybody. They try to keep it down for the neighborhood. And they've loaned money to people, they're extended credit and not just back in the old days, they're still doing that today. They have to eat it once in a while but they do, do that. And I think they deserve this expansion. People that haven't been in business have no idea how much work it is, how much family time it takes, and it's a huge commitment, a very big commitment. They've been doing it all this time without being greedy and so on and so forth and have added to the community greatly and have helped people in many other ways. I am fully behind their expansion. I think it won't hurt anything. I don't quite understand what Leal was

saying about the ag, so all of that, I'm not against that. I just don't know about that so I can't speak on that area. So thank you and I'm in full support, and my wife, Florence is also in full support. She's worked at Hanzawa's for 12 years and we've been married for 45 years and we've living full-time here for 26 or so. Thank you so much.

Mr. Guard: Thank you. Any questions for the testifier?

Mr. U'u: I'd like to agree, they get the best and the cheapest jeans there. I agree.

Mr. Guard: Any other testifiers before we lose quorum?

Mr. Peter Niess: My name's Peter Niess. I was born on Awalau Road and raised on Hanzawa hot dogs. I've been going there my whole life to get anything I could possibly need. They really do have everything you could want. Don't know how they fit it all in there but they manage to do it. It's my entire life and obviously way before my time they've been a corner stone of our community and done nothing but positive supportive things for the community and I'm convinced that they'll continue to do the same.

Mr. Guard: Any questions? Thank you. Any other members of the audience?

Ms. Margaret Leach: I'm Margaret Leach and I am Matt's mother and Sandy's mother-in-law and I'm particularly interested in the arrangement for the children there. I know that there are plenty of space where they can have a spot where they meet and are picked up there and they don't have to be out on the road. I think that would be a very interesting thing to arrange where the parents could pick them up and take them home or whatever and the bus would have room to come and get them. I think that's very easy to do.

I also know that my daughter-in-law works from 7:00 a.m. to 9:00 at night every single day except for Sunday and other than that, I know that she has helped the Caires family a lot and I know that the wife, Pat, has worked there in Hanzawas for over 20 years and she has helped them and they have loved one and another and worked together very nicely. I don't see any problem at all. So thank you.

Mr. Guard: Thank you. Any questions. Seeing none, any other members? All right, public –

(Unidentified person in audience speaking without a microphone - not audible)

Mr. Guard: Maybe you can let one of the applicants testify on that. We're going to lose quorum real quick sir. You can probably send it in writing. This might have to open up again. So we're going to have some members of the commission that are probably going to be leaving very shortly. How should we handle this. My debut, everyone's running out on me.

Mr. Hunt: I would suggest you ask for a vote to defer given the fact that you're going to lose quorum in the near future.

Mr. Hiranaga: Who are we losing?

Mr. Guard: Commissioner Domingo stayed an extra hour to hear testimony and Commissioner Hedani has to leave.

Mr. Hedani: I can stay for another half hour.

Mr. Guard: Half hour, you think we'll wrap this up? We'll see what we can do. So any questions for the applicant? Dr. Iaconetti.

Mr. Iaconetti: For the applicant, would it be possible to enlarge and improve your store and run your gas station without the three additional shops? In other words, eliminate the three additional stores.

Mr. Spence: I'm going to, Wil Spence for the applicant. I'm going to defer that to Sandy. I know that in all of our discussions though, she can tell you how to run the store, but I also know what we've discussed, rising fuel costs, you know, it costs more, you get fuel surcharges with Young Brothers, you get fuel surcharges from you know, delivery trucks. I mean, the costs are going up, they have I forget how many, 10 employees, 14 employees they're paying you know, significantly for their health care, that's going up. So you know, I'll let her say –

Ms. Sandy Shishido-Daniells: It's very difficult today to run a small mom and pop business. As everyone's aware that is a real tough economic situation and like Wil said, everybody's raising their prices and charging fuel surcharges and delivery fees and minimum order amounts and so it's getting very tough. And we're trying to be creative so we can continue operating this small business. I want to work with our neighbors, but to have to eliminate the possibility of growing it's a difficult decision. It's difficult to answer that.

Mr. Iaconetti: Then that's a no?

Ms. Shishido-Daniells: I guess that's a no.

Mr. Guard: Commissioner U'u.

Mr. U'u: Question, I having going watch the presentation that you guys gave, a lot is riding on the Hanzawa reputation and don't take this in a wrong way, we've had people come before us with good intentions only to turn around and sell and I stating that that is you. And you know, I hate the thought that I even start thinking like that but when it happens to you more than once, that's the reality. Is it a possibility that you guys might sell in the future or you know, develop –

Ms. Shishido-Daniells: It's not something that we've been thinking about, no.

Mr. U'u: That's good. That's good enough for me. Thank you.

Mr. Guard: Commissioner Hiranaga.

Mr. Hiranaga: Well, I've got a long list but I'll limit myself to two questions.

Mr. Guard: Thank you.

Mr. Hiranaga: Initially. I guess what I'd like to see which I don't see in the report is the community for the area beyond the subject property. And I'd also like to see lot sizes in the neighboring area.

Ms. Loudermilk: What I have before you is one of the original Paia-Haiku Community Plan maps and in this corner right here, this is the intersection of Kaupakalua and Awalau with the business and the rural. And to note that the rural expands beyond the Hanzawa property onto additional properties going up Kaupakalua. Within the one-mile radius, you include on the – if you're going towards the Kahikoa and Kokomo side you do have a lot of the rural designations put in, rural lots as well as the some park designations. However, to the Ulumalu and Peahi side, it is basically agriculture.

Mr. Guard: Robyn is that, that's not in our booklet is it on this application? I wonder if that would be something handy for us to see.

Ms. Loudermilk: It's not, but we can.

Mr. Guard: We can't really read that from here.

Mr. Hiranaga: Okay, since we're probably not going to be able to come to a vote on this, I'll just give you my list of things that you can provide at the next meeting.

Mr. Guard: That's a good idea.

Mr. Hiranaga: I have a big concern about Public Works waiving entirely the road widening requirement. There has been some concerns about lack of sidewalks, not necessarily curbs and gutters, but it does rain a lot in Haiku and when it's raining you're either going to walk on the muddy grass or you're going to walk on Kaupakalua Road. So I think there should be some consideration given. It may not have to be a 40-foot right of way or 50-foot right of way, but I think there is room to widen the road and then possibly put some type of improvements on Kaupakalua Road. Maybe not white concrete but it could be colored concrete or –

Ms. Loudermilk: Yeah, Commissioner Hiranaga, that would be the intent because actually those conditions were imposed by Council on specific projects that had specific provisions for rural type standards so what the provisions that occur is that they do not necessarily have to meet the urban standards, but we can propose some standards or utilize the standards within the Paia-Haiku Community Plan.

Mr. Hiranaga: Well, there's a –

Ms. Loudermilk: It's not blanket.

Mr. Hiranaga: No, on page 22 of the staff report, it says, "no additional right of way shall be required, pavement width shall be 20 feet, there shall be no curbs or gutters, there shall be no sidewalks, there shall be no street lights." I don't see that – That's a mandate from Public Works.

Ms. Loudermilk: What is occurring, that is from the community plan and standards have not been

revised. That wording is taken from, a lot of it is taken from the various community plans. Anyways we'll provide additional information on how that – the reasons behind not needing the urban standards.

Mr. Hiranaga: Why does it say, "to maintain the rural character the proposed project within the Paia-Haiku Community Plan the applicant proposes the following conditions be attached to its conditional zoning," and it's agreed to by Public Works.

Ms. Loudermilk: I wouldn't know if they agreed to that. I'll let Mike answer, I'll let Mike respond.

Mr. Mike Miyamoto: I'll try to respond. What has happened in the past for example, Makena Keone'o'io Road where the County Code stipulates what improvements are required based on the state land use designation of the land. The Council in the past has interpreted the community plan says to maintain a rural character of the area. As the community plan doesn't specifically identify what that rural character is the Council has taken it upon themselves to condition change in zonings to help identify that and this condition here is somewhat doing that in preparation for what – it's going to be the recommendation to Council is that the rural nature of this area, as it's not specifically identified in the current community plan that there is assistance being provided to try and identify what that standard is.

Mr. Hiranaga: Okay, I guess I need the applicant to work on that more specifically because I think there is a need to widen Kaupakalua Road, maybe not to the 40 or 50-foot requirement. I think there is a need for a sidewalk. I think Awalau Road intersection needs to be improved. I'm not sure if you're going to dedicate roadwidening because you've got that little piece sticking out that kind of you know, Awalau is not 90 degrees to Kaupakalua so there's some traffic concerns at the intersection.

Those were two, so I'll yield the floor.

Mr. Guard: Any other items?

Mr. U'u: Just a comment. Personally sometimes I no like sidewalks, I rather walk in the mud. Now you know you're in the country and you not down Kaahumanu Avenue. It's just me speaking. I think it's a hard decision on us. I mean, it is tough to decide between two neighbors. You put us in a hard place and you're not well-liked for that, kidding, kidding, but we going defer. I make a motion to defer.

Mr. Hiranaga: Well, I actually I have couple more questions.

Mr. U'u: Well, I yield the floor back.

Mr. Hiranaga: The drainage report needs to talk about containment of petroleum runoff off the property. It seems very, very preliminary. They're talking about containing additional runoff without containing any of the existing runoff and I'm sure petroleum products are now flowing onto Kaupakalua Road from the gas station.

Regarding traffic control and respect to the neighbors. I'm just wondering if that east driveway is really necessary? If you took that driveway on the east side away you create a buffer to the neighbors so they don't hear cars going back and forth.

Ms. Loudermilk: Which side?

Mr. Hiranaga: East. The most eastest driveway.

Ms. Loudermilk: This?

Mr. Hiranaga: Right. So maybe you could look at traffic circulation that would be more calming. I'm not sure why you needed that driveway on the far left.

You may also look at hiring a security agency to do at least intermittent patrols.

And then my question is on the two, existing 5/8 water meters is that adequate to service the commercial, proposed commercial use?

And also you may want to discuss hours of operation. I think you're 7:00 a.m. to 8:00 p.m. If you could maybe find out if that's acceptable to the neighborhood. Because once you get the designation you could possibly open to midnight. Things to be discussed as you come back.

Mr. Guard: Commissioner U'u.

Mr. U'u: Question. This is probably for the director. So that is interim right now?

Mr. Hunt: That's correct. The zoning's interim.

Mr. U'u: Zoning's interim. Any other interim properties around that area?

Mr. Hunt: I'm not sure.

Mr. U'u: I would like to know that.

Mr. Spence: Wil Spence for the applicant. I can address that because I was the staff person when we did the community plan and when we did the massive rezoning for the whole area we – virtually no, there are very few interim properties left in this area because when we did the large rezoning project in the late '90's we rezoned about 90 commercial properties from Keokea on down to Pauwela area, all through Makawao Town, Paia Town. We just mass rezoned them. So all those properties got rezoning with no conditions on them. We went through and rezoned all the residential, etc. So this is one of the last remaining pieces. Then when the county adopted a rural ordinances and they adopted an agricultural ordinance they mass rezoned all those projects as well, but those things had to be consistent with the community plan. This community plan said something different than agriculture, so it was left in the interim district.

Mr. Guard: Commissioner Hiranaga.

Mr. Hiranaga: I have a question. With the state land use redesignation and the recommendation to the Council are they bound by these conceptual drawings. Is that part of the approval saying, yeah, we're only going to approve those three buildings or could they in the future build one building. I'm just wondering how binding are these conceptual depictions of the proposed use of the property.

Mr. Hunt: If it should be redesignated to urban then they would just be subject to the urban zoning and that would be under the control of the county, the urban land use designation. The zoning in Maui County we have conditional zoning and that's generally where we put specific conditions on any proposal.

Mr. Hiranaga: So they're going for BCT zoning right?

Mr. Hunt: Correct. On half of it.

Mr. Hiranaga: So it would be up to us if we wanted to place restrictions beyond the BCT requirements?

Mr. Hunt: That would be an option that you could pursue. You could recommend.

Mr. Hiranaga: But as far as these architectural depictions, I mean, they could change their mind and build something else in the future?

Mr. Hunt: If it's zoned BCT, they'd be subject to the BCT design guidelines.

Mr. Hiranaga: But they're not locked in stone to build three buildings? They could build two buildings, one building.

Mr. Hunt: The BCT zone has I believe it has density regulations and they would be subject to that. If this body want to pursue a cap you could do that as a recommendation in the change in zoning.

Mr. Hiranaga: Thank you.

Mr. Guard: Commissioner U'u.

Mr. U'u: Question for the director. If we give them the BCT what would be the maximum allowable capacity for them to build on once granted that. Once we grant that what would be the max?

Mr. Hunt: I don't know it off the top of my head. I can get back to you.

Ms. Loudermilk: We can get back to you on that. You're looking at potential full build out scenario.

Mr. U'u: Full build out, yes.

Ms. Loudermilk: Yeah, we'd have to double check because some is just setbacks, some is floor area. We can provide you with the different scenarios if it's okay as part of the follow up letter,

follow up information to be provided.

Mr. Guard: Then I have a question. On the age of the fuel tanks and how handles the servicing of those, that we could probably address that if you're going to building right next to the existing tanks.

Ms. Shishido-Daniells: We retrofitted our tanks gas tanks in '95. So they're up to all Federal regulations. And we have, underground storage tank monitoring. It's pretty standard across for all stations and the State of Hawaii does come out to do annual checks if they have enough personnel.

Mr. Guard: An independent, okay.

Ms. Shishido-Daniells: Yes.

Mr. Guard: And then who does the testing or the monitoring for you guys?

Ms. Shishido-Daniells: We have a company that all the fuel stations use, M. Nakai Repair.

Mr. Guard: From Oahu?

Ms. Shishido-Daniells: From Oahu, yes.

Mr. Guard: Okay. Any other questions or wanting more information?

Mr. Iaconetti: Well, I was still interested in the relationship position wise of the fuel tanks and that ditch that's running through there.

Mr. Guard: That may be something good to have.

Ms. Loudermilk: We'll incorporate that in.

Mr. Guard: For the next agenda.

Ms. Loudermilk: Yeah.

Mr. Guard: Commissioner Hiranaga.

Mr. Hiranaga: And if you could just take a harder look at your proposed uses for the additional commercial area. Try to see if you be more ag friendly.

Ms. Loudermilk: In addition, the department will pull out what the existing allowable uses are within the BCT and we'll look to see within some of the other – the ag or other zoning and try to craft something that would be amenable to everyone.

Mr. Guard: And that would be the only other thing is to look at more for the applicant, I mean, the last time we saw something like this in Haiku, it's more of the neighbors against neighbors, it's not really our decision, just once it goes to Council you don't want to be in a position where you need

a super majority of the council members to override your existing neighborhood being opposed to your development. So obviously that's the best case is to have more people for it.

Mr. Giroux: On that subject, Robyn can you take the steps to confirm the addresses and –

Ms. Loudermilk: Yes, I will take the steps to confirm the addresses. For the benefit of the commission, for change in zoning there is a provision that if 40% of the properties within the 500-foot radius file a protest then that information gets forwarded to the County Council and any approval has to be what's called a super majority, 7 of 9, and the deadline is today, the public hearing date I believe. So yes Mr. Giroux, I will do that.

Mr. Guard: Yes, Commissioner U'u.

Mr. U'u: I'd like to know if a motion is in order?

Mr. Guard: Sure.

Mr. U'u: I make a motion to defer.

Mr. Iaconetti: Second.

Mr. Guard: Okay, we have a motion on the floor and a second to defer. Any discussion? Call for the question. Oh you have some discussion Commissioner Hedani.

Mr. Hedani: Generally on this particular project because the project is small in scope and in keeping with the country town business district design guidelines for the area and given the growth that has occurred within that community, from my perspective it's a no-brainer. But if we're unprepared to make a decision at this point, then I'll go along with the deferral.

Mr. Guard: Yeah, I don't think we really talked to the applicant at all or any of their I guess their hired guns, so I – I think the deferral may be in order and then also just to hopefully get the neighborhood to get along as well. All those in favor of the deferral raise your hand. Any against? Director.

It was moved by Mr. U'u, seconded by Mr. Iaconetti, then

**VOTED: To Defer the Matter In Order to Address the Concerns of the Commission.
(Assenting - B. U'u, W. Iaconetti, K. Hiranaga, D. Domingo, W. Hedani)
(Excused - J. Starr, W. Mardfin, J. Pawsat)**

Mr. Hunt: Chair, I'll mark that as five in favor, zero against.

Mr. Guard: So now we're going to lose quorum. We have any of the following items recess or defer the rest?

Mr. Iaconetti: Is it proper to defer the final item on the agenda until the next meeting?

Mr. Guard: I'm asking for Corp. Counsel and Director's advice.

Mr. Giroux: Whatever you can take a motion on, take a motion. But if you lose quorum, then it automatically gets rescheduled to the next meeting.

Mr. Guard: So I just recognize that we're losing quorum Director.

Mr. Hunt: That would be good.

Mr. Guard: Okay, we're losing quorum at this time, meeting is adjourned.

- 3. MS. TONAZ FOADI requesting a Type 2 Bed and Breakfast Permit for the Maui Beach Bed and Breakfast, using three bedrooms for bed and breakfast use in the R-3 Residential District at 4780 Lower Honoapiilani Highway, TMK: 4-3-015: 014, Napili, Lahaina, Island of Maui. (BB2 2007/0003) (L. Callentine)**

The matter was deferred due to a loss of quorum.

C. MINUTES OF THE JUNE 10, 2008 MEETING AND ACTION MINUTES OF THE JULY 22, 2008 MEETING

The minutes were deferred due to a loss of quorum.

D. DIRECTOR'S REPORT

- 1. Planning Commission Projects/Issues**
- 2. Discussion of Future Maui Planning Commission Agendas**
- 3. EA/EIS Report**
- 4. SMA Minor Permit Report**
- 5. SMA Exemptions Report**

All items under the Director's Report were deferred due to a loss of quorum.

E. NEXT REGULAR MEETING DATE: August 26, 2008

F. ADJOURNMENT

The meeting was adjourned at 4:30 p.m.

Submitted by,

CAROLYN J. TAKAYAMA-CORDEN
Secretary to Boards and Commissions II

RECORD OF ATTENDANCE

Present

Jonathan Starr, Chairperson (excused at 2:38 p.m.)
John Guard IV, Vice Chairperson
Donna Domingo
Wayne Hedani
Kent Hiranaga
William Iaconetti
Ward Mardfin (excused at 3:45 p.m.)
Joan Pawsat (left at 2:38 p.m.)
Bruce U'u

Others

Jeff Hunt, Planning Department
James Giroux, Department of the Corporation Counsel
Mike Miyamoto, Department of Public Works