

KAUA'I PLANNING COMMISSION  
REGULAR MEETING  
December 12, 2023

The regular meeting of the Planning Commission of the County of Kaua'i was called to order by Chair DeGracia at 9:00 a.m. - Webcast Link: <https://www.kauai.gov/Webcast-Meetings>

The following Commissioners were present:

Mr. Gerald Ako  
Ms. Donna Apisa  
Ms. Helen Cox  
Mr. Francis DeGracia  
Ms. Glenda Nogami Streufert  
Mr. Jerry Ornellas  
Ms. Lori Otsuka

Excused or Absent

The following staff members were present: Planning Department – Director Ka'aina Hull, Deputy Director Jodi Sayegusa, Staff Planner Dale Cua, Romio Idica, Kenny Estes, Planning Staff Duke Nakamatsu, Kristen Romuar-Cabico, and Planning Secretary Shanlee Jimenez; Office of the County Attorney – Deputy County Attorney Laura Barzilai, Office of Boards and Commissions – Support Clerk Lisa Oyama.

Discussion of the meeting, in effect, ensued:

**CALL TO ORDER**

Chair Francis DeGracia: All right. The time is 9 o'clock, I'd like to call to order Planning Commission meeting for Tuesday, December 12, 2023. Could I get a roll call, Mr. Clerk?

**ROLL CALL**

Planning Director Ka'aina Hull: Roll call, Mr. Chair. Commissioner Ako?

Commissioner Gerald Ako: Here.

Mr. Hull: Commissioner Apisa?

Commissioner Donna Apisa: Here.

Mr. Hull: Commissioner Cox?

Commissioner Helen Cox: Here.

Mr. Hull: Commissioner Ornellas?

Commissioner Jerry Ornellas: Here.

Mr. Hull: Commissioner Otsuka?

Commissioner Lori Otsuka: Here.

Mr. Hull: Commissioner Streufert?

Commissioner Glenda Nogami Streufert: Here.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Here.

Mr. Hull: You have a quorum, Mr. Chair.

Chair DeGracia: Thank you.

Mr. Hull: Next, we have approval of the agenda.

### **APPROVAL OF AGENDA**

Mr. Hull: Chair, I recognize that there is a considerable amount of public here pertaining to the Northshore so, in reference to the audience, if the commission is willing, the Department would recommend adjusting the agenda so that Item L. directly proceeds Item F., so that commissioners can entertain the Namahana education application in tandem.

Chair DeGarcia: Okay. Commissioner is seeking a motion to move Item L. to follow F.

Ms. Cox: So, moved.

Ms. Streufert: Second.

Chair DeGracia: Okay. Commissioners is motion on the floor is to move agenda Item L to follow F. We'll take a voice vote. All in favor say aye. Aye (unanimous voice vote). Oppose? Hearing none, motion carries. 7:0.

Mr. Hull: Next, we have no, um, meetings for this...

Mr. Ornellas: Wait. Wait. Wait. Wait. Wait. Okay.

Mr. Hull: We don't have no, sorry, we have no minutes previously for the commission, so, we're on Receipt of Items for the Record. If we have no additional items for receipt of the record that are posted at agenda time. However, since the agenda was posted, a number of testimonies have been submitted for both agenda items and being that under Sunshine Law, the Department is not allowed to transmit these communications to the commission after posting the agenda, the Department will recommend you take whatever time you need necessary to review those transmittals.

Chair DeGracia: Okay. Commissioners, actually, we'll take a 30-minute recess to review the testimony just provided to us. Thank you. We'll reconvene a little after 9:30.

Commission went into recess at 9:02 a.m.  
Commission reconvened from recess at 9:37 a.m.

Chair DeGracia: Time is 9.37. I'd like to call the Planning Commission meeting back to order.

Mr. Hull: The next up we have, Hearings and Public Comment

## **HEARINGS AND PUBLIC COMMENT**

Mr. Hull: F.1. has no agenda item. F.2.

CLASS IV ZONING PERMIT (Z-IV-2024-2), USE PERMIT (U-2024-2), and SPECIAL PERMIT (SP-2024-1) to allow operation of a charter school facility on a parcel located on the makai side of Kuhio Highway in Kilauea Town, immediately east of the 'Ahuimanu Shopping Center, situated approximately 800 feet north of the Kilauea Road/ Ala Namahana Parkway intersection, further identified as 8563 Elepaio Road, Tax Map Key: (4)5-2-005:053, and containing a total area of 11.327 acres = **Namahana Education Foundation.** [Director's Report Received 11/28/2023].

1. Transmittal of Agency Comments to Planning Commission.
2. Transmittal of Public Testimony to Planning Commission.
3. Director's Report pertaining to this matter.

Mr. Hull: (Inaudible) Agency Hearing portion, so I'll be calling those who are signed up to testify. If you haven't signed up to testify, but would like to testify on this agenda item, we'll also be calling for those who haven't signed up, but I'll go through the list first. First, we have signed up is Lyla Ornellas. I'm sorry, but if we could have some decorum and a little bit of - to keep the meeting moving. And as I call you folks by name, you just state your name for the record, and you'll have three minutes for testimony. There's two of you folks, so if you'd like to exercise six minutes for this, that's fine as well.

Ms. Jessica Fu: Okay. I'm next on the list.

Mr. Hull: Okay.

Ms. Fu: Thank you.

Ms. Lyla Ornellas: Aloha honorable members of the Planning Commission. My name is Lyla Ornellas. I am 11 years old, and I live in Kilauea. I am in fifth grade at Kilauea Elementary. I'm a strong supporter of Namahana School, and I hope that I will get to go there one day. The first reason I think Namahana School should be built is because kids like me need a middle school and high school in our own area and neighborhood where we can walk and bike to school. And other students who live in places like Ha'ena don't have to travel so far. Another reason I'm excited about this school is because I took part in designing it. My friends and I had a chance to

share our thoughts about the buildings and where they could be placed. There will be a piko area where all the students of Namahana School will come together. The architects actually took our suggestions, and I'm proud and excited that our thoughts matter. In Namahana School, my learning plan will be guided by my passions. I love learning about Hawaiian culture, my community. I like science, writing, art, Hawaiian studies, hunting, fishing, paddling, and selling things at markets. I want to go to Namahana School because this school is where I, Namahana School because this school will connect all the things, I love to the things I learn at school. Mahalo for listening to my testimony and I hope that you all support Namahana School too.

Mr. Hull: Thank you for your testimony. Next, we have, Kai Fu.

Ms. Jessica Fu: Aloha. Aloha Honorable Chair DeGracia, Vice-Chair Apisa, and respected members of our Planning Commission, and all those here today serving our county. My name is Jessica Kai Fu and I'm a strong advocate for Namahana School. I live in Kilauea and have lived there on the north shore of Kaua'i, except for the time I went away for college. I'm a graduate of Hanalei Elementary, who eventually commuted to Kapa'a Middle and High School. So, I know and have experience what access to education is like for youth where I live. I wear many hats in our rural community. I am the head coach of the youth paddling program at Hanalei Canoe Club. I serve in my profession at the Waipa Foundation as our Community Services Coordinator, and I'm even the chair of Namahana Education Foundation. Although I could advocate from those many perspectives of the potential impacts and benefits this school will have by our young adults staying in our community, the most important position I stand in today, asking for your support to build this school, is in my role as a Makua, a parent of two children, one of them being Lyla - ages 11, and one, 4 years old, Hapuna. The time has come for youth of the North Shore to be educated in the community in which they live. School was too far for my grandparents' generation who lived in Hanalei to have access to. My dad and I both did the commute, and nothing has changed to access to education for our community except it's getting worse. At the beginning of the current school year students in our community were denied bus transportation. This inter-generational challenge is one of the reasons I am so committed to making Namahana School a reality for my community. Secondly, I see how desperate other parents are to have quality education for their children. Many sending them beyond Kapa'a and even to outer islands. We cannot keep on taking the best and the brightest from the North Shore and sending them any longer. Namahana school's education model will serve youth in a way that has never been accessible to this community. A parent's dream come true. I've been involved with making the school a reality for the past three years. Shortly after I got involved, this little experience I will share was when I knew that my involvement was not for just me as a parent wanting more for my children. My daughter, Lyla, and I, she's a very big child, she's only 11 years old, just like her mom. While she was getting her vaccination shot and the nurse asked her where she was going to middle school and I said, "well, she's only in the third grade", the nurse shocked and to my surprise, Lyla looked just as confused and shocked as if I was supposed to know through that very answer, I should have known. She looked at me with this like look of confusion like, "Mom, I'm going to Namahana, right? The school that you and Auntie Kapua are building?", and this is even before she knew anything about the school and was a part of the design process, and yet she was so sure what school she ought to attend. So as a parent I really stand here on the smarts of these youth who are asking for this school and the families who have been waiting patiently for this educational access for generations. This Aina in the heart of Kilauea is the perfect place, out

of the flood zone and all the dangers of the North Shore to make this school our children's reality. Mahalo.

Chair DeGracia: Thank you for your testimony.

Mr. Hull: Thank you for your testimony. Next, we have up is Yoshito L’hote.

Mr. Yoshito L’hote: Aloha kakahiaka, commissioners, Deputy, and Director, and thank you so much, Chair, for taking the time to listening to all these testimonies. There's a lot of them. I'm Yoshito L’hote, I'm the CEO for ‘Āina Ho‘okupu O Kīlauea located not very far from that school. And, we've been discussing partnerships, and we're very excited to have the potential to have a 'aina-based school. That's how I look at it, where we are actually looking at developing more direct connection to land, hopefully creating pathways to make viable jobs not in just agriculture, but I think the environmental needs, social needs, and cultural needs that our community needs. So, I am in strong support for this school, and I thank you for taking the time and the consideration. Mahalo.

Mr. Hull: Next, we have up is Lorri Mull.

Ms. Lorri Mull: Aloha. My name is Lorri Mull, and I chair the Education Committee for the Kaua'i North Shore Community Foundation, the organization that initiated and incubated, and accelerated the initiative for a secondary public charter school on the North Shore. We embarked on this ambitious challenge over nine years ago, amid skepticism generated by decades of previously failed attempts to establish a North Shore public school that never came to fruition. However, undeterred and inspired by the moral imperative for a secondary education in our community, we shouldered on. The situation has been difficult at best for generations of families for far too many years. As you well know, the North Shore has no public school after grade six, and our kids must travel long distances to attend middle and high school. Parents are disenfranchised from participating in their kids’ school because of the time distance factor and after school activities, they're not an option for many of our students who must catch the long bus ride home immediately after school. The magnetism of need and opportunity attracted the right people at just the right times. Relationships were forged, stars aligned, and things began to fall into place. Joan Porter generously made a site available for a charter school in Kalihiwai. A connection was fortuitously made with the founder of Big Picture Learning, Elliot Washor, who immediately recognized the need and opportunity in our community. Kapua Chandler received her PhD in education from UCLA and circumstances unfolded that convinced her it was time for her to come home to Kaua'i and join this important effort. We established a governing board of amazingly accomplished community members dedicated to making secondary education available for our North Shore students. Donors, both organizations and individuals, big and small, began to support this. Then in June of 2022, the State Charter Commission awarded us a conditional charter that requires us to open in the fall of 2025. Today, appearing before you, requesting this SUP for the Namahana Public Charter School is a long-awaited dream come true for the families and citizens of the North Shore. Schools are anchors in communities and kids need to attend schools in their community. As luck would have it, we were in a position to acquire a new larger site across from the Post Office in Kilauea that Namahana Education Foundation owns outright, which makes lending opportunities more approachable for capital improvements. It also offers an in-town presence in the middle of Kilauea, which makes access

to school easier for walkability and bike ability. The land is owned ag and to move forward to open this incredibly important facility for our North Shore community, we need a Special Use Permit. Our focus is on sustainability, environmental accountability, and caring for the land that is our home. We humbly ask for your support so that we can give our community the first tuition-free public secondary charter school on the North Shore. Our promise to you is that Namahana will be a shining example of how 'aina based education can deepen students' relationships with the land and its resources, cultivate connections within our communities, and build critical skills that will help solve issues that affect the needs of not only our North Shore community, but the island overall. Mahalo, and thank you.

Chair DeGarcia: Thank you for your testimony.

Mr. Hull: Next, we have Gary Pacheco.

Mr. Gary Pacheco: Good morning. Gary Pacheco, a lifelong resident of Kilauea, 8 generations. My family's been working for the Kilauea Sugar Company until it closed in 1970. I retired from Hawaiian Telephone Company after 35 years. I'm a former Liquor Commissioner and now a Fire Commissioner. We're, my wife, and I are the owners of Hawaiian Paradise Flowers in Kilauea. I previously served as the KNA President for over seven years and has been with the organization since inception in 1970. I used to drive the school bus from North Shore from the dry caves all the way to Kapa'a High School. It was through floods and everything that I used to transport the children to further their education in Kapa'a. Why Namahana School is important for our community? Kaua'i North Shore and Kilauea are rich in culture and a public charter school can integrate local traditions, history, and language into its curriculum, fostering a stronger sense of identity and community among our students. Establishing a public charter school allows for increased community involvement in the education system. Parents, community leaders, and local experts can contribute to the curriculum, ensuring it reflects the needs and values of the community. Establishing a public charter school in Kilauea or the North Shore reduces the need for students to commute long distances for education. I know this as a fact that I traveled from kindergarten to high school from the North Shore and I see the benefits that we will have in, having the Namahana School become a school that we need here on the North Shore. I've been a strong supporter from the beginning of the Namahana School endeavor to build it. And our North Shore Alliance club enables students from the North Shore to further their education by giving out scholarships. This year we gave out \$53,000 to the North Shore and with Namahana School we can support them in furthering their education. Because like I said to the students, they can steal your slippah, they can steal your pencils, but there's one thing that they cannot steal, that's your education. So, further your education and remember, listen, and get ahead, you'll be great leaders. Thank you.

Chair DeGracia: Thank you for your testimony.

Mr. Hull: Next, we have Mehana Vaughan.

Ms. Apisa: Gary, if I may just add, Gary is a long time standing honorary mayor of Kilauea.

Ms. Mehana Vaughan: Aloha and me kealoha kakou. Aloha Planning Commissioners, Chair, county attorney, and everyone who helps to make these meetings possible. Thank you all so

much for your time and service to Kaua'i. My name is Mehana Vaughan. Um. I live, I grew up in Namahana right next door to the school. I'm a former DOE middle and charter schoolteacher. I'm now a professor at UH Manoa, and I've served as an 'aina based educator in our community for over 25 years. And I wanted to read to you testimony, written for the Board of Education by one of our Kilauea keiki. Aloha. My name is Lopaka, and I'm testifying for Namahana School. I don't really like regular school. The work is not fun. I like hunting, and learning about the places we go and where my family is from, and experiencing some stuff that people have never experienced before. This school will teach me about hunting and fishing and about the Hawaiian culture, things I like to learn. Maybe that will help me learn a lot of different things too. Mahalo, and thank you for listening to my suggestions. Please let us build Namahana School. In my own work in our community, I've seen the value of the Namahana School model, hands-on, 'aina and project-based collaborative learning. I've watched middle schoolers hunched in their sweatshirts, come alive as they realize that they can be scientists, that they have a gift for spotting fish, and stand tall when they make management recommendations for an estuary. I've also seen my most capable students struggle and stop attending school. When faced with the long bus ride, learning that feels disconnected from their home lives, when they can't play sports because there's no afternoon bus to get home to Wainiha, and it's hard for their parents to be engaged. Two decades later, I'm watching parents I taught as middle schoolers struggle to find options for their own middle school children who are classmates and lifelong friends of my 11, 13, and 15-year-old. Some ohana send their keiki away to Kamehameha or private schools, some a home school separating area families and opio just when they most need our collective support. Public schools unite our diverse community of Native Hawaiian Ohana plantation families, U.S. continental immigrants, Filipino, Micronesian, and Hispanic keiki. When we take our Kilauea Elementary School classes on field trips to Nihoku, to Kalihiwai, and Kahili, sorry I lost my voice on a field trip last week to Kahili. We find many kids have never even been to our local beaches or seen the caldera that gives Kilauea its name. Namahana School will make it possible to hand down elder knowledge like Mayor Mr. P's, of our area to prepare our youth for their kuleana as future leaders, and caretakers of Halele'a and Ko'olau, to engage our community members and parents as teachers and to surround our next generation with the support, skills, and science they need to problem-solve, create, innovate, and excel. I grew up less than a half mile from the proposed school. Our family will be some of the closest neighbors. I'm a strong supporter of keeping agricultural lands and the rural surroundings of Kilauea town. But I also believe there's no better use for this site. Kids will be able to ride their bikes to school, no bus...

Mr. Hull: Three minutes, Mr. Chair.

Ms. Vaughan: ...no waiting for their parents, and they can go from school out into the community for classroom learning and projects. School will be another home and that's how kids learn best. So, it's too late for Lopaka, it's too late for my kids. I have fellow board members who've worked on this through their kids and grandkids, and it's too late for them. But it's not too late for Lyla and so many kids. So, thank you today for helping make this dream a reality for our community. Aloha nui kakou.

Chair DeGracia: Thank you for your testimony.

Mr. Hull: Next, we have Roslyn Cummings. Roslyn Cummings?

Unknown woman: She's coming.

Ms. Roslyn Cummings: Aloha no. My name is Roslyn Cummings. Good morning board. On the record for the record, I'm in support of this particular development. This is one of the developments that I will support because it's community-based educational of like a type of usage with our wai. I think our wai a priority to support a foundation for the next generation. So, I'm in support of this. I just concerned about if the county thinks about this type of development as the number one priority. Because in the months that I've been here it's rare to see something like this coming up, and I appreciate the community for coming out and support, and I support community. Mahalo.

Chair DeGracia: Thank you for your testimony.

Mr. Hull: Next, we have William Kinney.

Mr. William Kinney: Aloha. Good morning, commissioners. My name is Billy Kinney, born and raised in Halele'a. And I am a strong supporter of Namahana School. Let me open up my notes real quick. Yeah, so I was born and raised in Halele'a, Hanalei. My family has roots in Hā'ena. I'm a native Hawaiian planner. I have undergraduate degrees in Hawaiian Studies, Hawaiian language, English, and I graduated from UH Manoa with my Masters in Urban and Regional Planning. I'm currently the Assistant Director for the Hui Maka'āinana o Makana in Ha'ena. I'm a Culture Practitioner and as some of you know I'm also a Commissioner on the Open Space Commission. I'm also probably the least likely person to have a college degree. My grandpa didn't even make it out of elementary school. My mom didn't make it to fourth grade, and then my sister, she didn't even make it to high school or make it out of high school. So, all history tells me my limitations, my biggest barrier was being born and raised in Princeville. High school was this grueling commute away as many people mentioned before. It absolutely felt like torture to spend four hours sometimes every day on the bus. Because of that, I refused to go to school. I probably had one of the worst truancy streaks of any Kapa'a High School graduate. I really only saw it valuable to show up on test days, take the test, ace the test, go home and no show up for two weeks, that was kinda my thing. My ohana wasn't as affluent as other ohana, so I didn't have the privilege of a car nor the privilege of a license at that age. I wasn't in any clubs. I didn't get to play football because of this. I wasn't able to have the benefits of a high school environment and system. So, I really believe that we can't subject students to this any longer. I think it's time for a middle and high school in our community. You know, my resume says I'm an academic, I went out of my way to get an education. I worked really, really hard to climb the so-called ivory tower, but what this really should tell you is that giving this community of students this opportunity to a quality education is made or unmade by how accessible that quality education is. And in regard to Hawaiians in our community with post-grad education, there's like, I can hold them in my hand, you know, there's a few of them are in this room. But I think Namahana can probably increase that tenfold because the type of education that Namahana school would provide is not just creating students or good students, but we're really considering, as Roslyn mentioned, people who are mindful of culture and place and I think Namahana school will create these community leaders but also community cultural leaders. And then lastly, I'm, you know, I'm a...

Mr. Hull: Three minutes, Mr. Chair.

Mr. Kinney: ... I'm a future father, so I hope that, you know, like, Lyla, she's my niece, so that we, I would have that option to have my kids there too. Mahalo.

Chair DeGracia: Thank you for your testimony.

Mr. Hull: Next, we have Monica Belz:

Ms. Monica Belz: Hey. Thank you. Aloha, commissioners. Monica Belz here, also a fellow Commissioner on the Police Commission, so very much appreciate your time and your energy and your commitment to this community and all you guys do. I serve on a lot of boards. I'm an over volunteer as probably many of you are, but I don't come to the table today, with any of those hats. I come with two hats. One is a mother of three children. I live in Kilauea town, and I have a 13, 12, and 9-year-old. So, my older two have missed this glorious window for Namahana school, but my third, there's still a hope. So, just as a mother on the North Shore, quick reality on the ground. This year, both, all my kids graduate from Hanalei School. So, my third is about to. But my older two are in middle, so 7th and 8th that's kinda the tricky spot, right? My young, or my middle son, Malachi, he graduated from Hanalei School this last year. And there were no seventh grade spots in any of the North Shore options, any of the private schools. They were completely full. They have been overwhelmed with this gap, this need. So, that's locally up north, which is KCA is an option, or home school is an option. then there's a lot of like private cohort groups that have been forming, and they were all full. Everyone, everywhere was full. So, it was pretty incredible to be in this position where I didn't know what to do with my 7th and 8th graders. What's happened with a lot of their peers? I started to look around and ask around and there was a lot of hopeless parents, and they started to leave and send their kids away too. To U'i's point they're going off island, they're going to the mainland, they're going to whatever places they can to fill in those years, and some don't come back. So, my 7th and 8th graders left the island for school. It was a very hard decision. But due to family ties, we were able to send them out for 7th and 8th grade. Not ideal, right? That's not ideal. It's not what I want at all. It's not what a lot of our community wants. But the reality on the ground is it's getting harder and harder. This year is, as U'i said there was no bus transportation. So, my mom was out every morning, 6:30 in the morning, collecting as many kids as she could fit in her car in Kilauea and driving them to Kilauea middle and Kilauea high school, or I'm sorry, Kapa'a. So, it's getting harder, it's getting worse, and we're losing a lot of the families and children that we wanna keep. We want to remain. So, I don't think it's new information. I think everyone who has understands the North Shore dynamics, this is an absolute necessity. Another hat I come to the table with is the CEO of Kauai Federal Credit Union. We are CDFI, we're a community development financial institution, and we have presence on the North Shore. We are totally committed to this school, and we'll do whatever we can along with all the heroes behind me, sheroes and heroes, who are rallying behind and together. This is community led. It is for the community, from the community, by the community, to the community and I have no doubt it will happen and the amount of people volunteering to help support this, including you guys. Everyone have locked arms together to make this happen. And as our, the CDFI locally, we're gonna do everything we can to make it happen. I know leaders all over the place are rallying behind this because it's really for the next generation and the next generation and the next generation. So, let's make it happen. Thank you for all you guys do. Full support for Namahana and all these amazing people behind me who are making it happen too. Aloha.

Chair DeGracia: Thank you for your testimony.

Mr. Hull: Next, up we have Catherine Amy Kropp.

Ms. Katherine Kropp: Good morning, Aloha. My name is Catherine Amy Kropp. I serve as the vicar of Christ Memorial Episcopal Church in Kilauea. And I'm here on behalf of our Bishop's Committee, which includes a local educator and community leaders and long-time members of the community to offer our full and enthusiastic and strong support for the Namahana School and its vision. We are deeply inspired and share its mission, values, and support for the youth of our community. And I was not able to get a letter in time for the deadline, but I'm here to testify on behalf of our faith community and our shared vision for the youth and the children of our community. Thank you, Mahalo.

Chair DeGracia: Thank you for your testimony.

Mr. Hull: We don't have anyone else signed-up outside. For those inside the planning commission room that have not spoken but would like to speak on this agenda item, you may do so by approaching the microphone. For anyone seated outside, if you would like to testify on this agenda item and haven't previously done so, you may do so by entering the planning commission room now. Seeing none, the Department would recommend closing the agency hearing.

Ms. Streufert: I move to close the agency hearing.

Ms. Cox: Second.

Chair DeGracia: Commissioners motion on the floor is to close agency hearing for this agenda item. We'll take a voice vote. All in favor say aye. Aye (unanimous voice vote). Oppose? Hearing none, motion carries. 7:0.

Mr. Hull: With the amendment of the agenda for Item L. to proceed Item F., I'll turn it over to Dale for Directors report pertaining to this agenda item.

Mr. Dale Cua: Good morning, Chair, and members of the commission. At this time, I'd like to summarize through the Director's Report. Director's report and highlight portions of the report if you don't mind.

Mr. Cua read the Summary, Project Data, Project Description and Use, Additional Findings, Preliminary Evaluation, and Preliminary Conclusion sections of the Director's Report for the record (on file with the Planning Department).

Chair DeGracia: Thank you, Dale. Commissioners, any questions for the Department?

Ms. Otsuka: Yes, but it's all jumbled in my brain. So, 2018, there was a tentative approval, but the State Department of Health made some requirements that all structures and wastewater disposal systems are not shown on the subdivision map. And the wastewater branch will not recommend final approval until it the information is on the map. And then in 2020, they got the final approval. So, the (inaudible)...

Mr. Cua: The applicant was able to satisfy their requirement. Just so noted that on the result in lots of the subdivision when they are developed will be required to address whatever wastewater requirements will be imposed onto the project.

Ms. Otsuka: Okay, so right now it's not set, but it should be.

Mr. Cua: Yes.

Ms. Otsuka: So would you know, or I don't know if the portable toilets, is it allowable through the whole time while they construct the...

Mr. Cua: I won't be speaking on behalf of the applicant, and it's a question that they can also address, but since there isn't a sewer system in the area, I'm certain that that's part of the project that will be required to provide a wastewater system that would comply with the DOH standards.

Ms. Otsuka: Phase one?

Mr. Cua: In phase one of the project, yes.

Ms. Otsuka: Okay.

Chair DeGracia: Commissioner Ornellas?

Mr. Ornellas: Yeah. So, I know that they already have final subdivision approval, but you know, I'm worried about circumventing certain requirements, especially regarding the bypass road, which would benefit the school, if it were built because it's a bit less traffic in that area. Also, yeah, pretty much that's it.

Mr. Cua: Yeah. So, I can confirm that the infrastructure requirements related to the subdivision still ongoing, construction still continues. When this parcel is developed there will be assurances that infrastructure will be sort of like complete before building permits move forward on this particular site.

Mr. Ornellas: And those assurances come from the developer or subdivision?

Mr. Cua: Yes. The infrastructure improvements will have been bonded.

Mr. Ornellas: Thank you.

Mr. Hull: Just for a clarification of Dale to Commissioner Ornellas' question. The infrastructure requirements that are put up on the developer of the subdivision is not inclusive of finishing the bypass road, though, right? It is?

Mr. Cua: No, no.

Mr. Hull: No.

Mr. Cua: Yeah.

Mr. Hull: So, to be clear, when that subdivision was done, the requirement out of it or part of it was certain infrastructure, but essentially the grabbing of the land for that bypass road to be conveyed to the county, ultimately, the (inaudible) lies on the county or through certain development entitlements to fund that bypass road. I think there was one piece of public that attested to bypassing a circumventing standard and the subdivision process doesn't allow for the bypassing a circumventing. You just, you gotta meet the requirements that are proportionally necessitated under the subdivision. So that subdivision has met or is meeting it, but to make it clear the paving of the bypass road is not inclusive of that subdivision.

Mr. Ornellas: And other roadway improvements also included (inaudible)?

Mr. Hull: I believe there's a pathway as part of the subdivision, but a formal final roadway, no.

Mr. Cua: Yeah.

Mr. Ornellas: Thank you.

Ms. Streufert: This maybe...

Ms. Otsuka: Go ahead.

Mr. Ako: No, I just was wondering, where is this bypass road envisioned to be? Maybe that's okay. Maybe the real question is that, should that bypass road be placed there one day, it's envisioned that that will alleviate some of the traffic from the school and the community out to the main road?

Mr. Hull: Correct.

Chair DeGracia: Commissioner Streufert, you have a question?

Ms. Streufert: This may be a question more for the applicant. But the application says that it's under contract to purchase the land. Does that mean that the land has already been purchased or is that contingent upon this project or this approval?

Mr. Cua: I'll probably let the applicant...

Mr. Hull: Yeah, the question that you definitely wanna convey to the applicant. It's not uncommon for an applicant to come to the Planning Commission for a discretionary permit review under the premise that they have a contract with the landowner saying, "If we're able to secure the discretionary permit from the Planning Commission, we'll purchase the land of this amount, et cetera, et cetera, et cetera." So, it's common to not have the land fully owned by the applicant. They've just been authorized. But whether or not they have full ownership at this point I think we can definitely ask the applicant when they come up.

Ms. Streufert: Okay, and how many students, oh, this is for the applicant.

Chair DeGracia: Commissioners, further questions for the Department?

Ms. Otsuka: Yes. So, with concern for the neighboring residents, can we at this time include specific recommendations for the to be approved? As far as my concern is the, with the residents, some mentioned time of the construction from start to finish. Is that (inaudible)?

Mr. Hull: Yeah, Commissioner, I think we're definitely open to those conditions. I think when the applicant comes up, they might be able to present or discuss some of those concerns that were raised by public testimony. And if they're able to address them, we can look at proposing a say, condition of approval. If they're not able to address them, then the Department can look at proposing conditions of approval as well.

Ms. Otsuka: At the last meeting we discussed Condition No. 10, the word advised. The applicant is advised that should any archeological or historical resources be discovered.

Mr. Hull: Sorry, I apologize. We should have made the edit to that.

Ms. Otsuka: Oh, okay, so...

Mr. Hull: As we get to the discussion if the commissions looking at taking action, we'll definitely be an edit to that. Sorry about that, Commissioner.

Ms. Otsuka: It's just from yesterday's law training class. I was shocked to see that it says, it is the burial protection, it is a crime. So, I went, okay, if it is a crime than for us to just advise is a little...Thank you.

Chair DeGracia: Commissioners, further questions?

Ms. Apisa: Well, just a small question to Dale. Is Elepaio Road a newly created road in Kilauea? I thought that was in Hanapēpē.

Mr. Cua: Yeah, it was a misprint. Yes.

Ms. Apisa: Okay. Thank you.

Chair DeGracia: Okay. I have one question. I know there's a lot of hopes of it one day becoming public, but is this development considered a Public Works or is it a private development?

Mr. Cua: For the road?

Chair DeGracia: No, for the construction portion of this.

Mr. Hull: Are you speaking about the road or the school?

Mr. DeGracia: Oh, no, the school. The school itself.

Mr. Hull: With (inaudible), I'll refer to the applicant how charter commission school rules are.

Chair DeGracia: Okay.

Ms. Streufert: One last thing for Dale. In the preliminary recommendation, could we correct that it says an indoor recreational facility (inaudible)?

Mr. Cua: Yeah. So, I made a correction and, it should read when you move on to the recommendation the, it should correctly read, to allow operation and construction of a middle, high school facility.

Ms. Streufert: Correct. Thank you.

Chair DeGracia: Commissioners, if there's no further questions for the Department, I'd like to invite up the applicant.

Mr. Max Graham: Good morning, commissioners, and commission Chair DeGracia. Excuse me, I'm Max Graham, I represent the applicant, which is the Namahana Educational Foundation, and with me is Dr. Kapua Chandler, and we're here to answer all your questions because you seem to have some. Basically, just the overview is that this is a proposal for a new school grade 7 through 12. It will be developed in two phases. It's located on an 11-acre lot in Kilauea. The lot was created by the Kilauea Ohana Plateau subdivision, which is I think the one commissioners have been referring to, and we can discuss that a little bit later if you want. The school will have at build out 360 students. That's, 60 students per grade. Phase I will start with grade 7 and 8. So, there'll be 120 students. And the plan is to graduate the students up and build the school up on a yearly basis. So, second year you would have a ninth grade with another additional 60 students and then the next year you add 60 more students as you fill in, and eventually you get to the full 360 students. The school is a charter school so approved by the state. There's a charter school commission. The property was under contract to be purchased and when we filed the application, we noted that the transaction has since closed so that the...is it Foundation or the...

Dr. Kapua Chandler: Foundation.

Mr. Graham: The foundation is the legal owner of the property. And we need a permit because the property is located in the CZO agriculture district. So, we need a Use Permit under the CZO, and the schools are allowed in the Ag district with a use permit. We need a Special Permit because the property is located in the state land use commission agricultural district and because the property is less than 15 acres in size, this commission has the authority to grant that permit. And we need a Class IV Zoning Permit as a procedural requirement for obtaining the Use Permit and the Special Permit. And with that, that's the overview. I think what I'll do is turn it over to Dr. Chandler to talk some more about the school. But feel free to interrupt us and ask us questions as we go along here.

Dr. Chandler: Aloha mai kakou. Mahalo commissioners for having us here today. I had to get the tissues 'cause I'm just gonna get through my little crying phase with our whole community sitting here. It's just been such a big dream. So, you folks have listened through a lot of testimonies, so I won't bore you but Ka'aina, is there any way I could pass these out to the commissioners? It'll

just help to have a visual, give you folks way more background on what I'm about to give 'cause it's just a lot of words and hard to keep up. But basically, what I'm about to share, I'll follow what he's putting in front of you. The biggest piece, I came on in 2018, and I launched a really huge community engagement endeavor. This was the time of the floods. We were out in community, meeting with folks at the food pantry in Hā'ena, all the way up through Kilauea. I was in Kilauea school, Hanalei schools, talking to 4th and 5th graders at the time about what education they wanted, asking parents, kūpuna. That big process, I've given some background here in the community engagement section, led to the mission, vision, and values that underpin the school. So, a lot of what we collected from the community is what drove the development of everything to be prepared to apply for the charter application. Fast-forward to the next paragraph, 2020 the Charter Commission finally opened their application process. To give you a little bit of background on charters in Hawai'i, there's only one authorizer, it's the state. There's the Board of Education, and then there's the Charter Commission and then the Department of Education, and then under the Charter Commission are all the Charter Schools, and as a Charter School, we have a governing board that oversees the Charter School, and then best practice is you have a nonprofit, which is for us Namahana Education Foundation, and they're the facilities and philanthropic arm of the school. So, that's kind of the organizational structure. The pandemic hit, they tried to stop their application process. Fast forward to 2022, two years later, there were 12 applicants, two of us were granted our charter, and we were the only one granted unanimously. To give you some idea of how hard it is for this to get a charter from the state, we're the first two in the last seven years to get a charter approval, conditional approval. And a really important thing to know for you folks is that they give you a maximum of two years to open and if you don't, that's why a Fall 2025 is our date. So, if you don't open by that date, you lose your charter, and then you have to reapply through the whole arduous process which I've also outlined a little bit for you folks. They make you fly over there; you have to interview. It's a very extensive process. So, we got our charter in June 2022 and fast forward to May of 2023. We acquired this Kilauea site and I put the dates here just 'cause for dramatic effect, but on May 5, we put it out, we sent a letter out to the community. It was in the Garden Island, et cetera, saying we need to raise 1.1 million down payment, and in two months we had 1.36 million raised from our community, and this is really just to underpin, I think there's a lot of on-the-ground parents and people that need it, but, there was a \$420,000 match gift from a part-time resident that just knew about the need. So, it went far and wide to the people that love our community and are really supporting this. Throughout this entire process, as you can imagine, I'm born and raised in Kilauea, we've been maybe too much community engagement with everybody that knows of about what we're doing. And I just wanted to address two of the big concerns that we're addressing and ready to address. The first one is obviously traffic, for you folks that don't know, the, there's a state bypass route, not bypass, roundabout road that's going in right in front of the shell gas station, so that's the highway coming into Kilauea, that's already approved and in works. There's two small, I don't know what size small looks like, but small roundabouts going in on Kilauea Road, which is the road that you'll turn off to, to get into Ala Namahana Parkway, and those are also approved and in the works. So, we anticipate those being in before we open. So, those are just some of the things, the things that are within our school power, are our start times. So, we're very conscientious of when Kilauea School starts, KCA starts, our preschools, and staggering them, so we're not all trying to rush to school at the same time. Another piece to mention. I'm not the best person to speak to this, but because the county has acquired the land adjacent to us for affordable housing and another piece in this subdivision, to the question about

the bypass road, Ala Namahana Parkway, I foresee that that road will get done in our future and especially because now it's under the county, and the county has those housing developments in work. So, there's a lot of excitement, I think for Kilauea for some long-awaited improvement and the school is just kind of falling in line with that timeline. The second concern is obviously water, we've already met with the water department. We've met with a lot of departments, Water Department, the most recent was the Fire Chief, we have the Health Department next week. So, making sure that we're staying ahead of the game. Our temporary facilities are located next to the fire hydrants that are going in right now, so just trying to be in tandem with the developments that are already occurring in our community and staying one step ahead. The backside might address some of the questions that can get confusing with the dates and the numbers and the students. So, in 2025 we're gonna open with 7th and 8th and that's 120 students, and then I kind of laid out the next five years. Each year we gain a grade, as Max said, and we gain 60 students. So, in 2030 we would have our first graduating class. The second set kind of breaks down what that looks like in terms of facilities. When Max said two phases, he was talking about, like, temporary as Phase I and permanent as Phase II, but I broke them down even further to give you guys kind of the rollout of facilities in tandem with students. So, because we have to be open by Fall 2025, it's really forcing us to have to use temporary facilities to make that deadline especially with shipping costs of all the things. So, we're looking at building out our temporary facilities to house 7th to 10th grade, which buys us three years. So, we'll build out our temporary facilities to house 7th through 10th, but we only start with 7th and 8<sup>th</sup>, and then we have temporary facilities for them to grow into 9 grow into 10. In that three-year period is when we start our first phase of our permanent facilities which will house two more grades. So, when those grades graduate, they'll have space to go 11 and 10, I'm sorry 11 and 12 will be moving into the first permanent facilities on that campus. So, at that point we at least have a roof over all of our students head which will be a huge win in those first two, and then really that last push to fundraise. As Monica pointed out, you know, financing, all those things to get the rest of the campus built so we can get our students out of temporary facilities and really situated in our home. And I think. I'll say one kind of unforeseen benefit of this is we get to kind of test out facilities as this rolls out. So, building that first permanent we'll get to see how our students like the space, how it's functioning, and if changes have to be made, we can come back and talk with you folks, but we really get to slowly grow with our campus and our students get to be a part of that growth process. And then that's kind of where I'll close, and I can talk a lot about our 'aina based learning model, which is our academic model, but for me, I know and for the folks behind us, agriculture doesn't always equal 'aina based learning, but 'aina based learning always equals agriculture, and so having 'aina based learning, having our students be a part of growing their own food on campus, having our students determine what orchards we're gonna grow in our 40-foot massive buffer zone that you folks might've seen on it that's already built-in ag, having our students working with Yosh, which is walking distance, Kilauea Ag Park, and really being a part of the growth process for the agriculture on our property is also part of our long-term vision, and the real hope is to really build a very strong farm-to-school program so that our students are eating from our community, hand-grown, and sourced from Halele'a and Ko'olau. So, I can talk to most of these things. I've clearly been on here for a very long time and I'm happy to answer any questions you folks may have. Mahalo.

Chair DeGracia: Thank you. Commissioners, questions for the applicant?

Ms. Streufert: I think my questions were answered.

Chair DeGracia: A lot of my questions were answered with this. Much appreciated. Commissioners, any further questions?

Ms. Apisa: No. I'd just say congratulations. I know it's been a long time in the coming.

Dr. Chandler: Thank you.

Ms. Cox: Yeah, I'd like to add my congratulations as well. I was involved early on, just while they were getting the charter. So, I didn't know, I mean, I knew about the new place, but I haven't been involved about this actually, this place for the school and I just think that the development that has happened since I was involved is pretty incredible.

Dr. Chandler: Thank you.

Ms. Cox: Congratulations.

Dr. Chandler: Thank you.

Mr. Ako: Mr. Chair, I got some questions here.

Chair DeGracia: Please, Commissioner.

Mr. Ako: I don't wanna be the bad guy over here because everything is going so well but being in the Planning Commission and Zoning and all of this, let me ask just, I mean, real quick. Is there a Namahana School right now that they're moving up to 6th grade and then there's no place else to go? No?

Dr. Chandler: No.

Mr. Ako: So, this is just gonna be a brand-new school that...

Dr. Chandler: We've been piloting components of the school, so what Mehana spoke to, we put on some summer programs last summer, we put on internship programs, which are components of our school to build relations and to get, you know, families used to, not family and community used to the process, but an official school we won't open our doors, we're not allowed to open our doors 'til Fall of 2025.

Mr. Ako: Right. You know, as I look at here at some of the conditions that we have, you know, one of it is this Condition No. 5 here at the very bottom. And I think it's talking about that the applicant is made aware that intensive agriculture, which may entail dust, active pesticides, and other nuances associated with agriculture use occur on nearby properties, and that the approval of this permit shall not limit or prevent the continuation of intensive agriculture activities within the immediate surroundings. I take it that means that, I don't know, there may be a farm right next to you and they may be using pesticides and herbicides that may be coming over to your place. Do you see that as being, like, your responsibility now to protect those students in there or is it still with the owner?

Dr. Chandler: How freely I can speak, Max, but I was...

Mr. Graham: (Inaudible).

Dr. Chandler: Okay. Well, so just to give you some context, most of the ag around us are horses in a pasture. The only food growing is the turmeric farm, and I would be in shock if our community found out that there was heavy pesticide use being used right next door to our school. That's just not practices that I'm aware of that are being used, but yes, I think, I know that the community and I would be in an uproar if that was happening next to us, but we're aware of it and the landowner's, well, the landowner's son is the one who does all the ag next door. So, I eventually imagine that we will partner and be heavily involved with the other surrounding areas. I don't know if that answers the question. There's not much I can do what they do on their land, but I do know that we're a very strong community and as far as I know, that's not the case right now. Also, the ag that is being used is very far. I mean, you can't see it. It's not, like, on the other side of the fence is the turmeric farm.

Mr. Ako: Parking. I think there was an issue about parking over there where I think the requirements is that 141 spaces.

Dr. Chandler: Just 41.

Mr. Ako: Can you, oh...

Dr. Chandler: Just 41.

Mr. Ako: Just 41? Oh, I'm sorry.

Dr. Chandler: Yeah, 41 we can do. A hundred and forty-one would be hard.

Mr. Ako: Okay. And you're putting in, what, 111 or so, yeah?

Dr. Chandler: Uh huh, in the full build-out.

Mr. Ako: In the full build-out. Okay, I'm gonna ask this question anyway. I think we've had applications that have come in for you to have operations done on an ag land that was not ag related in there. Some of 'em were okay and some of 'em were not, and, I mean, for me, I really believe in education and access. You've gotta have access no matter how good education is. If you don't have access, then, you know, education doesn't mean so much, but of the different applications that come in, why do you believe that having a school on ag property overrides the need of rezoning for ag so it could stay ag?

Dr. Chandler: I'm just trying to make sure I understand the question.

Mr. Ako: I guess I'm just trying to figure out that, you know, we've had arguments that land is zoned ag and it should stay ag, and there shouldn't be any special permits out there. And yet, there are projects that come up that we allow and others that we don't. So, for your project here,

which is taking a school and putting it on ag land, why do you think that is more important than the overall zoning itself keeping it ag?

Dr. Chandler: I wouldn't say that it's more important. I would say we're probably gonna do more ag on this property than it's been done in the last 30 years. The fact that we'll have students growing their own food, that they'll have vegetables and fruits that are on there, I mean, it's only, it's a pasture right now and it says in the application it's been followed, but I can't remember the last time that I've seen it fully cultivated, and so I think the amount of student engagement, the amount of students that wanna learn about what was this place before it was the sugar plantation, what was the surrounding area and the connectivity and the in-depths of what our students will learn, all the way down to the type of soil and what grows there, is all embedded in our curriculum, and in the way that we're going to be, you know, cultivating the future leaders, but they also need to have an understanding of how to take care of our own backyard and our school if we expect them to be able to be leaders who take care of Kaua'i. I think as an aside, even if it wasn't ag land, Kilauea, as Yosh talked about, is an ag area. Ag runs very deep in Kilauea and I couldn't imagine us building a school that's a community school that's reflective of our community that didn't have ag. So, I wouldn't say it's more important. I think we, Mehana would definitely support me in this, is that it's even hard for us to wanna build. We would love to just be able to have open spaces that our students are outside and really engaging with place all the time, but rain is real, weather is real, sound is real, and so having those spaces, I think, are a necessity, but even if you look at the way that we've designed the school, everything is meant to be indoor/outdoor spaces so students can seamlessly transition into 'aina and be participating in cultivating and taking care of our place. It's built down. As two of the students said, it's built into that design process. We had over 20 different community folks in on the charette process including agricultural experts from our community helping to make sure our facilities reflected not only the community but were conducive of doing ag and so, if you also look at it, the ag is built all throughout the campus, different agricultural spaces, as well as the buffer zone. So, yeah, I don't know if I would say again not more important, but it's - it's Kilauea so I don't know how we'd do a school without it having ag.

Mr. Ako: Got it. Thank you.

Dr. Chandler: Mahalo. Thank you for the questions.

Mr. Ornellas: Yeah.

Chair DeGracia: Commissioner Ornellas.

Mr. Ornellas: Along those lines, the assumption is no one's gonna farm around these open pasture, you know agriculture can be a noisy endeavor. It can generate dust. We've seen this happen before. Under 205 state, schools are allowed on agricultural lands, but we have seen instances where complaints are generated, the community does get in an uproar against the farmer. So, you know, keep that in mind.

Dr. Chandler: Thank you.

Mr. Ornellas: The other thing, the other question I have is I understand the sense of urgency. And because of that you're gonna be housing students in yurts temporarily, I'm assuming...

Dr. Chandler: Yes.

Mr. Ornellas: And are you confident you can raise the money? I mean, building a school is an expensive proposition and I know it's something the community desperately needs, but how confident are you gonna be able to raise this kind of money?

Dr. Chandler: I'm very confident. Well, I only say that because I think time and time again our community has shown up. The several weeks after we got our charter approval, we got a unanimous donation of a million dollars. After we put out our call for needing to get another million for the down payment, in two months we had more than we needed for the down payment. We know that we have donors right now that are contingent upon us getting our Special Use Permit because they know that that's a huge piece that they wanna see us accomplish before they're willing to give. So, for me, it's our history has spoken above and beyond, but if you, I could call Mel, she could give actual credentials, but if you look at our Namahana Education Foundation in terms of the staffing and the board, one of our board members helped with, Kathy Nelson helped with fundraising for Punahou in their big campaign, and they raised \$123 million, and so I think the expertise, it's not just hope, there's a lot of intention to going to bringing on skilled folks that have lots of expertise in the fundraising world. I mean, we have consultants on, we're doing lots and lots of fundraising, and we're gonna launch another big capital campaign after this. So, I think our team has a very huge, like, temporary facilities is just, like, the first step and there's, it's just gonna keep getting big. So, we're well aware of the lift, but we're very strategic in building the team that can get it done, as well as time and time again the community's showing us that, you know, as long as we continue to work hard and follow they meet us. They meet us there with the need.

Mr. Ornellas: Thank you.

Dr. Chandler: Mahalo.

Ms. Streufert: Is there a provision, obviously, you're going to have to have teachers come in. Is there a provision for housing for these new teachers?

Dr. Chandler: I would love that. Well, no, there isn't a provision. I will say that, PAL, Permanent Affordable Living, who wrote us a letter of support, they have the 11 units that are going in adjacent to us. So, I think we're in conversations about that. And then similarly with the county, who's building right across from us, I think they got the 22-acre that's right next to the post office. I could throw a rock and hit the property they just got. I know that they're, I think they prioritize service workers in the area, teachers being one of them. So, it's not a provision, but it is helpful and just the fact that we're gonna have more homes available.

Ms. Streufert: I'm very much in favor of any kind of education, but I also know that we have a huge problem with housing and, so I'm very, I guess I'm encouraged by the fact that you've already started thinking about this and you're planning ahead, and I hope it all works out.

Dr. Chandler: Thank you. We've talked a lot about worker housing on our property, but we thought that was a little too far for ag land, so we haven't gotten worker housing on our lot, but yeah, we're definitely being creative because I know that will be a big lift. We have lots of folks who have reached out who want to come back home and are very excited, and that's definitely one of the big concerns, is housing.

Ms. Streufert: Okay.

Dr. Chandler: Mahalo.

Mr. Ako: Mr. Chair, I have one more question.

Chair DeGracia: Sure, Commissioner Ako.

Mr. Ako: I'm assuming that gymnasium is part of this application too here? Or is it not? Is...

Dr. Chandler: Yes.

Mr. Ako: It is, yeah.

Dr. Chandler: Yes.

Mr. Ako: I was just wondering because, I think all the proposed buildings are one-story in height except for the gymnasium, and I was wondering whether the gymnasium would then fall under the 25-foot height limitation?

Dr. Chandler: It does. I've made the architects redo it to make sure it did because we wanna be with the landscape of Kilauea. I think the only way it would shift is I know a community need is wanting more hurricane shelter spaces on the north, you know the gym is the only one in there slated to have their roof changed. So, I think that's a...for us, I can't even fathom that development just yet, but when it does come down the line, that might be the only thing that might bring us back in front of you if the community really pushed and wanted that space to be multipurpose, different than it's outlined now, but for what it is right now, we were aware of the 25-foot and wanted to be under.

Ms. Otsuka: I understand the growing, the ag part of your project is from planting, to growing, to harvesting, and then, like, farm-to-table for the students. Do you see way in the back of your mind, do you see a future where they could someday be, like, have enough harvest that they could outsource and sell the product and therefore, create, like, a business class?

Dr. Chandler: Yes. I think Melanie, she's over here behind in the corner, but she has she's one of the...she has lots of expertise and experience in building the farm to school, and one of the things we've definitely talked about is, you know, as you start, like, a row of lettuce is not gonna feed 120 students and it's hard to keep up with that and having staff, et cetera, but, what we have talked about in the interim and we beginning is having, like, a cart and starting that way with students being able to sell to community, and to families as a starting piece. So, I do think that that's definitely an avenue that we've discussed, but again I think we're very passion in student

interest driven, and so if students are, you know, catch on, they're really into that structure and wanna lead it, then we're definitely gonna support it. I assume, I foresee that it'll be the case, especially because Yosh just opened their certified kitchen down the road. So, that already exists as a space for us to process and work with them and they also have Johnny's Cafe. So, there's already some of that infrastructure built into Kilauea that it would be, and we've definitely talked about it, but we wanna make sure things are student-led, so we don't wanna just put it all in place and make our students work the market if that's not really what their passion is about. But from working with them, they are really passionate, and they love to sell things and make things, and sell them back to the community.

Ms. Otsuka: Thank you.

Dr. Chandler: Mahalo.

Chair DeGracia: Commissioners, no further questions? If not, you can hear the Department...

Ms. Otsuka: I'm sorry...

Chair DeGracia: Further questions?

Ms. Otsuka: About the construction hours and days, if we can discuss.

Dr. Chandler: Do you want me to go first? Well, I'll just say, I mean, I saw the testimony that talked about the 6:30 in the morning...

Ms. Otsuka: Yeah.

Dr. Chandler: ...road that they're putting in. As far as I know, that already just violates county. County already has construction hour times and I, again, I would be getting so many phone calls if I started construction ahead of that. It really is a community school. So, we're mindful of that. We're even mindful of the way that we've built out the phasing to protect students from when we start to build the permanent facilities and temporary, so I saw that and I was kind of shocked because I don't think that we would never condone, at least, construction happening at 6:30 in the morning in Kilauea town where everything is quiet and that would just echo. It's kind of, it's intense. But there are already rules, county times put into place, which we plan to follow.

Ms. Otsuka: Do you know what the...Ka'aina, would you know what the county rules are?

Mr. Hull: There are BMPs associated with grading, as well as building permits. Off the top of my head, what time they'll start at, I'm not certain.

Ms. Otsuka: So, do you think for the neighboring residences we should put it in a, in the recommendation?

Mr. Hull: The Department would have no problem adjusting our recommendation to include a construction time period. I'm not sure if you, Commissioner, wanna propose one, if Dr. Chandler and Mr. Graham wanted to propose a starting point.

Ms. Otsuka: I know you would like Sunday through Saturday, but...

Dr. Chandler: Well, it's hard. I mean, I don't want to impact students. Like, when we're doing the temporary facilities, those are gonna go, yurts go up very quickly, and so be mindful of Kilauea. Unless we're, like, totally under the gun and we'd have to work weekends, we would wanna be working weekdays, you know, 7:30, 8:00 start, and then pau hana 3:30, 4:00, 4:30, and trying I mean, it's also the time of year. So, in those temporary times, our current schedule, if permitting goes, will be in the summertime, which means longer days, which we would wanna take advantage of versus in the wintertime. You just, naturally you're gonna start later 'cause the sun comes up later. And so, I think that would be more of the case. When we get to permanent facilities, if we can, trying to time and push for most stuff happening in the summer when students aren't in session is gonna be a big priority for us because we don't want them laying foundation and hammering and a lot of those things would not be ideal during the school year. If it does overlap, we'll do that. It's our plan to push heavily for the summertime when students aren't on campus, but in the interim for temporary, they'll go up very quickly and there's not a lot of hammering with the yurt. They're also, like, rolling and they're putting in the Namahana Place Road is what that construction is that they're talking about.

Ms. Apisa: I mean, if you're comfortable putting something in there, it seems the county already has hours, so you just simply to comply with county work hours.

Dr. Chandler: I would totally be agreeable to that. That sounds great 'cause then it's already written.

Ms. Cox: Yeah.

Ms. Otsuka: Yeah, something is in place though, yeah, with the county.

Mr. Hull: Generally, I can't speak a hundred percent affirmative on the record right now.

Ms. Barzilai: It's not readily available on the website for the engineering division, so we would have to pursue it.

Mr. Hull: The other option is we can craft a proposed condition, 'cause (inaudible) us deferring this agenda item and finding out what those times are, BMPs, another option is, what I was kind of getting at earlier is if there was an amenable time that both the Commission and the applicant have as far as start time and completion time per day, I've drafted, draft language can be used as, state's grading and/or construction of the subject facility shall be subject to all building and grading permit best management practices, additionally, grading and/or construction activities shall not occur prior to blank am or after blank pm. If...

Mr. Graham: 7:30 to 4:30?

Dr. Chandler: (Inaudible).

Mr. Ako: Mr. Chair, I have a question. Is this something that needs to be placed as a condition now as, or could it be something that be added later should an issue arise?

Mr. Hull: That is also another (inaudible).

Ms. Otsuka: So, you're saying a neighbor would have to file a complaint?

Mr. Ako: I guess what I'm really saying is that, you know what, I'm hearing just these good vibes that are coming up, they have coming from a good place, and you know, I guess when I hear you were you to say that, you know, my students are gonna be affected if we start early and all of this, as well as, the neighbors, yeah, we're not going to do that, and I don't know, to me, I gotta put some trust in that, you know, so I'm kinda, like, you know, if there's a problem that comes up, can we address it when it arises, 'cause I don't foresee it coming up from what I'm hearing. So...

Ms. Streufert: Could we put something in there, in compliance with all county and state regulations?

Mr. Ako: Well, yeah, I...

Ms. Streufert: Whatever they might be. Then we're completely out of it, as opposed to trying to come up with times that may or may not be appropriate.

Ms. Cox: I like that.

Mr. Hull: One option is, leaving it as is, and to see if complaints are generated, then looking at proposed amendments. Another option is...

Ms. Otsuka: I like what you said, what you wrote down.

Mr. Hull: Oh, okay. The other option is, you can go with the first clause of what I wrote that just refers to existing best management practices and their grading and building permits or the full breath of stating you'll comply with that, as well as the specific times that are set up. But it looks like there is some, um...

Ms. Streufert: Well, can we just do it as the first part of it and then say in compliance with best practices...

Ms. Cox: Yeah.

Ms. Streufert: ...best management practices, and in compliance with county and all applicable regulations?

Mr. Hull: It absolutely could. It just seems like there might be some disagreements. So...

Ms. Streufert: Okay.

Mr. Hull: When we get to the recommendations, we may want...you may wanna put a motion on the floor to see which one essentially gathers a (inaudible). But I think we can get into that a little bit more with the recommendations. And, if you folks are ready for recommendations, we can absolutely move into that. I don't wanna rush the conversation, but is there any other questions for the application, as well as for staff?

Ms. Otsuka: Okay. But what we're discussing, don't we have to agree, they have to agree, right, before we, so they cannot leave yet, right?

Mr. Hull: No. So, I mean, let me just say this, there at least seems to be, since we left it off, there seems to be two tracks of possibilities for our condition. One that just refers to existing best management practices within the construction regulations of the Public Works Department.

Ms. Otsuka: Okay.

Mr. Hull: That's one track.

Ms. Otsuka: Okay.

Mr. Hull: Which the applicant has definitely seemed to signal they are amenable to. The other track is to say you showed here to the best management practices of Public Works construction permits and additionally, you shall not commence construction prior to, say 7:30 a.m. or after 4:30 p.m. That's a separate track.

Ms. Apisa: Just to see where the commissioners are at, I will propose a motion to see if we get a yay or a nay, and then we'll go from there. So, I move that we approve Class IV Zoning Permit Z-IV-2024-2, Use Permit U-2024-2, and Special Permit SP-2024-1, to allow operation of a charter school facility on a parcel located on the Makai side of Kuhio Highway in Kilauea Town, with the conditions as written by the Planning Department.

Mr. Hull: Well, I'll say with one adjustment though to the archeological condition to be from "may", to use the phrase "shall".

Ms. Apisa: With the archeological provision addition.

Ms. Otsuka: Okay. Recommendation No. 10.

Mr. Hull: Correct. So, we essentially have amended, we are hereby amending our recommended Condition No. 10 to remove the phrase may to utilize the phrase shall, and that would be our recommendation, and I guess any additional conditions that Commissioner Apisa can look at adding onto that.

Ms. Apisa: And we could add on the one condition of just using best practices and county regulations as stated earlier without any set time limits.

Ms. Otsuka: I second.

Mr. Hull: So, for clarification, that would be recommending all of the Department's conditions of approvals 1 through 12, with the adjustment to Condition No. 10, to the (inaudible) requirement, and then an additional Condition No. 13, which would read, grading and/or construction of the subject facility shall be subject to all building and grading permit best management practices required by the Department of Public Works.

Ms. Cox: I'll second that motion.

Ms. Apisa: We already have a second.

Ms. Cox: I'm sorry. Oh, yeah, you did. Sorry.

Ms. Otsuka: It's okay.

Ms. Barzilai: Chair, would you like further discussion?

Chair DeGracia: No, I believe there was a motion. I'm uncomfortable with what was discussed on the floor. I just wanted some clarity on that adjustment to Condition 10. Are we striking out, the applicant is advised?

Ms. Otsuka: Yeah, I didn't like the word advised.

Chair DeGracia: But they are, there's a language shall in, right?

Ms. Otsuka: Yeah.

Chair DeGracia: So, we're just striking out the first few words.

Mr. Hull: I apologize. Correct.

Chair DeGracia: Okay.

Mr. Hull: So, Condition 10, would read in line with the conditions that were set up in previous meetings. Should any archeological or historical resources be discovered during ground-disturbing construction, all work in the area of the archeological historical findings shall immediately cease, and applicants shall contact the State of Hawai'i, Department of Land Adoption Resources, Historical Preservation Division, and the County of Kaua'i Planning Department.

Mr. Hull: So, in the phrase, the applicant is advised on that.

Ms. Otsuka: But the whole is gonna be crossed out?

Mr. Hull: The applicant is advised that, is crossed out.

Ms. Otsuka: It's all crossed out. Okay. Okay. So, the sentence is gonna start, should any archeological...

Mr. Hull: Correct.

Ms. Otsuka: Okay. I got it now.

Chair DeGracia: So, I believe we have a motion on the floor. Motion on the floor is to approve, with adjustments to the Condition 10, and also in the, some additional language concerning, I guess, disturbances. I guess we'll take, is there any further discussion before we take a roll call vote? Okay. If not, could we get a roll call vote, Mr. Clerk?

Mr. Hull: Roll call, Mr. Chair. Commissioner Ako?

Mr. Ako: Aye.

Mr. Hull: Commissioner Apisa?

Ms. Apisa: Aye.

Mr. Hull: Commissioner Cox?

Ms. Cox: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Aye.

Mr. Hull: Motion passes, Mr. Chair. 7:0.

Dr. Chandler: Thank you.

Chair DeGracia: All right. With that we'll take a 10-minute bathroom recess.

Commission went into recess at 11:04 a.m.  
Commission reconvened at 11:18 a.m.

Chair DeGracia: The time is 11:18. I'd like to call this meeting back to order.

Mr. Hull: Thank you, Chair, we have no Continued Public Hearing, no New Public Hearing, no Consent Calendar items. Moving on to H. General Business.

### **GENERAL BUSINESS**

Mr. Hull: H. General Business is one agenda item for which testimony was submitted that could constitute a petition for intervention. As such, I will be turning the meeting over to Laura for clerking purposes.

Ms. Barzilai: Thank you, Mr. Hull. I'll read the notice. General Business Matter, H-1.

Consideration of Master Drainage Plan for lands mauka of Poipu Road that was rezoned through the Moana Corporation Ordinance No. PM-31-79, relative to Condition No. 26 of Class IV Zoning Permit (Z-IV-2006-27), Use Permit (U-2006-26), and Project Development Use Permit (PDU-2006-25), ...

Unknown Woman from audience: Hard to hear.

Ms. Puanani Rogers: Yeah. Louder.

Ms. Barzilai: Can you hear me?

Ms. Barzilai: PDU-2006-25, affecting a parcel identified as Tax Map Key 2-8-014:032, Poipu, Kaua'i and containing a total area of 27.886 acres = **Meridian Pacific (formerly Kiahuna Poipu Golf Resort, LLC.)**

- a. Transmittal of Agency Comments to Planning Commission.
- b. Director's Report Pertaining to this matter.

Ms. Barzilai: And we have an announcement from Chair DeGracia.

Chair DeGracia: Thank you, Commissioners. I have a statement for you. Pursuant to Section 2004 B of the Kaua'i County Charter, Section 3-1, of the Kaua'i County Board of Ethics, Rules and Regulations, and Rule Number 1-2-15 of the Kaua'i Planning Commission, I hereby provide written disclosure of my recusal relating to the above matter. In consultation with the Deputy County Attorney, it is determined that my participation in the matter is not a violation of commission rules. However, in my professional employment, I am the Kaua'i field representative for the Hawaii Regional Council of Carpenters. The organization and/or members of the organization may be testifying in favor of the applicant on this agenda item, and the issues for consideration by the commission in connection with this application have the potential to affect the members of my employer organization. Considering the above, and in the best interest of the

commission, I will recuse myself from any consideration of the aforementioned items and decision-making related to these items, and any subsequent meeting thereafter related to these items. Thank you.

(Chair DeGracia recused himself from the meeting at 11:20 a.m.)

Ms. Barzilai: This is a statement from Chair DeGracia. He will recuse now, and Vice Chair Apisa will chair this item.

Ms. Barzilai: Chair, maybe you'd like to make the announcement about decorum. That we want to keep the meeting respectful, and everybody should (inaudible).

Vice Chair Apisa: I would just like to open this with, based on some past commission hearings that we've had that there has been disturbances and unruliness and that will not be tolerated. We are running a civil organized professional meeting here and we will listen to all parties and all statements, but we ask that you please be respectful. Thank you.

Ms. Barzilai: Chair, we'll first take public testimony. We have a list. The first on the list is Roslyn Cummings. Please approach. State your name. You have three minutes to testify.

Ms. Cummings: Aloha, Board. Ko'u inoa, Roslyn Nicole Manawai`akea Malama mare Cummings. (Speaking Hawaiian). On the record, for the record, I just wanted to let you guys know ahead of time I'm refileing complaints against certain agents and agencies pertaining to this particular development. I'm against this proposal 100% for many of reasons. I am here to speak on the waiwai. I want you guys to review from the time of Moana's application, the original applicant. I reviewed three to four months all of the Kōloa development plans, and there's multiple people in the community from back in the 80's and the 90's that spoke against these developments, and now, here we are. So, when Geolabs came in, they did, I believe, 13 drill sites and there was nine sites that found pure Artesian water, and we call that Puna Wai. When it comes to the drainage of this particular property, I want you guys to understand that even though the micro blasting took place, there's gonna be complaints that I will personally file against SHPD, the Kaua'i County Burial, sorry, the Kaua'i Burial Council and multiples avenues. It's gonna be filed within the county legal representative, the state legal representative, and taking it all the way to Washington to their legal representative because I want you guys to be aware that I'm watching and I'm not here to represent myself. I'm here to represent Manawa. There are burial sites whether people wanna admit it or not in that land. There's also a cave system that runs from there and it will lead out into the ocean, and possibly even into Kāneiolouma all the way to Makahu'ena. Those cave systems are very vital for us. Not just as kānaka maoli, but kānaka because the infrastructure will not be supported over there. There is a lawsuit that's happening over across the street at Pili Mai. We just have someone that came out of a lawsuit that took over Ted Blake's lawsuit adjacent to that, and they're hoping to put that property into conservation. So, when you have multiple cultural sites surrounding this particular parcel, you have to really think about what is really there, and I'm here to put it on the record that there are burials in that site. There are existing heiau regardless of the surface. I'm filing a complaint against Hal Hammond as well because on his report and the SHPD report, he states there's no cultural significance. His own employee has a printed signature on there and I'm challenging these reports. I'm just giving you guys a heads-up because with these reports, there's no data. In

fact, there's multiple archeological reports out there that's available for you guys to see that this is a significant site. So, mahalo for your time.

Vice Chair Apisa: Thank you very much.

Ms. Barzilai: Next is Nathaniel Kinney, please.

Mr. Nathaniel Kinney: Chair and Commissioners. Nathaniel Kinney for the Hawaii Regional Council of Carpenters. We are in support of the project and in support of the acceptance of the drainage plan. We're deeply concerned about the economic outlook for the County of Kaua'i. I mean, when you look at the high interest rates, several projects that were expected to start next year no longer pencil, and there are dark and ominous clouds gathering on the horizon. This project would represent hundreds of construction jobs and I just wanted to point out there's, some of our members are here, right here, maybe about five of the guys that, you know, understand the importance of coming down to this hearing to, to show support for this project. I know there's - it's a contentious issue, but these guys and the 14 others who signed this petition in support of the project, these are what represent middle-class jobs and middle-class families 'cause it's not just the members that benefit from this project. It is the families that depend on the health care and the wage that goes into keep a home, a roof over their heads. This project is more than just a bunch of condos or a bunch of buildings. This represents basically, the only life raft that's gonna be able to support this island next year because of the lack of construction activity that is on the books. So, if I could just submit these petitions, and by the way, these 14 petitions, we gathered this in, like, an afternoon. If we were able to go out into the community, I think we would be able to gather, like, 200 more, but look, it just came up quickly and I am here to support the project and show that our members and people in the community do support the acceptance of the drainage plan. Thank you.

Vice Chair Apisa: Thank you.

Ms. Barzilai: Next is Randall Francisco.

Mr. Randall Francisco: Hello. Randy Francisco. I stand on my testimony and strong support of this project.

Vice Chair Apisa: Thank you.

Ms. Rogers: What was your name?

Mr. Francisco: Randy Francisco.

Ms. Barzilai: Next is Stephanie Iona.

Ms. Stephanie Iona: Good morning, Chair, and members of the Planning Commission. My name is Stephanie Iona. I am representing myself, as well as the Kekaha Agricultural Association, who I am the Community Outreach Manager. We are in strong support. I would like to also stand on my written testimony. The Kekaha Agricultural Association has also submitted a written

testimony in strong support of this project. In the last three years, we have been in partnership sponsoring numerous events throughout the State of Hawai'i getting to know the owner and developer of this project. The reason I'm gonna share what...I wasn't gonna do it, but I'm gonna share what I am feeling is important is the misunderstanding of the character of Mr. Pinkston. Mr. Pinkston has been in Hawai'i for over 40 years. He has built senior housing, shopping centers in rural communities, statewide non-profit, opportunities for physically challenged children. He has provided scholarships for over 20 years for Waipahu high school students who are graduating and going on to college. And I think what I was most admired about him was that in many of our organizations, we provide a scholarship for that particular student to go through for one year. What he does and his wife does, is they monitor that student's ability and keep continuing to support them throughout their entire college career, if they maintain an average grade. He has also done everything he can to answer and abide by the laws of the State of Hawai'i. What is on the agenda today is the drainage plan. And what we are humbly asking, with engineers that were from the island of Kaua'i who helped put it together, who worked very diligently to answer whatever questions that were brought before this commission in previous meetings, we have been informed by the engineers that everything was accepted as far as what was asked to the best of his ability. And so, all I'm asking is for you to look at the agenda item that's before you. It's about the passing of the drainage plan, and humbly ask for your support. Thank you very much.

Vice Chair Apisa: Thank you.

Ms. Barzilai: Next is Bridget Hammerquist.

Ms. Bridget Hammerquist: Good morning, Chair Apisa, and members of the Commission. My name is Bridget Hammerquist. I live in Kōloa. I was born in the state, grew up here, moved into Weliweli when I was 17, lived in Kaumakani before that. Koloa is a very special place for me and my 'ohana, for sure, but also for our entire community. I'm part of a water aerobics group that swims in Waiohai Bay, Tuesday, Thursday, and Saturday. This effort to be careful with the South Shore and our beaches and our archeological reserve is not a personal attack on Mr. Pinkston. Nobody's saying he's a bad person, but because he's a good person, it doesn't mean we should shortchange the need for the proper environmental and hydrological review. The county has a condition that called for a Master Drainage Plan. As recently as October 16 of this year, Mr. Wada, the same gentleman who signed off on the Master Drainage Plan, told Judge Watanabe in a declaration supporting Mr. Pinkston's lawyers' pleadings that a Master Drainage Plan could not be done. Now, on December 5th, a short while from that October 16th declaration, a Master Drainage Plan was brought into the county. On December 6th, less than 24 hours later, it was put on your agenda. We found it early morning of the 7th and we filed a petition to intervene, and I'll let our lawyer speak to that. But from the standpoint of the drainage plan, we do have a hydrologic engineer, he's a civil engineer who specializes in drainage issues, and we put his declaration before you. It's attached to the Friends of Maha'ulepu testimony. And he's very clear in stating that what was put before you is not a Master Drainage Plan. It's individual drainage maps with no narratives, no quantity of water that comes from various sized storms, and I can share something that you all can look up as well, and maybe many of you have already heard it. But when one inch of rain falls on one acre of land, one inch on one acre, it makes 27,143 gallons of water. When that one-inch falls on 28 acres, it makes 760,000 gallons of

water. That's a lot of water. Pinkston's parcel is now 27.88 acres, and it is not covered yet. It has been a sponge for the development and there are concrete culverts, we've brought the pictures to you before from draining Wai Nani, the golf course, and the village. And then whatever doesn't absorb in his parcel comes into a drainage culvert at the base of his parcel, the south most, the Makai most corner, and goes under Kiahuna Road and off down toward Waiohai Beach Park.

Ms. Barzilai: Three minutes, Madam Chair.

Ms. Hammerquist: So, we're asking that this matter be joined with the already contested case that was granted...

Ms. Barzilai: Okay. (Inaudible) this is not appropriate for argument.

Vice Chair Apisa: It's three minutes if you could wrap it up. Thank you.

Ms. Hammerquist: Yes, thank you. So, I think in the interest of what our hydrologist has put before you, we ask that this matter be joined with a contested case. This subject is already the subject of a contested case, and I don't think it can be handled separately.

Ms. Barzilai: Madam Chair, this is argument in support of...

Ms. Hammerquist: Thank you.

Ms. Barzilai: ...in support of the petition...

Vice Chair Apisa: Oh, okay.

Ms. Barzilai: ...for intervention...

Vice Chair Apisa: All right.

Ms. Barzilai: ...which is not appropriate at this time.

Ms. Hammerquist: No. No, I'm not arguing for the intervention.

Vice Chair Apisa: Okay.

Ms. Hammerquist: I'm asking that we are a party to an already existing contested case.

Vice Chair Apisa: Okay. Thank you.

Ms. Hammerquist: Thank you.

Vice Chair Apisa: Could I just ask you to repeat 'cause I have not heard those numbers before. One inch of rain on one acre equals how many gallons?

Ms. Hammerquist: 27,143 gallons. An acre of land is 144,000 square feet.

Vice Chair Apisa: Right.

Ms. Hammerquist: So, one inch on one acre creates 27,143 gallons of water.

Vice Chair Apisa: Okay. Thank you very much.

Ms. Hammerquist: You're very welcome. Thank you. Thank you for your time.

Ms. Barzilai: Next is Lillian Sarmiento. Please state your name. You have three minutes to testify.

Ms. Lillian Sarmiento: Aloha. I'm Lillian Sarmiento, Kōloa resident of four years. My talking points are concerning agenda item number, H. 1., sorry, my nose is stuffy. Where would the spring water or the groundwater to have this drainage plan come from? Where will that, you know, like, lead to and affect? My second point is will Kōloa be turned into the next Ala Wai Canal in Waikiki? And then environmental impacts, like biohazards. So, tsunamis, it comes upland 250 feet, and where this drainage plan, the site is, it will have that effect and it will wash back out and end up in the sediment, in the reefs. Both of my boys, I home-school for four years now, and our physical education consists of going to Brenneke's, Poipu Beach, Waiohai, all of these areas down there, and I, you know, like one time, we went swimming and then we had effects, like, from brown water advisory, which leads to ear infections and, like, two weeks of diarrhea. And I don't want that for my children. I don't want that for my future grandchildren. And I also emailed Planning Director Hull and I would like these questions that I raised up and my concerns and opinions be answered. Thank you.

Vice Chair Apisa: Thank you very much.

Ms. Barzilai: Chair, next is Elizabeth Okinaka, who is a proposed party to this matter. It's at your discretion of whether you would like to hear her personal testimony.

Vice Chair Apisa: Sure.

Ms. Elizabeth Okinaka: Aloha, Commission. Mahalo for your time. So, I wanted to say that obviously in July we were here because of the same issue. As Ms. Hammerquist openly stated to you guys, Wayne Wada gave a declaration in court to Judge Watanabe openly stating that this drainage plan can never be completed. They said that it would also take months for this approval, and I would like you guys to personally, if you haven't seen it, take a look at that drainage plan and look at the front page. It's dated December 5<sup>th</sup>, within 24 hours, Michael Moule, and the Public Works, who's a traffic engineer, approved it and then we have Ka'aina and Dale signing off on it. So, I'd like to know how within 24 hours two separate departments approved a Master Drainage Plan. This plan is gonna affect all of us. We already know that when there's heavy rain on the south side, where does it end up? Poipu Beach parking lot. It's a very common occurrence. And all of this runoff is gonna contribute to it. As Bridget also stated, we had an engineer, and somebody look at this drainage plan. They said of all the Master Drainage Plans they've ever seen, that this one was a complete joke. He took existing properties and proposed developments,

but never in a comprehensive way put together where all that water leads when they combine in a flood, and where it ends up. So, I'd like you guys to really, really look at that Master Drainage Plan for yourself, you guys, and I'd like to know if you - you don't feel like you have the qualifications to approve this, then this is exactly why it should be combined with our motion to intervene. We were in here in July because this developer said it could never be completed and he needed to modify this condition. Now, here we are weeks later, and he's magically created this drainage plan that he said he could never complete and never comply with. So, I'd like you guys to also know that we had the head Knudson Trustee that was here today, he openly stated that he was never consulted in this drainage plan. They included 200 acres of their property, never consulted them, never let them even look at this drainage plan. We also have Uncle Rupert and Uncle Billy here today from Kāneiolouma Heiau. Same thing, never consulted, were never even given a draft copy of this drainage plan. So, please, you guys, I hope you can realize that within just a few weeks ago we were here for the same issue. I think it's very wrong that Pinkston is basically trying to play both sides. He didn't wanna pay for the drainage plan. He openly admitted yesterday that it caught, it cost him \$100,000. That's why he came in on that modification. When he couldn't do it, and we got our motion to intervene, he sued the county. Our attorney showed up in court that day and helped to get the lawsuit dropped that he filed against the county. So, any loophole that this developer has been able to use, he's done it. He couldn't get around the Master Drainage Plan. Now, he's had to do it and he wants you guys to pretend like the July meeting never happened. Two weeks after our dates were set for our motion to intervene, this drainage plan was submitted. So, we have pending dates coming up in, next year, 2024, for our motion to intervene on drainage.

Ms. Barzilai: Three minutes, Madam Chair.

Ms. Okinaka: And, you know, I just think it's crazy that he's trying to bypass our...

Vice Chair Apisa: Okay.

Ms. Okinaka: ...intervention. Mahalo.

Vice Chair Apisa: Thank you.

Ms. Barzilai: Next is Rick Cassiday.

Mr. Rick Cassiday: Good morning. March 2006...

Ms. Barzilai: Sir, please identify yourself for the record.

Mr. Cassiday: Oh, sorry.

Ms. Barzilai: Sorry. You have three minutes.

Mr. Cassiday: Okay. My full name is Paul Richard Kanahoakalani Cassiday. I'm a lineal descendent from the Kōloa Ahupua'a. My first haole ancestor came to the island with Kamehameha and gave the king of Kaua'i that flag over there, the Hawaiian flag that my

ancestor, so, I have Hawaiian roots. I care for Hawai'i, I care for our culture, and I believe in our people. I'm standing here because March 2006, a dam broke on the North Shore killing a bunch of people. A year later, I became responsible for that dam. I've been involved in the drainage studies on the North Shore with a number of national and local organizations. The drainage study that was done for us in Kaloko was very good, also, by these people. It was vetted by mainland people. They said they did a good job. The point of a drainage study is public safety and planning. It's not that hard. It's to look at where the rain falls and where it goes and what you have before you from a number of experts, the latest of which came in this morning, saying this is competent by a guy who's done it for 40 years. So, I'm not an engineer, but I'm a consumer of engineering studies. The studies that you read allow you to analyze what the danger is, and then in your capacity of safeguarding public safety, I would encourage that you make a determination and not wait like they did with Kaloko, and they didn't have enough information. And in part, that was because the state didn't have any money, Peter Young was my classmate and I felt very bad that he got the brunt of it. That's my testimony. I'm happy to answer any questions. Thanks for your patience.

Vice Chair Apisa: Thank you.

Ms. Barzilai: Next is Terrie Hayes. Please state your name. You have three minutes to testify.

Ms. Terrie Hayes: I just wanna show you my sweatshirt before I start. I earned it. Hui Malama. Terrie Hayes, for the record. Aloha. Good morning. Thank you for listening. So, the subject of this hearing is the drainage. Not a personality, not a job, not a carpenter. God bless them all. Okay. I'm gonna try to stay on what the topic is.

Vice Chair Apisa: Thank you.

Ms. Hayes: I'll do my best. Over 15 years ago, we were confronted in Kāneiolouma with a drainage issue. I found dead birds. Gary Woutine, I believe his name is, came and we did a lot of work, determined there was toxic water coming into the site. Somewhere around, somewhere they put in a culvert. Now, I know this was a Knudsen project originally, Moana Corporation, we keep passing the buck down. The point is water doesn't care where it comes from. Water doesn't care who owns the land. Water doesn't care. Water cares if you have trees. Water cares if you have things to help absorb it, to enter it back in. Groundwater can seep. Cement has no place there, period. I don't care whose cement; I don't care what's on top of the cement. It has no place to be there. Unfortunately, we worked many hard hours to achieve what we have. Certainly not to have it lost by water that doesn't need to be there, nor should it be there. Now, can it be someplace else? Billy said to me this morning, "Where do they think all the water's gonna go?" Thank you, Liz, for mentioning it. We never got a notice. We never got - we are Kāneiolouma. Rupert and Billy are the po'o's. I'm the one that answers the phone. I have the email. Nobody sent me an email; nobody sent me anything. I didn't get anything. I heard about it from Bridget on the phone when I was in California. So, here I am and I gotta leave tomorrow. And I'm missin' my Christmas lunch because this is so very important. We need to understand the drainage plan is inadequate. We have a hydrologist who's reviewed it, but let me say this, it doesn't matter if anybody builds. We already have a problem. On our street alone, next to Po'ipū

Beach Park, who I wrote, some engineer from the county, some Public Works came in and attempted to correct it. It hasn't even been corrected on our one-block street. Rupert and I were discussing that Army Corps of Engineers, when they were here checking out the drains, they said they're inadequate. Where are they in all this? Did they chime in on this report? How could this be a Master Drainage Plan if you didn't ask the people that are gonna be affected by it? This water fills that parking lot.

Ms. Barzilai: Three minutes, Madam Chair.

Ms. Hayes: Thank you. It's inappropriate. We need to plant some trees to help save our environment. We're in a crisis. Thank you.

Vice Chair Apisa: Thank you for your testimony.

Ms. Hayes: You're welcome.

Ms. Barzilai: Thank you. Next is Rupert Rowe.

Ms. Rogers: He stepped out for a minute.

Ms. Hayes: Ruperts outside.

Ms. Rogers: He'll be back.

Ms. Hayes: Rupert, do you wanna go up next?

Mr. Rowe: (Inaudible).

Ms. Hayes: Last one? He'd like to defer to last.

Ms. Barzilai: Okay. The next would be Billy Kaohelaui'i. Billy? Please state your name, sir. You have three minutes to testify.

Mr. Billy Kaohelaui'i: Aloha. My name is Llewellyn Kaohelaui'i. I the moku for Weliweli ahupua'a. I live in the heart of Po'ipū. Next to me is Kāneiolouma, we the stewards of that land. And next to Kāneiolouma is Manokalanipo. Now, Po'ipū, I against all the development. You guys don't have a drainage plan. The thing was...this is wetlands. I don't know how you going put drainage. Before we had the wetlands was fishponds. The water drains down to the fishponds. And I always remembered when I was a kid, never had buildings there. Had only fishponds and wetlands. Never had no buildings. When we see the high tide, my dad, "You got to go over there, lift up the (inaudible), let the fish out because the road is full with water." The road is wetlands. We're talking about wetlands. We're talking about drainage up there. But the drainage comes underground, comes over the ground with two ways, our drainage. And I'm surprised what you guys putting in the drain. The sewer going in the drain, going in the ocean. Po'ipū everything going in the ocean. In front my road there was a fishpond where I live, was a fishpond. They go bury um. Now there's a guy from the deep in the ocean, the mo'o comes in there, clean the fishpond. They had bury all that. No wetlands. But when they bury that, they

bury that grounds, wetland, when rain, flood. Now where that water going? You cannot throw 'em in the ocean. So, they come, aqua engineer come, suck all that water, go dump 'em Māhā'ulepū. Now that (profanity) go in the ocean again. I don't know what kind of drainage you guys get, but you guys ruining Po'ipū. I'm against all this development. You go look at all that development in Po'ipū.

Ms. Barzilai: Three minutes, Madam Chair.

Mr. Kaohelaui'i: Nobody stay in there.

Ms. Barzilai: Three minutes.

Mr. Kaohelaui'i: All these condos, nobody around.

Vice Chair Apisa: It's three minutes. If you could wrap it up, please?

Mr. Kaohelaui'i: I hope you guys make a good decision because Po'ipū is so messed up. Whether it's drainage? Whether it's rubbish? Whether it's people? Too many people in Po'ipū. They no can park the cars. They park 'em all on the road.

Ms. Barzilai: Three minutes thirty, Madam Chair.

Mr. Kaohelaui'i: Anyway.

Ms. Barzilai: Thank you.

Mr. Kaohelaui'i: I hate to see Po'ipū go down. Aloha.

Vice Chair Apisa: Thank you.

Ms. Barzilai: Next, I'm sorry I'm having a hard time reading this Lucky Kanahale. Lucky?

Ms. Barzilai: Please state your name. You have three minutes.

Mr. Lucky Kanahale: Aloha mai katou (speaking Hawaiian). I am from this land. Ask yourself this, where are you guys from? If you come from somewhere outside of Hawai'i you are a haole in my home. And how come we gotta come to these meetings for stop these developments? And to the guys that contributing to the problem of these projects being approved, (speaking Hawaiian) may our creator take you guys because our people, myself, waiting on Hawaiian home list while these projects being approved, they're not gonna benefit my (inaudible). I am here for my kamali'i and my generation to come. For have somebody who has koto Hawai'i, who's considered pure blood. There's not much of us left in our own home. So, I'm here for my keiki who are waiting on a wait list, watching all these developments approved, watching all of these development go up, pricing out our very own people. We make up about a quarter percent of our state's population. More of our Hawaiians in Las Vegas than in Hawai'i because of these projects that's being approved. And like uncle said, drainage. You guys talk about drainage. You guys don't even know this 'aina. You guys gotta go and find people. These people are not even from

here. (Speaking Hawaiian). Do you guys understand me? Because I feel like I am a foreigner in my own home speaking my tongue in my own homeland. Yeah. (Speaking Hawaiian). It was all written by our tupuna. It was all written. Our tupuna went out there and fought for Hawai'i. And because of them Public Law 103-150 acknowledged that we never relinquished our rights to you guys. And because of that we stand here and fight for our future generations. Because these projects, lava, enough. For all the construction workers, 'eo, (inaudible) you guys find jobs, but not at the hands of our people and our kamali'i because our kids going be priced out. You think we can afford these million-dollar homes? We have more haoles here. Why is that? Why you guys don't ask that? What is wrong with this picture? Why, why we kānaka's waiting on the sideline while we see all this development happening? Nothing is benefiting our 'aina and our 'aina is crying for help. We know our lands because we are the piece of this land. We love our land. Do you love your lands? Obviously not because you guys came to our land. While you guys are here help us and stand for rebuild our 'aina again. Our 'aina is calling for help and you guys don't see it. You guys just think wada. Oh, there's a bunch of it. Take 'em.

Ms. Barzilai: Three minutes, Madam Chair.

Mr. Kanahale: Three minutes? You live here how long? Three minutes. And you going gimme three minutes and our kānaka's three minutes, right? You came into our home and then you give me three minutes. How's about you use that three minutes to pack your (profanity) and get out? Yeah.

Ms. Barzilai: (Inaudible).

Mr. Kanahale: We love our land. And I hope you guys know that.

Ms. Barzilai: Yeah. Thank you, Mr. Kanahale.

Vice Chair Apisa: Thank you for your...

Mr. Kanahale: I hope you guys know that...

Ms. Barzilai: Gavel the meeting.

Mr. Kanahale: ...that we love our land, yeah? And we are here because our kids...

Vice Chair Apisa: Okay.

Mr. Kanahale: ...deserve our home.

Vice Chair Apisa: Can you wrap it up? I'm sorry.

Mr. Kanahale: Yeah?

Vice Chair Apisa: Thank you.

Mr. Kanahele: And can you wrap it up and pack your (profanity) and go along with everybody else to that causing a problem?

Ms. Barzilai: That's it.

Mr. Kanahele: Mahalo.

Vice Chair Apisa: Thank you.

Mr. Kanahele: Yeah.

Ms. Barzilai: At this time, Chair, I recommend a short recess. Chair, at this time I recommend a short recess in order to restore order...

Vice Chair Apisa: Yeah.

Ms. Barzilai: ...and decorum to the room.

Vice Chair Apisa: We're going to call a 15-minute recess to just restore quorum here, peace and harmony. Thank you. We'll be back in 15 minutes.

Commission went into recess at 11:56 a.m.

Commission reconvened at 12:19 p.m.

Vice Chair Apisa: We will now reconvene. It's 12:19 p.m., and, you know, I understand and respect that emotions are high. I respect that the topic here. But we must have...maintain order. And we will be taking an even longer break if there are any more outbursts. So, thank you for understanding. We do wanna hear all of you and we respect each and every opinion. But we need to maintain order in the meeting. Thank you. We will now resume.

Ms. Barzilai: Thank you, Madam Chair. Next to testify is Starlyn. If you can please state your name for the record? You have three minutes to testify.

Ms. Starlyn Kaupu: Aloha. My name is Starlyn Kaupu and I reside in Kekaha now, but as a daughter of a fisherman, as the seasons change, we would always change districts. So, we would...I basically walked majority of the coastline of Kaua'i throughout my life fishing with my dad. And when it came to Kōloa it was just as I grew up it became more of a destruction than anything due to development and as the development goes on and we build more, more of our resources gets taken away. And if you look at the fish population in Kōloa, 15 years ago a big difference has become due to development and lack of water management. And so, I think this septic, this, drainage wouldn't be a solution to anything, honestly. So, what I'm expecting you guys to do is do the right choice and, you know, try to figure out, yeah, maybe we need it, but we need to figure out a different way to do it. And that's just coming from me as a Hawaiian in a Hawaiian land trying to survive. We're not gonna, we're not gonna feed my son Costco's, McDonald's. I wanna feed him from the land which means resources need to be there. And the lack of all of this well, the statements that go into environmental things doesn't even come up along the board lines of all of this development. So, what I'm here for is to stand for the people

and my people to say no more, no more. That's enough. Do a lot more better than what you are now. Mahalo.

Vice Chair Apisa: Thank you for your testimony.

Ms. Barzilai: Next is Puanani Rogers.

Ms. Puanani Rogers: Aloha Kakahiaka kakou. Nice to see all of you. Mahalo for this opportunity. Mahalo ke akua for all the blessings that he receives, that we receive from him that gives us these kinds of opportunities to face you. He alo ā he alo, face to face, so you can see our faces and you can hear our voices and probably pay more attention instead of reading a text or a written testimony. My name is Puanani Rogers, for the record I was born and raised in the ahupua'a of Keālia, well actually, on the border of Keālia and Kapa'a. So, I claim both ahupua'a as I live there with my children, my grandchildren, and my great-grandchildren. I'm very happy that my parents had the foresight to purchase land so we have a place where I can call home, all of our family. And I believe it's important that each one of you also know who you are and where you come from 'cause it's important that we know your identity. Especially because of the positions that you hold, you are powerful in what you do. You make very important decisions about our 'aina, about our resources. And we hold you responsible to hold up to your oath of office here, to preserve, protect, and restore our 'aina. Not to cause any harm, not to dig up any burials, not to do all kinds of construction on the 'aina that you know is harmful. Not you, but whoever is doing it. I want to also say that I do support the testimonies that have been here before me that is in strong opposition to this MDP because it's the stories that we've been hearing is it got really rushed through. It's a huge document and it didn't seem like he had enough time to even review the whole thing. We were passing it on to the other departments and then arbitrarily approving it with no information to any of us. I also understand that there is a contested case already on the board that you should be taking care of before you move any further with any more development. I strongly suggest that you stop permitting any more developments on Kaua'i and that we should have a moratorium on any developments. And I also want to tell you that, until you build trust in us that you're gonna do the right things, we're not gonna trust you.

Ms. Rogers: And you're making us angry and hurt 'cause of what you're doing at Po'ipū. Stop! Stop the development if you have...

Ms. Barzilai: Three minutes, Madam Chair.

Ms. Rogers: ...any power to do so now. It's been going on too long. Enough is enough. Mr. Pinkston, wake up. We don't care if you've been here 40 years. Look at what you're doing.

Ms. Barzilai: Three minutes 20, Chair.

Ms. Rogers: That doesn't give you any merits for us.

Vice Chair Apisa: Sorry to interrupt, but it's been three minutes. If you could wrap it up?

Ms. Rogers: Yeah, I'm surprised even you're here. You are Apisa, yeah? So, anyway, stop this development. I strongly oppose the MDP, would ask you to please defer it until further reviews

can be made of it. Don't try to do anything surreptitious in your departments without us knowing it. We don't trust you.

Vice Chair Apisa: Okay. Thank you.

Ms. Rogers: So, you have to show us some trust.

Ms. Barzilai: Four minutes, Madam Chair

Ms. Rogers: Otherwise, we're gonna stand here and continually to kū'ē and protest anything you guys do.

Vice Chair Apisa: Okay. Thank you.

Ms. Rogers: Anything.

Vice Chair Apisa: Thank you.

Ms. Rogers: Apisa, you should resign. Mahalo and...

Vice Chair Apisa: Thank you.

Ms. Rogers: ...Ke akua, bless us because this is a spiritual thing. Anything cultural is spiritual. Please, when you do things, think it in a spiritual way. Think with your hearts, not just your minds.

Ms. Barzilai: Ms. Rogers.

Ms. Rogers: Okay.

Ms. Barzilai: I'm sorry to interrupt you.

Ms. Rogers: We are cultural people.

Ms. Barzilai: We are attempting to maintain...

Ms. Rogers: And we believe in...

Ms. Barzilai: ...decorum in the room...

Ms. Rogers: ...spiritual things.

Ms. Barzilai: ...the room right now.

Ms. Rogers: And if you...

Ms. Barzilai: And not (inaudible).

Ms. Rogers: ...continue to do negative things, you're gonna get bitten.

Ms. Barzilai: We do not wanna ask anyone to leave the room. Please maintain decorum, please.

Ms. Rogers: Well, you have respect for us.

Vice Chair Apisa: Yeah, okay. Thank you - thank you.

Ms. Rogers: You - you have to.

Vice Chair Apisa: We - we...

Ms. Rogers: It has to be two ways.

Vice Chair Apisa: We've heard your testimony. So, thank you.

Ms. Rogers: You (inaudible).

Vice Chair Apisa: And I ask you to please respect the three minutes. That's what everybody is given equal time. So, thank you.

Ms. Barzilai: Michael Coon, please. Michael, I have C-O-O-N. Not here? Next is Janika Wollman. Janika is not here.

Woman: Yes, she's here. (Inaudible).

Ms. Barzilai: Please state your name for the record. You have three minutes to testify. Thank you.

Ms. Jenica Woymer: I didn't expect to speak. We just signed to get in. But I would like to say I've been coming here for 18 years. I'm the wife of a marine biologist. We come here to work on the Grassroots Project. And we helped friends of Maha'ulepu save the South Shore. And I'm so deeply moved by the testimonies especially of the Hawaiians. And I really love Kaua'i so deeply. It just so calls to me and I want to appeal to you to make decisions for the future. And what I've heard about the quick turnover of the approval of this drainage project is really, really disturbing. I lived on the street for many years that Billy and Terrie spoke of. There were floods there. It was impossible to drive, and when I think of more water being added to that and more sewage added to that, approving this drainage plan is insane. Please do not approve this drainage plan. And listen to the hydrologist with a real solution. And I really hope that you stop these multi-million-dollar developments and listen to the Hawaiians who are hurting so deeply and need homes. That's what really counts here. Thank you. Mahalo.

Vice Chair Apisa: Thank you very much.

Ms. Barzilai: Mary Mills?

Ms. Mary Mills: Aloha, Mary Mills. I've been here on the island for 40 years. (Inaudible) more development of this island. And I would like to give the rest of my time to Bridget Hammerquist Bridget?

Vice Chair Apisa: Is that allowed?

Ms. Mills: I'm giving you my two minutes.

Ms. Barzilai: It's your discretion, Chair. Again, to remind you Ms. Hammerquist is a potential party in this matter. So, if she would like to make a personal statement, that's fine. Legal arguments are reserved for the attorney who is present in the room.

Vice Chair Apisa: Would you like to make a personal statement because you're a party to the...

Ms. Barzilai: Mr. Rowe is next to testify. Mr. Rowe?

Ms. Mills: I'll be back for this.

Ms. Barzilai: Thank you, sir. You have three minutes. Please state your name.

Mr. Rupert Rowe: My name is Rupert Rowe. I'm the po'o of Kāneiolouma Heiau. I wanna get to the point on what took place with the federal government, the state government, on our religious and cultural rights. The drainage plan can never work because a catchment and a detention are two different things. The catchment is to surround the water and becomes a reservoir. A catchment means the overflow of where they have the water. Secondly, culturally we took the stone from Kāneiolouma Heiau and placed it in the heiau for Kamehameha on the Big Island. An event took place. The National Parks on the Big Island put the stone back in their office. From Washington, D.C. it was made clear not to touch the kānaka maoli's religious rights. The State of Hawai'i, as I testified in front of Land Use Commission, they denied the zoning change for the Knudsens because there was no drainage plan, and our civil rights would be violated by filling up the heiau. We will not be able to practice our religious rights. It is a sad moment when we have to come here and beg and none of you, not personally, it is qualified to pass this drainage plan. They never had a drainage plan from statehood to now. We had the best irrigation system and it laid out the drainage plan back then. It was altered by the nonsense that is taking place on the top end. The Knudsens moved their property to the ocean, the Waiohai and Kiahuna. In exchange, they gave the county that culture site. But now we're still in the same problem. They filled up everything in Kiahuna so there's no place for the water to go. So, all the way down to Brennecke Beach there's no drainage. And I don't know why we are still pushing the issue that we're talking about a developer. It's not his problem. Let's get that straight. It's the county's problem. You guys are passing things without even having the answer. Who is qualified that sits up here, on the drainage? Nobody. So, if we don't have a drainage plan how can they can now come up right now in just a matter of ten days with all these plans?

Ms. Barzilai: Three minutes, Madam Chair.

Mr. Rowe: And I don't wanna hear three minutes. She's a lawyer. She's not a timekeeper. So, you got to respect the rights of the kānaka maoli 'cause we have a civil rights case coming up. We will take this to the State Supreme Court and into the United States...

Vice Chair Apisa: Okay.

Mr. Rowe: ...Federal Court.

Vice Chair Apisa: We do respect that.

Mr. Rowe: We have our religious...

Vice Chair Apisa: Okay.

Mr. Rowe: ...rights.

Vice Chair Apisa: We will take another recess.

Mr. Rowe: I'm not here to over talk anybody.

Vice Chair Apisa: Please.

Mr. Rowe: I just want you folks to understand as a kānaka...

Ms. Barzilai: Three minutes 30, Madam Chair.

Mr. Rowe: ...and as a stewardship with the County of Kaua'i, I do have a little leverage...

Vice Chair Apisa: Okay.

Mr. Rowe: ...to say what needs to be done.

Vice Chair Apisa: I understand. But are you wrapping it up?

Mr. Rowe: You don't understand. If you understand, you wouldn't interrupt me.

Vice Chair Apisa: All right. Thank you. Thank you.

Mr. Rowe: Period.

Ms. Barzilai: There is no one else signed up to testify. Is there anyone else present in the room who would like to testify on this matter?

Woman: Can I go again?

Ms. Barzilai: I don't know if you want to allow that, we...

Woman: Can I not relinquish my time to Bridget?

Ms. Barzilai: It's at your discretion, Chair.

Vice Chair Apisa: We will...

Woman: (Inaudible).

Vice Chair Apisa: Okay. We will allow you to transfer that three minutes.

Woman: Bridget (inaudible).

Ms. Hammerquist: What I'd like to do if I may, Madam Chair...I'm blind and I can't read anymore and will take just the three minutes to share with you what our hydrologist...

Vice Chair Apisa: This has to be a personal testimony.

Ms. Okinaka: Okay. Thank you. Aloha for allowing us to come up again. So really quickly I'd like to read to you what a hydrologist wrote when he critiqued this Master Drainage Plan that was submitted. The Master Drainage Plan, MDP, seems pretty weak in general. It's very segmented and evaluates drainage for all developments in the petition area individually rather than systematically in a comprehensive manner like a Master Drainage Plan usually does. The MDP doesn't describe general storm water flow patterns through the area. The County Storm Water Manual lists required contents of drainage reports 2.2.1, including hydrological maps showing existing drainage facilities, concentration points, and existing flow patterns. This MDP showed drainage plans for individual developments. It did not have a hydrological map showing things for the petition area in a comprehensive way. This makes it difficult how, this makes it difficult to determine how storm water runoff from all of these developments in this area interact. And ultimately where it goes when it leaves this property, all of these properties. Runoff mechanisms are not addressed in this MDP, and subsurface runoff, aka interflow, is not mentioned even though the area is known to have caves and lava tubes that can be important to the storm water's movement. The MDP also doesn't address water quality mitigation for storm runoff, storm water runoff. It is unknown whether the existing detention basins within the various developments in this petition area satisfy the water's, the county's water quality criteria in the Storm Water Manual 5.8. Drainage for the large golf course area was not addressed in the MDP. It seems odd given the large number of area that the golf course takes up. The only statement made re- golf course is that runoff from the golf course is property zoned open. There was no change in the zoning, therefore runoff remains the same. This statement is questionable. It's likely that the developed golf course produces more runoff than its pre-developed condition. Of all the Master Drainage Plans I've seen; this is one of the least detailed. It seems the least useful in evaluating...

Ms. Barzilai: It's about three minutes, Madam Chair

Ms. Okinaka: ...drainage in a systematic and comprehensive way. It's funny that they argued compliance with the Master Drainage Plan requirement was impossible in September, yet here

we are a few months later. They also argued that review of the MDP by the county engineer could take up to months to complete.

Vice Chair Apisa: Excuse me, are you nearing the end?

Ms. Okinaka: Yeah. I'm finishing up, sorry. So, they also argued that the MDP could, engineer it could take months to complete. Yet Public Works Engineering accepted it on the same day it was submitted. The same day.

Ms. Barzilai: Three minutes, 30 now. (Inaudible).

Ms. Okinaka: The Planning Department recommends approval of this plan the next day.

Vice Chair Apisa: Okay. Thank you.

Ms. Hammerquist: Thank you very much.

Ms. Barzilai: Thank you. There is no one else signed up. Is there anybody else who would like to testify on this matter?

Vice Chair Apisa: We allowed her a second. She used someone else's three minutes. So, I don't think we're allowing further...

Woman: (Unintelligible) time?

Vice Chair Apisa: Yeah. How many...

Ms. Barzilai: Madam Chair, I think we're ready to move on with this agenda item at this time. Decorum is necessary.

Vice Chair Apisa: Okay.

Ms. Barzilai: We're ready to move on. Mahalo everyone for your testimony. We're ready to move on at this point to the substance of the item. We have a petition for intervention before us. At this time, the Commission will consider the petition to intervene. The parties will come up to argue their positions.

Vice Chair Apisa: The petitioners will now come up to present your position. And each party will have ten minutes to argue for and against intervention with a two-minute rebuttal for each. Laura will be our timekeeper here. Up first is the Friends of Maha'ulepu and then Meridian and then the Planning Department. Thank you.

Mr. Ryan Hurley: Good afternoon, good mor...I'm not even sure what time it is, afternoon, morning, afternoon.

Ms. Barzilai: Afternoon.

Mr. Ryan Hurley: Good afternoon, Chair, Vice Chair, Commissioners. My name is Ryan Hurley. I represent Friends of Maha'ulepu and Save Koloa. I have to be very honest. I'm not sure why I'm here today, folks. I'm kind of baffled. I'm actually supposed to be on Maui doing another contested case for the Grand Wailea case that I've been working on for a year now. This came up. We found out about this; I believe it was the 7th. We immediately filed a petition to intervene and we're here now today. I guess my concern is, haven't we all been here before? Didn't we just do this in July? If you look at our petition to intervene, my co-counsel Bianca Isaki and I put this together very quickly. And it very closely resembles a petition to intervene that you folks granted us intervention on in July and we are now proceeding with a contested case hearings officer and moving down that path. We have had a pre-hearing conference and set dates for this. But we're moving forward with a contested case hearing. I was absolutely shocked to see this.

Vice Chair Apisa: Well, with all due respect, I think you probably realize this is relative to Condition number 26 today?

Mr. Hurley: And I believe that our contested case is on Condition 26. So, we should not be here today. We've already been granted intervention in this matter. And I think we really, when you look at this, you know, when I looked at these papers that came in and I had to review very quickly, it wasn't until I saw Ms. Loo's response to our motion to intervene yesterday, that I really understood what's going on here. Now this developer has already told the Circuit Court judge that complying with Condition 26 is impossible. They have a signed declaration saying complying with Condition 26 is impossible. They have come before you folks to amend Condition 26. You granted us intervention in that. And we're proceeding down that path. Now the developer all of a sudden has changed their mind and said, oh, wait, never mind, we can comply with Condition 26. Forget the signed and attested to statements that we made to a Circuit Court Judge. Here's Condition 26 of drainage plan that fully complies. We were never consulted. We were never called. I have never heard that the county attorney general, the county attorney never consulted me, Mr. Hull never consulted me. Now when you look at their response to our petition to intervene, the first thing they say, this petition is untimely. They said we need to file our petition to intervene seven days before the hearing. What is seven days before this hearing? It's December 5th. That is the same day that this Master Drainage Plan was signed by this engineer. That is the same day that this Master Drainage Plan was delivered to the county, and then Mr. Hull, who is no longer here, somehow had it approved by the county engineer and had it approved it himself and had it agendized the next day. Folks, it is theoretically impossible for us to timely intervene here. Does that make sense? There is no possible way for us to file a timely intervention. And when I see Ms. Loo arguing that we should not be allowed to intervene because of that, you wonder why they're so upset. You wonder why they're so upset. They feel like the wool is getting pulled over their eyes. I don't wanna be here, folks. I'd rather be talking to a contested case hearings officer. I'd rather be talking about the merits of this drainage plan. You know, another thing that Ms. Loo pointed out in her opposition to our intervention, was the fact that we didn't have a hydrologist comment on it. Folks, theoretical impossibility to have a hydrologist comment on something when we can't even get it in timely. Guess what? We had already reached out to our hydrologist, Mr. Rosner 'cause he's working on our contested case. He was like, "What the heck's going on? I thought I had months to do this." No. Sorry, Mr. Rosner. He was able to do a very quick analysis, and we've attached it to FOM's, FOM's letter here that I

believe we submitted yesterday. We're doin' our best folks. But I got our - Sunday - thank you, Bridget, but I gotta be honest I think you folks need to look at the Department and wonder what's goin' on. How does something, how does a Master Drainage Plan that was signed by their engineer make it through, two approvals in less than 24 hours and get agendized here? That is not going to instill confidence in the community. I wish I could say they're wrong, but they're not wrong. They're upset and they're upset for a reason. And my heart breaks when I hear this testimony. I mean, the legal arguments are in the intervention brief and they're all there, and folks, to not grant this intervention would be crazy because you just granted it a month ago and almost nothing has changed. But I think you folks need to look at how we got here. What's going on in the Department that would bring us here? I do wanna take one note because people mention safety, right? And we're - you're all very familiar and I'll full disclosure. I'm an Oahu boy, raised on Oahu. I was born in Boston, Massachusetts, but I was raised by beach boys from Waikiki. And I've been paddling in the Ala Wai Canal for 25 years. And it's nasty. I was just paddling in it yesterday. It's not a pleasant thing. Drainage is a serious matter. You folks know how serious drainage can be here on Kaua'i because of the famous dam failure. Safety matters. How can you say that there's any safety concern in a drainage plan that was approved in a day? I have never seen any state agency or county agency work so fast. In fact, I'm waiting on my building permit on O'ahu to remodel my house. I'm a year and six months in right now. So, I wish that we could get this kind of effort for my building permit, I'm just trying to put an extra bedroom in. I don't know what else to say, but I'm heartbroken. I shouldn't be here. The community shouldn't be here. We have already extended a significant amount of effort. We are going down the proper path, the contested case hearing. For you folks to do anything other than deny this or at minimum grant our intervention and put this together with the already existing contested case hearing, would put you folks in a real pickle. That's from The Sandlot. My wife loves that movie, The Sandlot, you know. And that's what this developer's done. And I have to be honest, I'm not sure how it got here. I'm not sure what happened in the Department that they would sign something and agendize this knowing that it was theoretically impossible for us to file a motion to intervene timely. So, I would note that the Kaua'i Planning Commission rules do allow an untimely petition to intervene to be granted for good cause. I'm not sure what better good cause there is than this, the fact that it was impossible for us to actually file a timely motion to intervene. As I mentioned you now have our hydrologist's declaration. I will note that the statement that was just read in here was from an email. I would say focus, look at the declaration of our hydrologist. He has signed and committed to affirm those things. We plan on taking that up in the contested case hearing, but I think you folks need to have a real good look at what's going on here. Why are we doing this? This seems like it's designed to A- drive up costs on the community, B- be decisive. But it sure isn't about making a good decision, right? There is no way that you can have a hundred plus drainage plan reviewed in the amount of time that was reviewed here before being signed, created on the 5th, approved by two county, by the county engineer and the county and head planner Mr. Hull over here all in one day and agendized for the next day. Absolutely insane. And I think that would set a tremendously poor precedent and would probably lead to significant amounts of litigation to follow up on that, to be honest. I don't think there's any way that that goes left alone. So, I'm happy to answer questions if you folks have questions. I will say that the community has done a tremendous job explaining the issues here. These are valid issues. These are important issues. And they need to be thoroughly investigated. And what's the way to do that? We go before the contested hearings officer. We provide evidence. We do discovery if necessary. We can formally look at all these plans. We can

ask questions. There's a number of things that will happen that will provide you folks with a better record to make a sound and accurate decision. That's what we need to do. The idea that we would rush something through like this is insane. And it will do nothing but produce a bad, uninformed drainage plan. And it will turn the community even farther against you folks. I don't want that. Listen, I appreciate everything you folks are doing. I understand how hard it is for you folks to stand up here and ask hard questions of challenging topics. Not everything is gonna be like the last agenda item. We need the tissues for the other reason. This isn't - these aren't tears of joy, these are tears of sadness. I feel for our brothers and sisters from Ni'ihau. I'm tired of hearing testimony like this. It breaks my heart and I think about it all the time. When my brothers and sisters are moving to Vegas, let's start to slow down, and I say this all the time because I heard it when I was a kid and people always laughed at me, but let's go slow to go fast, right? Approving this drainage plan as is, not granting our intervention, it's only gonna slow things down. I assure you that. Let's do it the right way. Let's give it the proper thought, and let's think about safety here, right? Ultimately, if this drainage plan isn't appropriate, we have the possibilities of decimating an entire shoreline area, right? Like I said we safety about the dam. This is just as critical. What about all the people that use these resources? What about leptospirosis? What about all the different infections people can get from poor water quality? Let's think about this. Let's go through the proper steps. Let's do a contested case hearing as we are already doing now. I, please encourage you folks and I may be filing stuff to encourage other people to do so as well to look at how we got here. I think the fact that we are sitting here talking about a drainage plan, what a waste of everyone's time. You folks have already done this. You folks are volunteers. We all have better things to do...

Ms. Barzilai: (Inaudible) he's had 10...

Mr. Hurley: I have to fly over.

Ms. Barzilai: ...minutes now.

Mr. Hurley: I'm sorry. What?

Vice Chair Apisa: It's ten minutes.

Ms. Barzilai: You reached ten minutes.

Mr. Hurley: Ten minutes?

Ms. Barzilai: Mr. Hurley, sorry.

Mr. Hurley: I'll absolutely. I'll save my two minutes for rebuttal. Thank you very much.

Vice Chair Apisa: Thank you very much. So, now Meridian will give their presentation.

Ms. Laurel Loo: Thank you, Chair Apisa, and commissioners, Ms. Barzilai. Laurel Loo for Meridian Pacific. Mr. Hurley is right. We're all tired of hearing about this drainage plan. And the contested case hearing that was granted on this matter was to address whether Meridian should

do a complete drainage report or not. Now that Meridian has submitted a complete drainage report, that contested case hearing is moot. If the Commission approves of this drainage plan, then all that contested case hearing on whether we should submit a drainage plan or not is moot. So, we can cut this short, focus on the issues. The issue is the last remaining zoning requirement for Meridian is to submit a full drainage report. We have done that. And now it is up to your commissioners to approve or not that drainage report.

Vice Chair Apisa: Thank you.

Ms. Loo: Thank you.

Vice Chair Apisa: Any questions?

Ms. Barzilai: Perhaps the...

Mr. Hurley: (Inaudible) rebuttal.

Ms. Barzilai: Perhaps the Planning Department would like to...

Vice Chair Apisa: Yeah. The Planning Department will go first. I was just...

Mr. Hurley: (Inaudible).

Vice Chair Apisa: I was just questioning if there were questions. But yeah, I think we'll go with the Planning Department and then we'll have the rebuttal.

Mr. Chris Donahoe: Thank you Commissioners, Chair, Ms. Barzilai. Deputy County Attorney Chris Donahoe on behalf of the Planning Department. I'll be extremely brief. The Planning Department has reviewed the petition for intervention. The declarations, the exhibits that was filed, or submitted 12-7 as well as, Meridian Pacific's memo of op that was, I guess signed yesterday December 11<sup>th</sup>, regarding the issue of the petition, the Planning Department takes no position on the issue. So, we'll leave it up to the Commission. Thank you.

Vice Chair Apisa: Thank you. Two-minute rebuttal?

Ms. Barzilai: Yes.

Mr. Hurley: I don't think I'll use the full two minutes. So, you just heard that the county is not even opposing this, despite the fact that Mr. Hull signed it recommending that it be approved, that the drainage master plan be approved. I'd note that his signature was undated, kind of questioning when exactly it was signed. But I don't know. I'm not sure what else can be said. I don't think this will be moot. This will absolutely not be moot. I believe the contested case is on an - on a modification to Condition 26. There's been nothing filed to make this moot. Absolutely would not moot. And in fact, I would argue that the Planning Commission really doesn't have any jurisdiction here right now. I think this jurisdiction has been handed off to the contested case hearings officers when you guys made that decision. I see that county attorney's disagreeing with

me, which is fine. She's welcome to do that. I hope she files a memo stating why. I'm not sure why we're here again. And I'd also note that I don't believe they got their subdivision approval. And so, I think that this is not the last thing standing in the way of this project. I think there - there needs to be a subdivision approval as well. So, that's just false statement. This is not moot. This is absolutely not moot, and this is not the last discretionary permit they need to get. Let's slow down. Let's do it right. Let's follow the contested case hearings process. I'll leave it at that. Happy to answer any questions. I just know I may need to do some research 'cause we were not prepared to be here today. We were planning on being in Maui. So, if you have any questions, it may take a bit to get those answers for you. Thank you.

Vice Chair Apisa: Meridian, a two-minute rebuttal.

Ms. Loo: No rebuttal.

Vice Chair Apisa: Okay, the county?

Mr. Donahoe: Deputy County Attorney Chris Donahoe, no rebuttal based on the rebuttal and the non-rebuttal from...

Vice Chair Apisa: I guess if I could just ask a clarification question. He stated that you were agreeing with the request. So, just a little clarification on your position.

Mr. Donahoe: No, no position is different from no opposition.

Vice Chair Apisa: Okay.

Mr. Donahoe: It's up to the, it's really into the discretion of the....

Vice Chair Apisa: Okay.

Mr. Donahoe: ...commission.

Vice Chair Apisa: Thank you for clarifying that.

Mr. Donahoe: You're welcome, Chair.

Ms. Barzilai: Chair, now questions on the intervention would be appropriate if commissioners have questions to the parties on the intervention, the petition, and the opposition.

Vice Chair Apisa: Commissioners?

Ms. Barzilai: Any questions?

Vice Chair Apisa: We'll take questions from the Commissioners at this point.

Ms. Barzilai: If there are no questions, you can move on to a decision, or you may ask for an executive session at your discretion.

Ms. Streufert: I move that we go to executive session.

Ms. Cox: I second that.

Ms. Otsuka: I third.

Vice Chair Apisa: Okay. We have a motion on the floor to go into executive session. I think we can do a voice call.

Ms. Barzilai: We need roll call vote, Madam Chair.

Ms. Apisa: A roll call? Okay.

Ms. Barzilai: Motion to enter Executive Session. Commissioner Ako?

Mr. Ako: Aye.

Ms. Barzilai: Commissioner Cox?

Ms. Cox: Aye.

Ms. Barzilai: Commissioner Ornellas?

Mr. Ornellas: Aye.

Ms. Barzilai: Commissioner Otsuka?

Ms. Otsuka: Aye.

Ms. Barzilai: Commissioner Streufert?

Ms. Streufert: Aye.

Ms. Barzilai: Chair Apisa?

Vice Chair Apisa: Aye.

Ms. Barzilai: Motion carries, 7:0. Madam Chair, I have to have you please read the Notice to Enter Executive Session.

## **EXECUTIVE SESSION**

Vice Chair Apisa: Pursuant to Hawaii Revised Statutes Sections 92-4 and 92-5(a)(4), the purpose of this executive session is to consult with the County's legal counsel on questions, issues, status, and procedural matters. This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Commission and the County as they relate to the following matters:

Consideration of Master Drainage Plan for lands mauka of Poipu Road that was rezoned through the Moana Corporation Ordinance No. PM-31-79, relative to Condition No. 26 of Class IV Zoning Permit (Z-IV-2006-27), Use Permit (U-2006-26), and Project Development Use Permit (PDU-2006- 25), affecting a parcel identified as Tax Map Key: 2-8-014:032, Poipu, Kauai, and containing a total area of 27.886 acres = **Meridian Pacific (formerly Kiahuna Poipu Golf Resort, LLC.)**

Vice Chair Apisa: So, we will now enter Executive Session.

Ms. Barzilai: Thank you very much, everyone. We apologize. We have to ask you to leave the room. We'll be about 30 minutes for Executive Session. We'll check in if it's going to be longer and we appreciate your time.

Vice Chair Apisa: Thank you.

Commission went into Executive Session at 1:09 p.m.  
Commission returned to Open Session at 2:12 p.m.

Vice Chair Apisa: I'd like to reconvene the meeting and thank you all for sticking around. I'm sorry. It's been rather delayed today. It's been a long meeting. But this is very important, and we take it very seriously to heart. And our attorney would like to make a statement.

Ms. Barzilai: The Commission has asked me to make a statement. The Commission would like the public to know...

Woman: Louder, can you speak into the mic (inaudible).

Ms. Barzilai: Yes.

Woman: Thank you.

Ms. Barzilai: You guys can hear me?

Woman: Yeah, we can.

Ms. Barzilai: Okay, great. Thank you. The Commission would like the public to know that this is a two-part process. The first is the Commission's decision on the Petition for Intervention under the Commission's rules of Chapter 4. If the petition is granted, this meeting will conclude, and a contested case will be set. If it is denied, the Commission will move on to determine whether the Master Drainage Plan is compliant with Condition 26. That review process would be conducted in an open meeting where the public is highly encouraged to please stay and listen to that

process, which will involve discussion from the county and the applicant. At this time, there will be any last discussion or questions among the commissioners prior to a decision on the Petition for Intervention. Chair, if there's any discussion or questions that the commission have?

Vice Chair Apisa: Commissioners, questions, or discussion in general or...

Ms. Barzilai: On the intervention, which it would be...

Vice Chair Apisa: Yeah, right.

Ms. Barzilai: ...time to bring to a vote at this time.

Vice Chair Apisa: Our first decision here will be to allow or not allow the intervention. So, any questions regarding the first step, the first part?

Mr. Ako: I have a question, Madam Chair. I have a thing. I have a question for the...probably for mis- no, not the applicant, probably for Mr. Hurley, I believe.

Vice Chair Apisa: Oh.

Mr. Ako: Or for the Friends of Maha'ulepu.

Ms. Hammerquist: Probably thinking, how does a blind woman swim?

Mr. Hurley: Well.

Vice Chair Apisa: You get it (inaudible) quite well.

Ms. Hammerquist: Thanks for your patience.

Mr. Ako: Yeah. But thank you, too, because I mean, you know, I think there was a lot of discussion that we needed and some clarification. And there's a lot of things that I'm still yeah, it's not clarified real clearly in my mind anyway. But I know Mr. Hurley, when you first came the first thing you said was, "Why are we here?" You don't understand why we're here. And I'm trying to get some clarification on that also because I know that back in July, we did grant intervenor status to the group here, and what was that for? If you, let me just ask you or...

Ms. Hammerquist: Okay. I'll deal with that if I may 'cause I - we brought in pictures.

Mr. Hurley: Right here.

Ms. Hammerquist: Okay, great. Thank you. We brought pictures to you, you know, that showed the big culverts, the concrete culverts that are currently draining Wainani subdivision...

Mr. Ako: Right.

Ms. Hammerquist: ...the golf course, and the house lots onto the Pinkston parcel, the 28-acre parcel.

Mr. Ako: Yeah.

Ms. Hammerquist: It's not covered with concrete yet. It's, like, vegetated areas and dirt and rock. And so - and then but there - when they - those areas are drained onto, if there's excess, it goes into a makai side drain. And so, we said, this is a lot of water. And we gotta have help to make sure we do it right 'cause our beaches are at risk. You know, Waiohai, Po'ipū, Kāne'iouma 'cause that's what's downslope of this part. And we know we have a problem already in the parking lot flooding and a lot of flooding behind Brennecke and Kaua'i Road. And the engineers have been out to try to address it but not yet. They still have to come pump out the lot 'cause it gets too much water already. So, we were concerned that when they...

Mr. Ako: Yeah.

Ms. Hammerquist: ...put down concrete. So, then we said, it's a big issue.

Mr. Ako: Mm-hm.

Ms. Hammerquist: It's a big subject. And you apparently agreed with us and granted our request for a contested case so that we could bring proper experts before a judge and put out the issues that are...what modification was requested, we weren't clear on. We just know he wanted to modify. He didn't wanna do a comprehensive Master Drainage Plan. So that's what he asked in July, he wanted to modify. Now he came in with a Master Drainage Plan, but our hydrologist taught us that it doesn't include a comprehensive 'cause they didn't do an aggregate, they did individual. They just have diagrams and maps, but the maps don't tell you volume. They don't talk about the cumulative effect of all the drainage. And only four, or excuse me, six of the eight developments that are up there that were to be included, only six are part of this Master Drainage Plan. So, he said to us, "It's not a Master Drainage Plan, even for that reason, but for the others." So, when this came out, Master Drainage Plan, to us it's already in the contested case, yeah. So, we thought the most logical thing obviously they're trying to, they're not...they didn't come in and withdraw their Petition to Modify. That's never been withdrawn. They didn't withdraw the, that ask of you, instead that's going over here as the contested case already. It's been set for hearing the end of February. And then they came in with this. And so, it's, like, okay what happens when this Master Drainage Plan comes and this one is already underway? Didn't make sense so that's why I think our attorney said, you know.

Mr. Ako: Right. So, I guess our granting of the intervention was because there was a change or a modification request by the applicant.

Mr. Hurley: On Condition 26.

Mr. Ako: Right. On...

Mr. Hurley: To be clear.

Mr. Ako: On...

Mr. Hurley: To be clear they suggested...

Mr. Ako: On Condition 26.

Mr. Hurley: And I believe and as we noted they had, and it's...

Mr. Ako: Right.

Mr. Hurley: ...in our Petition to Intervene we have in Exhibit 2 is...

Mr. Ako: Right.

Mr. Hurley: ...their filings from the Circuit Court where they actually say complying with Condition 6 is impossible.

Ms. Hammerquist: 26.

Mr. Hurley: 26.

Mr. Ako: Yeah.

Mr. Hurley: And so that they came in to you folks to modify Condition 26. You granted us our intervention. We're going off to the contested case hearing. Now they're here before you saying, never mind. We can meet Condition 26. Here it is, approve it.

Mr. Ako: Correct.

Mr. Hurley: So that's what's...

Mr. Ako: Okay. So, subsequent to the granting of the intervention that went to then a Circuit Court...

Ms. Hammerquist: Yes.

Mr. Ako: ...that was dismissed...

Ms. Hammerquist: Yes.

Mr. Ako: ...by the circuit court.

Ms. Hammerquist: Yes.

Mr. Ako: So, in that case then from there as I understand it then it was the filing with the commission with a full drainage plan again. So, I guess to just to cut some time out. I guess what I'm trying to say is the intervention was granted initially because of the change in Condition 26. When that went to the court, and it was dismissed, and it was then refiled again with the commission...

Ms. Hammerquist: Well, that was...

Mr. Ako: ...at that time...

Ms. Hammerquist: Can - it was just...

Mr. Ako: ...now he's just complying with...

Mr. Hurley: So, to be clear though the Condition 26 contested case that was not dismissed. That had nothing to do with the contested case that was assigned by you folks.

Mr. Ako: Right. But your remedy was granted already because from the Commission's side standpoint, it was granted because to address the change in Condition 26, what a request for a change.

Ms. Hammerquist: That's right, that's right. We...

Mr. Ako: Right?

Ms. Hammerquist: We knew they wanted to modify.

Mr. Ako: Right.

Ms. Hammerquist: And we couldn't tell.

Mr. Ako: So, now that it's not modified and it's back, the question is whether it's a substantial plan or not.

Ms. Hammerquist: Whether it's a Master Drainage Plan.

Mr. Ako: Right? That he is actually just trying to comply with Condition 26 right now.

Ms. Hammerquist: Right. And I think our understanding is...

Mr. Ako: So, I'm kinda trying to figure out in my mind if we're granting intervention status because of the modification, your remedy was granted and he's doing it now. Why would we grant intervention again?

Ms. Hammerquist: Because it's the same problem. It's a big drainage issue.

Mr. Ako: Right. It's the...

Ms. Hammerquist: And, and...

Mr. Ako: ...substance of the plan, right?

Ms. Hammerquist: And...yes. And in addition, in looking at what they filed, right. It's just these plain maps, right. There's no narrative. There's no talk about the quantity of the water. There's no cumulative impact discussion. They aren't addressing the drainage that's already occurring in the Po'ipū parking lot, yeah. They aren't talking about what they're gonna do to make sure that doesn't happen. And as Matt Rosner pointed out in his declaration, he's with North Shore Hydrology, works with the Waipa (inaudible) and a lot of water projects on Kaua'i, and he said, "Look, there's no cumulative, and they aren't even saying where the water's gonna go." So, if you don't know where the water's gonna go, and you've got this coastline that's already at risk from too much water collecting, and Aqua Engineers has to come in after storms and pump out the areas that get pooled, I mean we had a car floating in that parking lot.

Mr. Ako: Yeah. Would that not be part of the review and approval process that the Commission would undertake?

Ms. Hammerquist: If the commission were, I think the same reason the commission didn't take on the request for modification because they're not, I mean fairness to you guys they're not, none of us are hydrologists, right? We don't really understand the quantities involved. I mean I studied a little bit about the issue of the quantities of water when we worked on the potential dairy in Māhā'ulepū 'cause there was an issue about all the waste on the ground, the cow poop and how much when it rains, how much water hits the ground. So how much risk is there for runoff into Māhā'ulepū Bay, right? So that's when I learned that one inch of rain in an hour may, excuse me, One inch of rain on one acre makes 27,000 gallons of water. And once you multiply that by the number of acres it's 760,000 gallons of water just from the Pinkston parcel. Then there's all those gallons from Wainani from what is covered up because the ground isn't there to absorb it anymore. He's gonna cover the 28 acres with condos 280 condos. So that ground won't be there to absorb water anymore. He put rock, those three culverts that came from those three different developments onto his parcel. They're now covered in small rock. They dropped rock on it. And we've got, you know, photographs of that. So, that whole collection of water then where is it gonna go? And that's what the biggest thing, I think one of the biggest things our hydrologist taught us is, you still don't know what the cumulative impact is of all the developments, and you're supposed to know. That's the idea of a Master Drainage Plan, you're supposed to know what the cumulative impact is. And you don't know where the water's going. And so, in fairness to you we brought a petition to bring this into the administrative process with a judge so that we could put on the experts because how can anybody decide? How can any of us decide where that collective cumulative water, what it's gonna be, volume and where it's gonna go?

Mr. Ako: Yeah.

Ms. Hammerquist: However, any of us...

Mr. Ako: And perhaps that could be part of this process here.

Mr. Hurley: So, I don't wanna get too far askew here...

Mr. Ako: Yeah.

Mr. Hurley: ...folks. We have a valid petition to intervene in our belief, right. There's a standard for intervention.

Mr. Ako: Yeah.

Mr. Hurley: And it is our belief that we have met that standard as we did with the first standard for intervention. And given the untimeliness of the filings here today, we believe it is our right to be granted intervention. We think that this intervention should be consolidated with the already existing intervention, and we should do this in the contested case hearing. But the reality is - is we believe and in our petition to intervene we believe is properly filed. It contains declarations. We are asserting valid rights to assert our right to, we should be granted intervention. And just so I think that is the reality of it is we have a legal right to intervene. And then we can get into the details once our intervention is granted, but it is our belief that we have met all the standards required under the Kaua'i planning rules to be granted intervention, as well as under Chapter 91, HRS Chapter 91, regulating contested case hearings, and we would like to follow that process. We do not believe that this is a separate issue. We believe that the Commission has already taken on Condition 26. We believe that you folks have handed it off to the Hearings Officers. We're ready to go. Out of an abundance of caution, we filed a second Petition to Intervene. Both are valid. We still have rights, both cases. We should be granted intervention. Especially given the untimeliness of the filings here today. The fact that it was impossible for us to timely file an intervention means that anybody who was filed for intervention should probably be granted intervention. So, I think I don't want to get down into the actual drainage. Ms...Bridget raises a number of very, very valid points about this, which is why we need to go before a Hearings Officer, bring our witnesses, allow for cross-examination. I think that there's probably going to be some discovery. We're going to need some evidence. We're going to need to see how we got here. Those are the part of the contested case process, that needs to be worked out. So, I think that's where we are right now, is we're talking about intervention here. We don't need to be. We could be talking to our Hearings Officer aside, moving forward. The applicant here has filed another Condition 26 application bringing it before you, so that's why we're here. So, I think the reality is, is we deserve and should be properly granted intervention, and then we proceed from there.

Vice Chair Apisa: Okay. Thank you.

Mr. Ako: Thank you.

Vice Chair Apisa: Thank you.

Ms. Hammerquist: Thank you.

Mr. Hurley: Do you have questions about that?

Ms. Barzilai: Any questions, Chair? Any questions?

Vice Chair Apisa: I would like to hear from the applicant.

Ms. Barzilai: Are there specific questions right now? Because we'll have to make a decision on the intervention. Is there anything you'd like to hear in rebuttal to Mr. Hurley's discussion at this time or any other (inaudible)?

Vice Chair Apisa: Would this be an appropriate time to ask for her timeline?

Ms. Barzilai: Yes.

Vice Chair Apisa: I'd like to hear from Laurel Loo. And just, there's so much talk about this rush job, is there a timeline? I mean, when was this submitted? Or do you, could you address that since you really didn't have a rebuttal?

Ms. Loo: Yes, Laurel Loo for Meridian Pacific. There was a lot of discussion on how can a drainage report be submitted on one day and approved by the next. That did not happen. If it did, I wouldn't have a job. Our engineer from Esaki, who's also here, Esaki's is here, first started working on the final complete drainage report back in June when we started to gather information, so there has been a back and forth with Public Works on the contents of the drainage report since June. August, there was a back and forth with the Public Works, several times in August, several times in June on what the County wanted in the full Master Drainage Plan. I have six pages of documentation of all the back and forth between Public Works and Esaki.

Vice Chair Apisa: So, you actually started this six months ago?

Ms. Loo: We started six months ago. And when the final drainage report, when we felt we had enough to call it a Master Drainage Plan, the County asked us to date it. So, we dated it December 5, the day we turned it in. But there had been six months of back and forth with Esaki's and Public Works. So, typically developers will work with the agencies on giving information that the County has requested, and this would have been information that would be available if we were going to have a Contested Case Hearing on the matter.

Vice Chair Apisa: Okay.

Ms. Loo: But, you know, we're saying that now that we have a final drainage plan, it's time for the Planning Commission to decide whether to accept it or not.

Vice Chair Apisa: Okay. Do the Commissioners have any further questions of Ms. Loo? All right, thank you very much.

Ms. Loo: Okay. You're welcome.

Ms. Barzilai: At this time, Chair, a decision or a final discussion and a decision, a motion, is appropriate.

Mr. Hurley: Chair, might I ask for a rebuttal?

Vice Chair Apisa: Well, that was a question. I...

Mr. Hurley: And I think we have done a (inaudible) Request at UIPA with the Public Works Department, and we've received none of these communications that were just referenced.

Ms. Hammerquist: We were told there was none.

Mr. Hurley: We were told there was none, so I think there's another problem that we've just discovered. When we have several UIPA requests out of the Department of Public Works, and we have seen, had no idea this was going on. So, why were those documents not produced properly to us? Obviously, that's something that the Public Works...

Vice Chair Apisa: All right, I think Ms. Loo will address this.

Ms. Loo: (Inaudible) Esaki's (inaudible).

Mr. Hurley: But, if they had communications with the Department of Public Works, their government records should have been produced to us under our UIPA Request.

Ms. Barzilai: At this time, Chair, a legal decision on the petition has to be made before we can move any further with the matter.

Vice Chair Apisa: Okay. All right.

Ms. Barzilai: So, I would recommend that you entertain a motion or ask for any further discussion.

Vice Chair Apisa: All right, I would, if the commissioners have no further discussion, it's time to entertain a motion, regarding the status of the intervention request.

Mr. Ako: Okay. Oh, man. Okay. I'll take the position that, I move regarding the Petition to Intervene, that the petition of the Friends of Māhā'ulepū and Save Koloa to intervene regarding the Master Drainage Plan, Regarding Permit - Class IV Zoning Permit C-IV-2006-27, Use Permit U-2006-26, and Project Development Use Permit PDU-206-25, Regarding Condition 26, be denied.

Vice Chair Apisa: Do we have a second?

Ms. Streufert: Second.

Vice Chair Apisa: We have a motion on the floor. Is there any discussion?

Ms. Cox: Yeah, I guess I would just like to say that I resonate, I guess, very strongly with the need and the requirement, legally, for a clean and healthful environment. My concern, or my yeah, I guess it's my concern, is that should, that responsibility has to be met, no matter who meets it. And I'm not sure that Friends of Māhā'ulepū are trying, are the appropriate, that they've distinguished themselves from the general public. I think that as a general public, it's really important that we look at this. But that's the substance rather than the intervention. So, I know we're looking at intervention right now, but I just wanted to make a statement of that's, I completely understand and hear the need to make sure that we are protecting our environment.

Vice Chair Apisa: Right. And I think there's a pretty common agreement with that. So, we have a motion on the floor. Are we ready to take a roll call vote?

Mr. Ako: Ms. Chair, if I can just add a few more of my comments, I guess, in here.

Vice Chair Apisa: Yeah. Sure.

Mr. Ako: I think when I look at this here, and you know, I think. I mean, I'm going to say it for whatever it means. You know, I think we heard a lot of discussion that came out today regarding the drainage plan and what's going on up in that Po'ipū area there. And I think in my mind that by not allowing the intervention, does not mean that, for me, I didn't hear what was said. And I think from here, as we move forward, if there is no intervention and there is a review and approval process, and I think this is where we need to flush everything out. I mean, to find out about the dates, about the filing and all of this, and the actual impact of the drainage plan, and what it has on the heiau, and what it has on the property below that, yeah. So, I don't think it's something that means that, for me anyway, I don't think it's something that we ignore. It's just something that we take up during the review and the approval process that we have should it come forward.

Vice Chair Apisa: Roll call vote, please.

Ms. Barzilai: Chair, roll call. Motion to deny. Petition to Intervene. Commissioner Ako?

Mr. Ako: Aye.

Ms. Barzilai: Commissioner Cox?

Ms. Cox: Aye.

Ms. Barzilai: Commissioner Ornellas?

Mr. Ornellas: Aye.

Ms. Barzilai: Commissioner Otsuka?

Ms. Otsuka: Aye.

Ms. Barzilai: Commissioner Streufert?

Ms. Streufert: Aye.

Ms. Barzilai: Chair Apisa?

Vice Chair Apisa: Aye.

Mr. Barzilai: Motion carries. 7:0. Intervention is denied, and we can move on to the substance of the Master Drainage Plan. The public is very welcome to attend. There are no further comments accepted.

Mr. Hurley: We'd like a reason for denial. Can we make sure that's included?

Ms. Barzilai: This will all be stated in the Findings of Fact and Conclusion of...

Mr. Hurley: We are going to appeal. We are going to appeal.

Ms. Barzilai: It will all be stated in the Findings of Fact and Conclusion of Law.

Mr. Hurley: Just make sure a reason for denial is included, so we can appeal (inaudible).

Vice Chair Apisa: And yes...

Ms. Barzilai: Yes, it will. Every order of the Commission includes Findings of Fact and Conclusion of Law.

Vice Chair Apisa: So, I do invite everyone to please stay though for the substance on the draining plan. We've only concluded the phase, part one of this. So, we will now go into part two on the substance on the drainage plan.

Ms. Barzilai: At this time our Clerk can re-enter the process.

Mr. Hull: Thank you, Chair.

Vice Chair Apisa: We will continue now a presentation from the applicant. And then again from Friends.

Ms. Barzilai: No, not from Friends, Chair.

Vice Chair Apisa: I'm sorry. Yeah, we would like to have a present, further questions and presentation from the Petitioner.

Ms. Barzilai: At this point...

Vice Chair Apisa: Not the petitioner, of the - I'm getting all confused here.

Ms. Barzilai: At this time, Madam Chair, I think what you are looking at is a presentation from the applicant and the applicant's engineer. And if you would like to speak with the County's engineer or whomever reviewed the plan, you would have to ask that party to come in.

Vice Chair Apisa: Yes...

Ms. Barzilai: I think that Mr. Hull can assist you with that.

Vice Chair Apisa: We want to have a substance, information on the substance of this and that would be...

Ms. Barzilai: You are at the stage now under Condition 26...

Vice Chair Apisa: Laurel?

Ms. Barzilai: ...of review and approval or denial of the Master Drainage Plan.

Vice Chair Apisa: So, now we're getting into the substance of the actual drainage plan.

Ms. Loo: Okay, thank you. Laurel Loo for Meridian Pacific. Obviously, I'm not an engineer. Mr. Pinkston, the principal of Meridian Pacific, commissioned with Esaki to complete a Master Drainage Plan, as required by Condition 26. Esaki's worked with the County or, and actually all probably almost every engineer on the island, and in the State, who touched this area for, drainage studies in the past couple of decades, put together what they felt was a appropriate Master Drainage Plan, again, I'm not an engineer. The Master Drainage Plan concludes that this development does not increase any runoff, and in fact, decreases it, I'm gathering due to the detention basins that will be on the property. The engineers met with Mr. Moule or his office, who approved the final drainage plan dated December 5, 2023.

Vice Chair Apisa: Commissioners, do you have questions?

Ms. Streufert: I have a couple of questions if I could.

Mr. Hull: I believe, Laurel, you folks have your engineer here to answer any questions about the actual plan.

Vice Chair Apisa: Yeah, I would like to hear from the County engineer, but I...

Mr. Hull: No, no, so sorry, sorry, Chair.

Vice Chair Apisa: Oh, you mean...

Ms. Loo: We don't have our engineer who, we had availability earlier today, but we don't have an engineer standing by now.

Ms. Barzilai: I don't see how the Commission can reach a decision without a technical expert, at this point.

Ms. Loo: We were understand, we were hoping that Mr. Moule as a more neutral party would be the one who would be stating his acceptance of it.

Ms. Otsuka: Can we ask him?

Mr. Hull: Michael Moule is aware of what's occurring and is available for questions, but I would have to say it's a little concerning that the author of the study is not here.

Ms. Cox: Yeah.

Ms. Loo: We do have somebody from Esaki. She worked on the drainage plan. Mr. Wada was a primary author.

Ms. Maren Arismendez-Herrera: Correct. It's signed by Wayne Wada.

Mr. Hull: You've gotta approach the...

Ms. Arismendez-Herrera: Oh, good afternoon, Commission. My name is Maren Arismendez-Herrera, here on behalf of Esaki Surveying. Our office prepared the drainage report, but it was signed by our head engineer, Wayne Wada. So, I don't know if it would be more prudent to have Mr. Wada here, or if I could possibly answer some questions, to the best of my ability.

Vice Chair Apisa: Well, since you're present, we could start and see how far we get.

Ms. Streufert: What was your involvement in the study?

Ms. Arismendez-Herrera: In the study, it was done by Brandon Fujishige and Wayne Wada. So, I'm here representing the office. I am the person that usually comes to the Planning Commission meetings.

Ms. Streufert: But did you have anything to do with the study?

Ms. Arismendez-Herrera: Not with the study itself. That's why I was offering to, maybe be more prudent, to have Mr. Wayne Wada.

Vice Chair Apisa: Is he available?

Ms. Arismendez-Herrera: We can try and get him, if time allows. I have read the drainage report. I don't know if there's...

Mr. Hull: I'll be honest, it's really at the discretion of the commission. There is, Michael Moule is available. He is not the applicant here.

Ms. Cox: Right.

Ms. Arismendez-Herrerra: Right.

Mr. Hull: He did, I believe, and you know...

Ms. Arismendez-Herrerra: So...

Mr. Hull: ...I'm not an engineer. There's not a single engineer on my staff. I don't think anybody here is a certified engineer.

Ms. Arismendez-Herrerra: Or maybe...

Mr. Hull: ...we did have Michael Moule review it and basically from the Department's standpoint ultimately the Planning Commission has the final authority on this Condition. But from the Planning Department's standpoint the Condition is not a standard Condition. Based on applications, it was a very strange Condition to be placed, that the final review is this body being that told its associated department, the Planning Department, nor any requirements of any Commissioners being there. But it's a hard and fast requirement, so it's there. So, our position is always to look at the third party, neutral office to review it and give their comments, and generally align ourselves with the sister agency that's responsible for this. But again, I'll say Michael Moule is not the applicant.

Ms. Loo: Mr. Wada is on his way, so I'm begging the Commission's indulgence if you wanted to ask Mr. Moule questions, I understand he's standing by, but Mr. Wada's office is in Puhii, so he's already on his way.

Vice Chair Apisa: So, we have further questions then for Laurel or either party here?

Mr. Hull: I would say that I...

Ms. Arismendez-Herrerra: To add, just add that to clarify, usually drainage reports are reviewed and approved, and we go back and forth with County engineers, so we were not expecting to have this detailed discussion of the report itself. That's why I was sent as representative of the office, but Wayne will be here to answer your questions.

Ms. Streufert: Could I ask a couple of questions? And I think this would go to Ms. Loo. On page 12, there are, oh, I'm sorry, page 12 of the Master Drainage Plan. There's paragraph 3, last sentence, "As drainage improvements may also include the construction of bioswales and/or a proposed park, a green space, which could serve as a detention base, for this area." That being the case, it sounds like it may or may not, and I'm not sure what that means. Would that be significant?

Ms. Loo: I was involved in why that question was posed and that would serve as a guideline for the County when it reviewed further drainage plans for other applicants in the region, because that suggestion is on property not owned by the applicant.

Ms. Streufert: This is, it's located in TMK 42-8-17, parcels 13, 14, and 24.

Ms. Loo: So, that was listed as an option as to where other areas in the region could serve as additional drainage areas. That is not land owned by the applicant, but we were asked to review where it would be possible to place other drainage for the region.

Vice Chair Apisa: What is the likelihood of that happening since it's not owned by the applicant?

Ms. Loo: We were asked to suggest alternatives or options in the area.

Vice Chair Apisa: Commissioners, questions?

Ms. Barzilai: At this time, it might be a good idea to ask Michael Moule from Engineering to come.

Ms. Cox: Yeah.

Vice Chair Apisa: Yeah, yeah, maybe we could hear from Michael and that way your engineer would be here.

Ms. Loo: Okay.

Vice Chair Apisa: Is Michael around?

Mr. Hull: I can call him. You guys want to take a five-minute recess?

Vice Chair Apisa: We'll take a five-minute recess, and we'll see if Michael Moule is available as the County engineer. And then maybe the Esaki engineer would be here. So, we'll take a five-minute break.

Commission went into recess at 2:53 p.m.  
Commission reconvened from recess at 3:02 p.m.

Vice Chair Apisa: (Inaudible) and I'd like to call up the applicant and the engineer at this time.

Mr. Hull: Before we start, I know that there's been tensions running fairly high on this agenda item and while we understand that there are frustrations and there are emotions connected to the application, this is not a place to show threatening acts or acts of hostility in either direction. Any further actions of that we will be closing the meeting, asking those individual or individuals to be to leave the premises and if not, we will have the police department remove said individuals. So, please, understanding that frustrations and emotions are running high, please control some level of decorum. Thank you.

Vice Chair Apisa: Thank you, Ka'aina.

Ms. Loo: Thank you. Laurel Loo for Meridian Pacific and with me is Wayne Wada, who is the engineer who authored the Master Drainage Study.

Vice Chair Apisa: Okay, I believe Commissioners have questions for you, Mr. Wada.

Mr. Wayne Wada: Okay.

Vice Chair Apisa: Commissioners?

Ms. Streufert: One of the major...

Vice Chair Apisa: Speak into your mic, clearly. Thank you.

Ms. Streufert: One of the major bones of contention is really the timeline. There's a lot of information, misinformation, disinformation out there that says that this was all done within one day. It was approved or reviewed and approved by two departments in one day, and it was put on the agenda the following day. Could you clarify what the timeline is for the development of this Master Drainage Plan?

Mr. Wada: I don't know exactly the dates, but it was sometime in June or July that we started it. And originally, we started the drainage plan with only...

Woman: Louder.

Mr. Wada: ...we started the drainage plan considering only Kauanoe, and we submitted it to Public Works, and they asked us to do the drainage plan for the whole petition area. So, with this, we started in June or July. I'm not sure exactly when, and we ended up in December. So, we went through about three or four iterations of reviews.

Ms. Streufert: So, this was not a rush job that was just done in one day.

Mr. Wada: No.

Ms. Streufert: Thank you.

Vice Chair Apisa: Further questions, Commissioners?

Ms. Cox: I have a question because I'm not an engineer, but it would seem to me that the idea of seeing what amounts of water on each parcel, but not aggregating it would not give you a total sense of the water that we're talking about. Can you talk about why there's no aggregation?

Mr. Wada: This plan, I guess the Master Drainage Plan, was, has to be done after several of the projects already got started. So, I think it was Project 1, 2, 3, 4 and 5. It says Po'ipū Beach Estates, Royal Palms, Pili Mai, Kauanoe and Wainani. So, they all started before we started this

Master Drainage Plan, yeah. So, each one got approved separately, and each one has its own detention basin, which takes care of the additional flow, the increasing flow of water, the drainage. And that's on the west side of Kiahuna Plantation Road. On the east side, it was a Knudsen 50-lot subdivision, in which was kind of done and really not approved yet. Not finalized, I mean. But it was done, and there was a detention basin put on that, for that project. The rest of the areas west of Kiahuna Plantation Drive, were not developed yet. So, that's the area that we looked into for future improvements or future detention basins.

Ms. Cox: Thank you.

Mr. Ako: Mr. Wada, thank you for coming on such short notice, yeah. I'm gonna be as honest as I can be. I have no idea how drainage plans work. Can you give us an idea about when you put a plan together, about how long does it take, what do you consider, and what are we looking at? I mean, looking at like, I see a two-year, 24-hour storm, that 10-year, 24-hour storm. Is that what this whole thing is about, trying to catch water when there's major storms that are coming down? Or is this an everyday thing? I guess I'm just trying to figure out, what's a drainage plan?

Mr. Wada: I guess for any big development, we need to look at how much the increase in flow is from the different storms. And when we...

Mr. Ako: We're looking at, like, I see the words pre-development and post-development.

Mr. Wada: Yes, so pre-development is before any development takes place. So that's what we calculate the pre-development flow, the rainfall and runoff, and after it theoretically gets developed, we look at the post-development flow, and we're supposed to keep the post-development flow equal to the pre-development flows or less. So, what we do to take care of that, we put in detention basins or retention basins to take care of the increase in flows.

Mr. Ako: That would be like when it just rains or are we talking about like when there's a big rain like the two-year, 24-hour, that's got to be a standard, I'm thinking.

Mr. Wada: Yeah.

Mr. Ako: A 24-hour rain.

Mr. Wada: The standard calls for two 100-year storms, so we look at those two storms.

Mr. Ornellas: I'm assuming of course we're talking about surface water. Does the plan address groundwater movement, as well?

Mr. Wada: No, it doesn't address groundwater.

Ms. Streufert: When you have a post-development, I can understand pre-development, obviously, it's what it is right now. Post-development would also indicate that there are a lot of covered areas, either with concrete, gravel, roofs, buildings. Is that what you mean by post-development?

Mr. Wada: Yeah. Yes, that's correct.

Ms. Streufert: And how does that - how does that figure into it? Because it's - it would pool in different areas as opposed to come straight down on - and be distributed over a whole acre. Now you're going to be - it's going to be channeled, if you will, into certain areas. I presume there are going to be gutters and things like that. How do you take care - how does that figure into your Master Drainage Plan?

Mr. Wada: I guess the Master Drainage Plan is overall, yeah, so each individual project has its areas that's going to be developed. We put in underground drainage systems, catch basins, and stuff and redirect it to a more centralized area where we can detain the water.

Ms. Streufert: Is that your retention basin?

Mr. Wada: Yeah, that's a retention, detention basins.

Ms. Streufert: Is there a difference between retention and detention?

Mr. Wada: Yeah, retention stores all the increase. Detention just detains the increase in flow to maintain it the same way as pre-development.

Ms. Streufert: So, pre-development, its detention, and post-development, it's retention?

Mr. Wada: No, detention and retention is two different things, yeah. Retention retains the water. Detention just keeps the flow the same. The outflow of the - from a detention basin keeps it the same as pre-development.

Ms. Streufert: And if the water is retained, where does it go?

Mr. Wada: Eventually it only retains the increase in flow, it doesn't increase, retain the existing flows, yeah, the post-pre-development flows.

Ms. Streufert: I guess I'm totally ignorant on how these kinds of things work. So, therefore my questions, 'cause I'm trying to understand how this all works. And you said it's based upon two hundred-year storms? Is that...

Mr. Wada: On two-year and a hundred-year.

Ms. Streufert: Two-year and a hundred-year storms?

Mr. Wada: Yes, two different storms, yeah.

Ms. Streufert: And that's both calculated in here?

Mr. Wada: Yeah.

Ms. Streufert: Okay, thank you.

Mr. Ornellas: So, Mr. Wada, how permeable is that area?

Mr. Wada: It's not too permeable because there's rocks underlying the area.

Mr. Ako: Mr. Wada, I feel like I'm in elementary school again. Trying to figure this thing out here, you get this retention basins that I guess when the water comes in, it gathers there. From there, what happens? I mean, these are literally just, what, grassy areas.

Mr. Wada: Yeah, and there's a, it goes to a pond-like, and there's pipes coming out of the pond. And the size of the pipes controls how much water goes out. So, the size of the pipes we size it to release the pre-development flows.

Mr. Ako: And where does that flow go?

Mr. Wada: It goes where the normal flow was going.

Mr. Ako: Meaning what? On, like, on the streets? Or is there, like, a culvert, that it goes in a culvert?

Mr. Wada: It depends on where it is. It goes to a low area, and it eventually goes to a culvert, yeah.

Mr. Ako: Eventually to a culvert, and the culvert ends up...

Mr. Wada: Depends on where it goes. It...the culvert is to drain the low areas...

Mr. Ako: Right.

Mr. Wada: So eventually goes out to the ocean.

Mr. Ako: Out to the ocean.

Mr. Wada: Yeah.

Mr. Ako: Did you do any studies regarding the heiau itself as part of the plan?

Mr. Wada: Not a study, but we know where it is...

Mr. Ako: Yeah.

Mr. Wada: And we made suggestions on how to keep it from flooding more than it already is flooding.

Mr. Ako: I know it's, like, a part of the Master Plan. There was mentioning that a lot of the water they're thinking, or they're surmising is coming from that Weliweli subdivision above.

Mr. Wada: Yeah. Yes, some of the water is coming some of that water there.

Mr. Ako: Some of that water is coming down. Now that is, I'm gonna say north, and you get the heiau down by the ocean, but this project that we have here this, the applicant that we have, he's kind of like right in between, so, would it be, would they be catching some of that water, too? That would be stopping it from going to the heiau?

Mr. Wada: We suggested that they, we don't own that property, yeah, so it's going to be a Knudsen, so in the report we suggested that they do a detention, or detention basin park that would retain some of the existing folks on that subdivision, yeah. Because when that subdivision was built...

Mr. Ako: So, the Knudsen one - subdivision you're talking about is the one with the - is that part of, like, I see on the map, Tapa Street?

Mr. Wada: Yeah, I'm not sure exactly what you're looking at, yeah, but yeah, it's an existing subdivision that was done before detention basins were required, yeah.

Mr. Ako: Uh-huh. And part, I guess, of your recommendation was also to have that tax map key of, I don't know, the 218, 4, Portion 19, I think, this one right above, I think of the heiau, so that they could enlarge their basin.

Mr. Wada: Yeah, they don't have a basin right now because it's not developed yet...

Mr. Ako: Correct.

Mr. Wada: ...but when they develop it, I think that area is zone open, so we were suggesting in the report that that zone, open zone be used for the detention basin park.

Mr. Ako: So, to protect this heiau here, I don't know if there's gonna be more water coming in there or less water coming in when you have developments in there, but - and I know you only have jurisdiction over your development, yeah, each one, but the study is the Master Plan that has been developed, encompasses all of the developments out there. Whose responsibility is it to ensure that as developments begin to pick up, more water will be coming down, and whose responsibility is it to make sure that the water doesn't reach the heiau?

Mr. Wada: I'm pretty sure that the water is going to reach the heiau, but it's going to be detained, yeah. So, it's going to only be the existing flows that's already going there now, and Public Works is the one that's going to be looking at the design of the detention - future detention basins to make sure that they're only letting the pre-development flows to the heiau.

Mr. Ako: And that's why I think part of the report says that there should be no effect...

Mr. Wada: Yeah.

Mr. Ako: ...from the development plan.

Ms. Streufert: Are you saying there would be no additional effects, or would it be the same effect that we have now regardless of...

Mr. Wada: According to the County Standards, there would be, whatever is going on now is allowed, yeah. And we only, the developers should look at only the increase in flow.

Ms. Streufert: So, you're, it's going to be the same as what it is now?

Mr. Wada: It's supposed to be, yes.

Mr. Ako: Mr. Wada, if there's more water we're expecting to come down, where is that water going?

Mr. Wada: It's going to be detained in the detention basin, and it's going to be let out at a rate that's existing, controlled by the pipes, yeah, that comes out of the detention basin.

Mr. Ako: And eventually going out to the ocean, yeah? Like, eventually.

Mr. Wada: Yeah.

Mr. Ako: But diverted away from the heiau?

Mr. Wada: No, it's still going to the same place where it's going to now. It's just that the water is going to be detained for a longer period of time, yeah. But the flow will still remain the same.

Mr. Ako: Oh, so we're going to let the water out at a certain pace, is that what it is?

Mr. Wada: Right. At a certain rate.

Mr. Ako: At a certain rate that the water flows...

Mr. Wada: The same rate that it - stays the same.

Mr. Ako: ...so the same amount of water that's in the heiau, will still be there...

Mr. Wada: Yes.

Mr. Ako: ...but they'll experience it for a longer period of time.

Mr. Wada: Correct.

Mr. Ako: Okay. Got it. So, there will be an effect then.

Ms. Cox: So, then this...yeah.

Mr. Ako: Right?

Mr. Wada: Yeah. The only way you can change it is you do a retention basin. It retains all the increasing flow.

Mr. Ako: That just retains it. Can that water not be diverted somewhere else? No?

Mr. Wada: Say it again.

Mr. Ako: Can that water be diverted, I guess, away from the heiau?

Mr. Wada: We didn't look.

Mr. Ako: If it's coming through culverts?

Mr. Wada: We didn't look beyond the culverts, yeah. But everything, almost anything can be done. You can put extra culverts and stuff, I'm not sure if that's the most practical thing.

Mr. Ornellas: Mr. Wada, one of the comments we heard today was that the plan was put together in pieces. In other words, you mentioned earlier in your comments those five developments that already have been built. So, you looked at each, the discharge from each of those developments and then drew your conclusions from that?

Mr. Wada: It was already approved and designed and constructed, most of them, yeah.

Mr. Ornellas: Yeah, so...

Mr. Wada: So, we just looked at what was approved. We didn't do anything more to what was already approved. Yeah, because we cannot change it.

Mr. Ornellas: Then you had to combine the complete, I mean...

Mr. Wada: Yeah.

Mr. Ornellas: ...the flow from each of those. You kinda knew what the water flow was from each of them.

Mr. Wada: Yeah, we didn't look at the total. We just looked at what was already approved and said we cannot do anything more to what was already approved, yeah.

Mr. Ornellas: And one of those did not have a detention basin. Is that correct? One of the early, subdivisions?

Mr. Wada: Well, this wasn't in our study, but yeah, that's an existing subdivision that was built before detention bases were required.

Mr. Ornellas: Thank you.

Mr. Ako: There was also some claims about there's a fishpond down there...

Mr. Wada: Yeah.

Mr. Ako: ...by the heiau. And that there was some stagnant water there. Do you know, or are you familiar about how it became from stagnant to a free-flowing freshwater pond? Do you know if it's from the development up on the upside, or...

Mr. Wada: I think you've got to consult a geologist.

Mr. Ako: Somebody else?

Mr. Wada: Yeah, because it's underground water.

Vice Chair Apisa: Are there any other questions? I'm looking to see if anyone has more questions. If not, are you thinking about it, Helen?

Ms. Cox: Yeah, I'm thinking about it. It seems like the issue is larger than that your study and the actual property is only part of the issue. Your study was larger than that, but even the study doesn't include, for example, the Weliweli water that's coming down. So, is it fair to say that actually we don't know what the impact on the heiau is or will be?

Mr. Wada: Yeah, I'm not sure because there must be groundwater.

Ms. Cox: Yeah, I was just going to say that, especially since we're not looking at groundwater, as well.

Mr. Wada: Yeah.

Mr. Ako: So, everything we're looking at in a drainage plan is theoretical, yeah?

Mr. Wada: Correct.

Mr. Ako: We're just kind of assuming that this much rain going to come down over this period of time, and if we do this, then - yeah.

Mr. Wada: Yeah, rainfall is too radical. You cannot predict it, yeah.

Ms. Cox: Did, it is theoretical, and this would be even more theoretical, but did you take into account the changes from climate change? The fact that we expect more, frequent, or more stronger rain events?

Mr. Wada: No, because we only looked at what's in the standard, yeah.

Ms. Cox: Okay.

Mr. Wada: So, it's a 100-year storm and a two-year storm.

Ms. Cox: Yeah, which may happen every two years now, but yeah.

Mr. Wada: Right.

Vice Chair Apisa: Okay, no further questions at this time. But maybe stick around for a little bit more just in case they have more questions. Thank you for your time. There was talk earlier about talking to the County engineer. Is there still a desire to talk with him?

Ms. Streufert: Yes, please.

Ms. Cox: Yes.

Mr. Hull: Oh, sorry, Mike, you can approach the microphone, sorry.

Mr. Michael Moule: Good afternoon, Chair, members of the Commission. I'm Michael Moule. I'm the Chief of the Engineering Division.

Vice Chair Apisa: Thank you.

Mr. Moule: Correction there, I'm not the County engineer, that's my boss, who's the head of all the Public Works.

Vice Chair Apisa: Oh okay.

Mr. Moule: It's fine. It's a very common misconception. But it's my office that does the review of private development for grading and drainage issues.

Vice Chair Apisa: Thank you. And I guess just as we've discussed already, but...and I think we've gotten the answer, but just to repeat it, I mean, it's been a big point here that this was done overnight, but basically, it has been going on for six months, or if you want to just kind of clarify that in your words.

Mr. Moule: Yeah. Yeah, so I heard, I have been paying attention and watching the meeting online, so I'm familiar with what's been discussed today, and there was earlier mentions of things starting back in June. So yeah, back then there were discussions about it, and there was a very, very simple draft submitted to us that we simply said this is not sufficient even to review, just take this back and do something a little more, and we talked and had subsequent meetings with Mr. Wada to discuss what we would want to see for this situation. Because the challenge that we're in in general, as you heard from Mr. Wada a moment ago, is that a Master Drainage Plan isn't something you can really do in the normal way when you have land that's already been developed. So, when this was called for back in 2006 by Planning Commission, as I understand

it, in that condition, most of the land that was rezoned under the earlier rezoning, hadn't yet been developed. And so, you could do a Master Drainage Plan and say all these folks do this. But since that time, three of six or seven areas that were rezoned had been developed and two more of those, including the petitioner's property, have already been designed with, and at least in one of those cases, the petitioners included had the normal small individual drainage plan drafted and reviewed and approved by us. So, we had to come up with a way to meet the condition, because the condition's there, and unless it was changed or vacated, it needed to be met, so, I worked with Mr. Wada to figure that out. And so, we said, "Well, summarize the reports that have already been done for the areas that have been developed or where there's already been study, and then do some analysis of potential theoretical changes in runoff with development in the areas that have not yet been studied, and let me correct something, there's actually four have been built, effectively, not three. Four of the four projects have been built within the area that I can think of. I said three earlier. So, getting back to what I was saying, so, that was what we decided to have them do to give us something that we could review, and analyze, and provide something for you to then look at, because that was required by the Commissioner for you to review and approve the Master Drainage Plan. And so, the first draft of the complete Master Drainage Plan was submitted to my office on September 15<sup>th</sup>, we put it in queue with our other reviews, and by the time we, my staff reviewed it, and then I reviewed it, we got a letter back on October 31st. They resubmitted it on, let's see, on the 16th of November, and our next review was much quicker 'cause subsequent reviews are much faster usually, it's just making a few minor changes. We submitted back on 11-21, they submitted to us on 12-1, and that was very simple, very minor changes to the discussion about Kāne'iouma Heiau, and then the final came in on December 5th, as we've all heard, I think, throughout the day today. And it was actually me who asked the consultant to mark that as final and to mark it with that date, to distinguish it from the previous reports, which had been submitted on other dates and weren't marked as final. So, when I wrote the memo to the Planning Director, I thought about detailing out some of this, I wish I had, at this point. Instead, I simply made a statement to the effect of, "We have reviewed this document and the final version that was received on this date is approved." The implication that there were previous reviews, but it wasn't clearly stated, and I obviously regret that at this point, 'cause that certainly brought a lot of confusion to everyone involved with the project. So that, I think, answers that question.

Vice Chair Apisa: Yes, thank you.

Mr. Moule: Okay.

Vice Chair Apisa: Commissioners, have more further questions?

Ms. Streufert: Could you describe the process a little bit in more detail so that everybody understands how this works?

Mr. Moule: Yeah, so, as you heard from Mr. Wada a moment ago, a typical drainage - and I brought our storm water runoff system manual, so I'd have it if I need to refer to anything in there. It's so long finding the exact thing might be difficult on short notice. But, it essentially calls for developments to perform drainage studies, to determine the current flows coming off the site, and then look at what is proposed for the development, and recalculate the runoff based on,

again, the two-year storm and the 100-year storm, as you heard from Mr. Wada, and make sure that once you've increased the runoff, no matter how fast it runs off the site, by putting an impervious surface in the development, you have to then mitigate that by putting in a detention basin, according to our manual, to, as you heard from Mr. Wada, reduce the flow rate of the water coming off the site so that the flow rate after development is no greater - is at - is equal to or less than the flow rate pre-development. And that's what our storm water manual requires. That's what most storm water manuals in and around the country require. It's pretty traditional. And so, if you were looking at a big greenfield site, you could do a Master Drainage Plan for a huge area, for example, Kukui'ula, I believe, did this years and years ago. And they came in and then built a lot of the drainage infrastructure, including large detention basins that would cover their, most of their entire site. So, when they came in with a small piece of that later, to do a subdivision within their large development, they don't have to build any more detention basins because the Master Drainage Plan covers that. And so that, I'm guessing at this point, 'cause I wasn't here in 2006, but I'm guessing that's what was intended by the condition. It's been 17 years since then, so, we now know that so much has already been developed. You can't go back and do that. But we attempted, as I described earlier to come up with a way to produce a Master Drainage Plan that would do something similar, which is to summarize the pieces of the small reports that were done for each development, and then look at places that aren't yet developed to see how it might change if it were developed in an estimated way, by changing what we call the runoff coefficient that you use when you analyze the flow.

Ms. Streufert: So, you did, so, you did aggregate all of the effects of all of this?

Mr. Moule: I mean I would say - the effects of all the areas rezoned are described in the study...

Ms. Streufert: Yes.

Mr. Moule: ...but they don't all go to the same place. So, it's hard to say we, you know, you wouldn't say, "Oh, this is all combined into this spot," because that's not what happens. I mean, there's a map in here that I can refer you to that shows the different drainage basins that affect this area. And there's five or six of them, right, and those all flow to different spots. And so, that's the Figure 9, the drainage basin map area. The drainage basin area map shows all the different drainage basins, and throughout the rezoned lands, which is what had to be studied, and they each go to different places, and I can answer your question about which developments go where and what affects the heiau and that as well, because that's in these studies. And I also looked at some of our old mapping, topo-mapping from the 70's to see how water flowed back then too.

Ms. Cox: Well, you just volunteered, can you explain about the water that's going to the heiau?

Mr. Moule: Yeah. So, again I'm basing this largely on this map, this Figure 9, and if you see there's a drainage basin called Drainage Basin A, and that's the one, the only one of these drainage basins that flow, it flows to the heiau. The others outlet in other locations, somewhere near the ocean or into the ocean eventually. The water has to get to the ocean eventually.

Vice Chair Apisa: I think it's Figure 9 in this study. If you've got that.

Mr. Moule: Yes, Figure 9, yes, Figure 9. That's the one. This is the same study, I didn't print the whole thing, but it's Figure 9 in the study, a Drainage Basin Area Map. And to address something that Commissioner Ako, if I've said your name correctly, asked earlier, the Weliweli subdivision that was discussed in the report, isn't Tapa Street up in Koloa Town, it's Kipuka Street at the very bottom, just above the heiau, if you look at that map. So, in reading the statements about drainage for the Kāne'iouloouma Heiau Master Plan, that's included in the appendix of the document, it expresses concern about runoff from the mauka subdivision.

Vice Chair Apisa: Jerry, it's near the front.

Mr. Moule: Yeah, it's...

Vice Chair Apisa: I mean a little bit in, a little bit in, but right here, Jerry. It's this far in, this far in.

Mr. Moule: It's the last document before the appendix, that's right, and so that subdivision, mauka, immediately mauka of the heiau, is the Weliweli tract, or Weliweli house lot subdivision. And then as you can see, Drainage Basin A then continues mauka all the way up to the Kōloa Mill, and it doesn't include the mill itself, but the land adjacent to it, west of the mill and up to Waita Reservoir. So, it's a large area that drains down to the heiau. But it doesn't include the petition area for this specific development, but it does include some of the lands mauka Po'ipū Road that were rezoned under the, whichever rezoning that was, Ordinance PM-31-79. So, that's why it's included in the study. Does that answer the question?

Ms. Cox: Yes, it does, thank you.

Mr. Ako: So, Mr. Moule, because of the development, there will be more water coming down. It's just a matter of how we're letting it flow out that's going to be the same.

Mr. Moule: Yes, as you heard from Mr. Wada, that's...

Mr. Ako: Right, yeah.

Mr. Moule: ...generally one of the challenges with development is that you get more runoff, more quickly with the asphalt and the roofs and that sort of thing. And you detain that to decrease how much it flows off, how quickly it flows off, excuse me, the site into anything downstream.

Mr. Ako: The only way to get less water is to have no development.

Mr. Moule: (Inaudible).

Mr. Ako: Which would...

Mr. Moule: ...there's ways to retain water, but there's a certain storm or even in storms you wouldn't necessarily assume in a study, if it keeps raining for days and days and days on end, you can't retain all the water no matter how big you build your retention basin, right. We don't

require retention, we require detention in our study, so in our manual. But, you, yeah, but there is a limit. I mean you can't, water is gonna flow off, flow downhill, no matter. And, but there's certainly truth to the fact that if you have undeveloped land, where water's getting into little crevices and settling into little, small, low areas in the land, which occurs in this type of situation where you have rocky terrain, that water will sit there and then evaporate. Whereas once you've paved some of that, it might just run off, and then it'll sit in the detention basin...

Mr. Ako: Yeah.

Mr. Moule: ...and detention basins aren't necessarily designed to have all the water flow out slowly. There might be some that stays in there and then evaporates out, depending on the basin. But, generally speaking, if you develop, you will ultimately have more water running off from the site. But at the flow rate would be, at least based on the design storms, no more than the pre-developed condition.

Vice Chair Apisa: Good questions, Commissioners. If you've got a clear picture, you have...

Ms. Cox: It's not a question, I don't think. I think it's just my understanding. So, maybe you can tell me I'm, like, completely off base. But it seems like what we have is a Condition 26 that may have made sense at that time, doesn't make sense at this point because of all those four developments that have already happened. As you explained, we have to do it differently, right? And that, in fact, the concern about the heiau - and even the coastal waters, really, this particular plot doesn't really, or this parcel doesn't really affect that.

Mr. Moule: Yeah, the parcel that's being developed by the applicant here, doesn't drain to the heiau.

Ms. Cox: Right. So...

Mr. Moule: It does drain to the ocean, of course, but...

Ms. Cox: ...so, you were asked to do this bigger study...

Mr. Moule: Yes.

Ms. Cox: ...but in fact, the, and unfortunately, what it doesn't, is solve the problem, right? I mean, even with the study, it doesn't, we haven't solved the problems, either of now or of the future.

Mr. Moule: Yeah, that's, well, yeah, you can't, I mean, water's gonna flow...

Ms. Cox: The water's gonna come.

Mr. Moule: ...downhill. Right. Exactly. And I will say one other thing about that the Condition, is that in 2006, after this was approved in 2001, there's an argument to make that even a Master Drainage Plan wouldn't be necessary anyway because each development would be required to do

what we're talking about anyway. I don't, again, I don't know the motivation of what happened in 2006, and who made that request that that be a Condition. But, you know, it's again, a Master Drainage Plan is typically done when there's a lot of property going to be developed by a single entity, or there's a need to address all the drainage up front. But that would have had to happen before for it to really be effective 'cause these other projects have already met the requirements of this through a review from my office before and after my arrival at the County.

Ms. Cox: So, if I'm truly concerned about, a healthy environment, clean and healthful environment, and I'm concerned about the heiau, this doesn't really impact either of those.

Mr. Moule: The Master Plan?

Ms. Cox: Yeah.

Mr. Moule: No.

Ms. Cox: Thank you.

Vice Chair Apisa: Well, thank you for clarifying that.

Ms. Otsuka: Thank you for the questions. Comments.

Mr. Ornellas: I think there are some valuable suggestions as to how we can mitigate some of the problems at the heiau. And I think we should (inaudible).

Ms. Cox: I think so too. It's just not...

Mr. Ornellas: Encourage those projects to go forward.

Vice Chair Apisa: Encourage this project or other? Other. Other.

Mr. Ornellas: No, not this, but those projects that mitigate (inaudible).

Vice Chair Apisa: Right, right. That affect it.

Ms. Cox: Yes.

Mr. Moule: Yeah, and I think that one of the things it stated in here, I'll just address that real quick, is that their, the Weliweli house lot subdivision built by the State in 1970, '71 doesn't have detention and that drains...and this is the map that I looked at today, it was done in 1976 after that was built. Maybe a section of a tiny, tiny corner in the bottom, the southeast corner of that subdivision, that whole subdivision drains right to the heiau. That's clear from these topo lines on our old maps. So, it's - and you can see it out there, I mean, we're doing designs for Po'ipū Road right now, and the water on Kipuka Street, at the bottom of Kipuka Street, is currently draining and we're going to keep it draining to the west 'cause you can't move it over the hill to the east, right, 'cause it's just impossible.

Mr. Ornellas: The heiau itself is designed to retain some water, isn't it?

Mr. Moule: I wouldn't call it, say it's designed to retain some water, but it absolutely retains water. It's the low point. It's a low point.

Mr. Ornellas: Even under natural conditions?

Mr. Moule: Yeah, I'm not yeah, well, again, I'm not going to try to speak to whether it's natural, whether it was something of ancient Hawaiians, or whether it was done later. But it is a low point, and it does capture water and water will sit in that, and it does. I see it. I live nearby, and I see it. But I can't speak to, you know, how that happened and there may be others who could, but I don't know.

Vice Chair Apisa: Okay. Any further questions from the Commissioners? Are we ready to move forward? No further questions for him, then, thank you very much, Michael.

Ms. Otsuka: Thank you.

Ms. Cox: Very helpful.

Mr. Moule: You're welcome.

Mr. Hull: So, I guess for the clarification of the Commission, you guys really have three options before you. One is...

Vice Chair Apisa: You've been very helpful, Michael. Thank you very much.

Mr. Moule: You're welcome.

Mr. Hull: One, is to accept and approve the drainage plan as submitted. Two, is to request for more information if there are some portions you found insufficient and inadequate to address your concerns and ask for updated information and defer that. Or ultimately deny the submittal based on concerns you have over the facets of the drainage study that was submitted.

Ms. Cox: Just a point of clarification, going back to what Jerry said, so, the fact that we're concerned about water at the heiau and going into the ocean really isn't part of what we're deciding right now, today.

Ms. Otsuka: Correct.

Ms. Cox: Correct? Even though we may care very much about it.

Mr. Hull: The condition of approval definitely says that the drainage study has to address Kāne'iōlouma. What the drainage study points out, at least in my reading of it, is that runoff from this project does not drain into the Kāne'iōlouma site. There are other mitigation measures that it looks at as a possible potential that occur on other properties. But to be clear here, because this is, this action is concerning the Meridian site, we don't, the Commission doesn't have the nexus

to say, "Okay, Knudsen Properties, you now hereby have to put these improvements in, pursuant to this Master Drainage Study as a condition of approval on this property", which is...

Ms. Cox: But when the additional properties want to be developed, then there is the ability to say there are requirements...

Mr. Hull: Correct.

Ms. Cox: ...according to the - yeah. Thanks.

Mr. Hull: (Inaudible).

Ms. Streufert: I move to accept the Master Drainage Plan for lands mauka of Poipu Road that was rezoned through the Moana Corporation Ordinance No. PM-31-79, relative to Condition No. 26 of Class IV Zoning Permit Z-IV-2006-27, Use Permit U-2006-26, and Project Development Use Permit PDU-2006-25, affecting a parcel identified as Tax Map Key 2-8-014:032 Poipu Kauai and containing a total area of 27.886 acres.

Ms. Otsuka: Second. Yes.

Vice Chair Apisa: Just a point of clarification that we're, I think the motion was to accept, we're actually approving.

Mr. Hull: I'm so sorry.

Ms. Barzilai: If that's what the commissioner intends.

Mr. Hull: Yeah, it - it's...

Vice Chair Apisa: Is there a difference?

Mr. Hull: You have to ask Commissioner Streufert if her intent was to make a motion for approval.

Ms. Barzilai: If that is her intent. That's how Condition 26 reads.

Ms. Streufert: Yes. To approve.

Vice Chair Apisa: So, sorry, I just wanted a clarification on that.

Ms. Streufert: I move to approve the Master Drainage Plan for Lands Mauka of Poipu Road...

Vice Chair Apisa: Okay, and then there was a second?

Ms. Otsuka: Second.

Vice Chair Apisa: We have a motion on the floor. Is there any further discussion?

Mr. Ako: I don't know why, but I'll add my two cents again.

Vice Chair Apisa: Okay, please.

Mr. Ako: You know, Donna. You know, I'm, I'll be voting yes for this, and I think the intent for us was to flush out, you know, all the questions that we had about this drainage plan and I don't know whether we did or not, but I do know this, man, there's gonna be more water. It appears like the water, however, will not go into the heiau, but I think in the long run, yeah, we're talking about theories, yeah, we think this is what's gonna happen, and we think that the water is going to flow over here. We think this is the amount of water that we're going to, be getting over here, so, you know, I don't think there's a right or wrong answer right now. I think we just wait and see, I guess, to see what happens and how much rain we get, and whether we get rain, or we don't get rain on this so. You know, with that I'll just leave it at that.

Ms. Streufert: I think I'd like to chime in a little bit on this. I think you've seen that we all have struggled with this because we are concerned about a lot of different issues, but it doesn't necessarily mean that this particular builder, at this particular location, is responsible for everything that happens in the area. And I would assume that at some point in time, with all of the different Master Water or Drainage Plans from each one of these areas, that should mitigate most of the issues. But it is theoretical, but they are basing it on two different storm surges. One is a hundred-year storm and the other one is a two-year storm. I'm not sure how much more we can go with that, how much more than that we can go.

Vice Chair Apisa: All right, I think we're ready for a roll call vote.

Mr. Hull: Roll call. Commissioner. Commissioner Ako?

Mr. Ako: Aye.

Mr. Hull: Commissioner Cox?

Ms. Cox: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Apisa?

Vice Chair Apisa: Aye.

Mr. Hull: Motion passes, Madam Chair. 6:0. Next we have...

Mr. Hurley: Are we just going to move to the contested case that's ongoing now?

Mr. Hull: No, the vote's been taken. The vote has been taken.

Mr. Hurley: So, will this move to next...

Mr. Hull: No, the vote was taken. We're not taking any other further dialogue with the audience at this time.

Mr. Hurley: Okay. Just a question.

Mr. Hull: Moving on, we have no Communication. No Committee Reports. No Unfinished Business. You guys have sufficed (unintelligible) one matter on Topics for Future Meetings. So, this is the last meeting of this calendar year. So, in January we definitely know we have some subdivision applications coming back. We have a petition for revocation, for one of the resource developments that has been on this agenda before. And right now, that's all we have. But there could be other things that we could get on the docket, but not drainage plans. So, if there's anything you guys would like in the new year, as you assess what we've done this past year, and you'd like to discuss getting those on the agenda, by all means the department is all ears. Something that always happens on the January agenda is the reshuffling or (inaudible) of officers into their respective roles here at the Planning Commission, so I definitely want to thank, Chair DeGracia, who has Chaired the Commission for the past year and (inaudible). He's done a really wonderful job in basically balancing the frustrations and applications, too. That's the only role that has to be essentially filled out. Oh, I'm sorry, I apologize. Vice Chair Apisa, and then Subdivision Committee Chair of Ako. So, thank you all for 2023. Here's to 2024 being a little brighter and less contentious, but no promises. You folks do have our heartfelt gratitude for all that we endure, and here's to 2024. Thank you.

Vice Chair Apisa: Here, here.

Ms. Otsuka: Motion to Adjourn.

Vice Chair Apisa: And thank you to the Planning Commission and all you guys are great.

Vice Chair Apisa: Wonderful staff.

Ms. Cox: Yeah.

Ms. Streufert: I move to adjourn for 2023.

Vice Chair Apisa: We have a motion to adjourn, is there a second?

Ms. Cox: Yes.

Ms. Otsuka: I made a Motion to Adjourn.

Vice Chair Apisa: Oh, oh.

Ms. Streufert: I'm sorry. I second that.

Vice Chair Apisa: All right. All in favor? Aye (unanimous voice vote). 6:0. Meeting is adjourned.

Vice Chair Apisa adjourned the meeting at 3:53 p.m.

Respectfully submitted by:

*Lisa Oyama*

Lisa Oyama,  
Commission Support Clerk

(X) Approved as circulated (March 12, 2024 meeting).

( ) Approved as amended. See minutes of \_\_\_\_\_ meeting.