

KAUA‘I PLANNING COMMISSION
REGULAR MEETING
June 25, 2019

The regular meeting of the Planning Commission of the County of Kaua‘i was called to order by Chair Sean Mahoney at 9:05 a.m., at the Līhu‘e Civic Center, Mo‘ikeha Building, in meeting room 2A-2B. The following Commissioners were present:

Mr. Sean Mahoney
Ms. Glenda Nogami Streufert
Mr. Roy Mr. Ho
Ms. Donna Ms. Apisa
Mr. Kimo Mr. Keawe (*Left at 4:44 p.m.*)

The following staff members were present: Planning Department – Director Kaaina Mr. Hull, Mr. Bukoski, Jody Galinato, and Planning Commission Secretary Leslie Takasaki; Office of the County Attorney – Deputy County Attorney Nicholas Courson; Office of Boards and Commissions – Administrative Specialist Anela Segreti, Support Clerk Arleen Kuwamura

CALL TO ORDER

Chair Mahoney: Called the meeting to order at 9:05 a.m.

ROLL CALL

Planning Director Kaaina Mr. Hull: Um, first order of business is roll call. Commissioner Streufert?

Ms. Nogami Streufert: Here.

Mr. Hull: Commissioner Ho.

Mr. Ho: Here.

Mr. Hull: Commissioner Apisa?

Ms. Apisa: Here.

Mr. Mr. Hull: Commissioner Mr. Keawe.

Mr. Keawe: Here.

Mr. Hull: Chair Mahoney

Chair Mahoney: Here.

Mr. Hull: Chair, You have a Quorum.

APPROVAL OF AGENDA

Mr. Hull: Uh, the next agenda item is approval of the agenda. The department would recommend uh, given the large amount of public here for the Smoky Mountain Helicopter's application that we move the um, uh -- excuse me. That we move the Smoky Mountain Helicopter's application up to right after agenda Item -- right above agenda Item F.1 for continued agency hearing. That we hold both the hearing as well as the uh, uh, agenda Item itself again uh, right above Item F.1. And then also with the movement of that petition up there, the department would recommend that A.3 -- I'm sorry. Excuse me. 2A.3 be moved to 2A.1, which is a petition to intervene, um, on that application. That that be reviewed uh, before the deliberations on the application. And we have no further recommendations from evidence.

Chair Mahoney: Chair would like to entertain a motion.

Ms. Nogami Streufert: I move to accept the amended agenda.

Ms. Apisa: Second.

Chair Mahoney: It's been moved and seconded. Any discussion? Hearing none, all in favor, signify by saying, aye. (Unanimous voice vote). Opposed? (None). Motion carried. 5:0 Thank you.

MINUTES of the meeting(s) of the Planning Commission

Mr. Hull: The next agenda item is uh, agenda Item D, minutes of the meeting of the planning commission for April 23rd, 2019.

Ms. Apisa: Uh, move that we accept the minutes from uh, April 13.

Mr. Ho: Uh, 23rd.

Ms. Apisa: 20, 22nd? Second.

Mr. Hull: 23rd.

Mr. Ho: 23rd.

Ms. Apisa: 23rd. April 23rd. Uh --

Ms. Nogami Streufert: Second.

Chair Mahoney: Moved and seconded. Any discussion? Hearing none, all in favor, signify by saying, aye. (Unanimous voice vote). Opposed? (None). Motion carried. 5:0 Thank you.

RECEIPT OF ITEMS FOR THE RECORD (None)

Mr. Hull: We have no uh, receipt of items for the record.

HEARINGS AND PUBLIC COMMENT

Mr. Hull: We have, of course, a, a serious of -- a robust amount of testimony submitted, but we'll submit that during the actual agenda item for the various uh, topics. Uh, next agenda Item is F, hearings and public comment. Individuals may orally testify on items on this agenda during the public comment period. Uh, and so if there's any members of the public that would like to testify on any of the agenda items, in discussions with the Chair, we would like to first open the public testimony. For any agenda item not related to the helicopters will be re -- we'll be moving right into testify for the helicopters. But is there anybody here that wants to speak on any other agenda item before that agenda item comes up, not counting the helicopters? Okay. hold on one second. Let me make that announcement. Sure. Yeah.

Chair Mahoney: Go ahead.

Mr. Hull: We have one member of the public come in from the outside.

Chair Mahoney: Could you sit down and uh -- by the microphone and state your name record? You will have uh, three minutes to give your testimony.

Ms. Jane Abramo: I wasn't expecting to be first.

Chair Mahoney: Oh.

Ms. Abramo: Thank you. Jane Abramo.

Chair Mahoney: Okay.

Ms. Abramo: Can you hear me?

Ms. Apisa: On what -- on which topic?

Chair Mahoney: What? And you -- you'll be testifying on what agenda item?

Ms. Abramo: Uh, general matters, uh, number 3. Uh, TVNCU renewal for Elizabeth and Stephen Rigotti.

Mr. Hull: Okay. And, and, and for you, ma'am, as well as for the members testifying in the future, uh, the Chair is exercising a three minute rule on public testimony at this point.

Ms. Abramo: All right.

Chair Mahoney: Go ahead.

Ms. Abramo: Okay. Aloha and thank you for your time. My name is Jane Abramo. My company, Na Pali Properties, was the representative for Elizabeth and Stephen Rigotti in April 2018 at the time of a historic flood on the north shore of Kaua'i from which we are still recovering. I am here to respectfully ask you to reconsider the denial of the renewal of the Rigotti's TVR license, TVNC-4235 as recommended by the Hearing's Officer. Over the course

of April 14th and 15th, and into Monday the 16th, Hanalei and the northwestern neighborhoods of Kaua'i received over five feet of rain with rolling power outages as well. Mountains came crashing down. My office in Hanalei had over a foot of water inside. At the same time, my staff and I were responsible for 40 rental units on the north shore. And I estimate we had at least 75 visitors from Hanalei to Wainiha that needed attention and/or evacuation, plus several long-term rentals in Hanalei and Wainiha who needed our help as well. We were very busy and very focused on these immediate emergencies. The renewal of this license was due on Tuesday, April 17th, 2018. We had it ready for delivery on Monday, April 16th, but Mother Nature had other plans for us. Despite our dire circumstances, we actually delivered the renewal application less than 24 hours after the deadline close to noon on Wednesday, April 18th, 2018. It's not like we simply forgot about it for a few months and are now asking for forgiveness. It is my opinion that the County of Kaua'i and the Planning Department as part of their disaster plan could have reached out with a reminder to its citizens and taxpayers of deadlines that might be missed during those challenging days. I don't believe that's unreasonable. In fact, the Planning Department was able to find time to call me the next day to re -- to inform me the renewal was late. Unfortunately, the existing ordinance has no disaster plan for these TVR renewals. There is no plan for hurricanes, floods, landslides. No plan of any -- for any sort of disaster. Rather, the Planning Department operates with an obvious and steady effort to eliminate these legal and permitted land uses. They are not offering any protection to these Homeowners and taxpayers in situations like these. Almost universally --

Mr. Hull: Three minutes, Mr. Chair.

Chair Mahoney: Yeah. Could you wrap your testimony, please?

Ms. Abramo: Am I too long?

Chair Mahoney: You have three minutes, and your three minutes is up.

Ms. Abramo: I --

Chair Mahoney: If you want to finish that thought, you may do so.

Ms. Abramo: Due to the -- one last paragraph and I'll be done. Thank you very much, sir. Due to the nature of the disaster, I don't believe this renewal needs to set a precedent for future appeals. I certainly hope and pray we won't experience a similar situation for many, many years. I remind the Planning Commission of the way the entire Kaua'i community came together after the rain and landslides. We all showed our support for each other in many ways. We remembered our aloha spirit, which is so much a part of our values. It's a huge part of what has made living on Kaua'i for over 30 years so exceptional for me. And so, I humbly ask you to show that aloha spirit in this occasion and allow this renewal to be approved. Thank you.

Chair Mahoney: Thank you for your testimony.

Ms. Abramo: Would you like a copy of it?

Chair Mahoney: You can submit one to the director.

Ms. Apisa: Any questions? Any questions?

Chair Mahoney: No. This is testimony.

Ms. Nogami Streufert: It's testimony. Okay.

Mr. Hull: No. Okay. Is there any other members of the audience that would like to testify on a non-Smoky Helicopter related agenda item? Vil? If you can make an announcement outside for a non-Smoky Mountain? Make an announcement outside for any non-Smoky Mountain related agenda item that the, the public wants to speak on.

Chair Mahoney: Thank you for your patience, uh, everyone. We will, we will be moving along soon.

Chair Mahoney: We talked about this.

Ms. Hoku Cabebe: Kalamai. I'll make it quick. Um, Hoku Cabebe, um, coming uh, on behalf of the North Shore. I just wanted to say on the agenda item that that lady just spoke on, um, and respectfully sorry. I don't remember her name.

Chair Mahoney: Could you speak up a little louder, please?

Ms. Cabebe: In reference to the agenda item that the previous testifier testified again -- or and for, I just want to testify against, just saying that the community is trying to um, to weed out, uh, TVRs, especially on the North Shore area that were -- es -- especially ones given after the fact permits if that was an after the fact permit. If it is outside of Princeville, which is a VDA, then we, uh, respectfully ask that you decline her permit.

Chair Mahoney: Okay. Thank you. All right. All right. Can you hold the applause, please? Just, you know, we got a lot of things to do today, so it will make it a lot easier --

Mr. Hull: No more announcement outside.

Chair Mahoney: Okay.

New Agency Hearing

Class IV Zoning Permit Z-IV-2019-13 and Use Permit U-2019-10 to allow modifications to existing helicopter tour facility that includes restroom facilities, office trailer, storage, and associated improvements on a parcel located along the mauka side of Kuiloko road in Hanapepe, situated at its intersection with Lele Road, further identified as 3441 Kuiloko Road, Tax Map Key: 1-8-008:0041, (Portion) and 1-8-008:005, and affecting a portion of a larger parcel that is approx. 54,461 s.f., a portion of a larger parcel that is 166.452 acres. = Smoky Mountain Helicopters, Inc. [Director's Report sent to Planning Commission 6/13/19.]

Mr. Hull: Seeing no further testimony on other agenda Items, we'll move directly into uh, Class 4 zoning permit Z4-2019-13 and use permit U2019-10 to allow modifications to an existing helicopter tour facility that includes restroom facilities, office trailer, storage, and associated

improvements on a parcel located along the Mauka side of Kuiloko Road in Hanapepe situated at an intersection with Lele Road, further identified as tract property 1-8-008:004 and 1-8-008:005 and affecting a portion of a larger parcel that is approximately 54,461 square feet. A portion of a larger parcel that is 166.452 acres. The applicant is Smoky Mountain Helicopters, Inc. We have a series of written testimony that in um, respect to the amount of people here to testify, we'll read that onto the record at the end of the public testimony, as well as we have here the change.org petition, which is double-sided and is roughly, I believe, 20,000 signatures at this point. We will go immediately into the signup list. The first uh, signup speaker is Kuulei Santos, followed by Frank Santos.

Chair Mahoney: You just state the name for the record, please, and three minutes.

Ms. Kuulei Santos: Good morning. Kuulei Santos. I am a salt maker. I've been a salt maker since I was a little baby. Um, I am here to ask you to deny their application for um, expansion and after the fact permits. Um, it's been a long battle as most of you guys have known or understood. And it's -- today you guys are going to hear a lot of emotions. A lot of people who have um, ties to the area. A lot of people who have come to support. And um, this is a big thing. It's a big thing for us. We are dying. It's definitely -- you can see the impacts if you um, follow some of the things that we've been posting on Facebook where the pictures of 20 years ago and what it looks like today. And we are dying. We are not able to give five gallon buckets anymore. We only give out, you know -- if you're salt worthy, we say now -- and we give out sandwich bags, and that's 'cause of all the impacts that happened around us. We are the lowest point. Everything that happens flat -- um, flows to us. This, this helicopter company and the history of this helicopter company has nothing -- has been nothing but a bad neighbor. They have flown over us and they will testify that they haven't. We have videos that they have. They will run their helicopters on our side while they are placed on the other side. They have put in a um, oh, a cesspool without the proper permits. We have been fighting for uh, six, seven years to fix the county restrooms at the, at the county pavilions. And we have gone through so much um, talking about what is the right way to fix those county bathrooms. And to have neighbors knowing that we've been doing that and went in and installed the bathroom without doing any research, without coming to us and asking us, what is the best way, is disheartening and it's disrespectful. They have, they have moved in and done improvements and not even came and checked what is the correct way to do that. Um, so hear with an open heart and forgive the craziness that might come out today. Thank you.

Chair Mahoney: Thank you for your testimony. I appreciate it.

Mr. Hull: Next up is Frank Santos followed by Teddy Blake.

Mr. Frank Santos: Mahalo, Mahalo for having us testify today. And Mahalo, for all the friends and family that showed up for it's support for our aina

Chair Mahoney: Excuse me. We know who you are and uh, respectfully, but could you just state your name for the record, too, please?

Mr. Frank Santos: My name is Frank Santos.

Chair Mahoney: Oh, great. Thank you so much.

Mr. Santos: I am from Hanapepe. I have been in Hanapepe all my life. I've been working the salt pans for 65 years. I've worked with all the old people. I was taught by the old people. I was taught by -- to respect the aina, malama the aina, perpetuate the culture and make sure the cultures leaves on. And I have done a great job in doing that with my family. I have taught them well. There's a new generation of salt makers are coming online and they are here to protect the aina and protect our heritage, protect our culture. To educate the local people to make them understand How important Hanapepe is. How important this salt is. Helicopters weren't, weren't there in the old days, we didn't have any -- we had only two airplanes on that airstrip. One was for the akule guy flying around looking for the akule. The other was for the Civil Air Patrol. That's the only noise we heard on the airstrip. But now time has changed. We need to change. And you're going to expand this airstrip, there need to be regulations on it. There's no regulation. It's open. Anybody can come in, touch, touch and go flying. We had a Coast Guard plane come in Sunday, touch and go. Nobody is there to regulate. There's not even a fire hydrant on the property. There's no hoses. If there's a fire, they leave it burn. We're not going to put it out. Leave it burn. Let all the ash go to the salt ponds. We don't care. Oh, come on. Wake up, people. This is our Āina. We need to clean our House first. We can't expand without taking care of our infrastructure. They don't have infrastructure there. The County just put a new septic pressure line from the County Park to the outside road. Why didn't these guys come in and say, oh, we want to hook up to that too. It's all poor planning. It's all after the fact. We need to have better planning. And we need to do it now. Mahalo.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: Next is Teddy Blake, followed by Haunani Kaiminaanao.

Mr. Ted Blake: Good morning, Chair and members of the Commission. Ted Kawahineanelani Blake, ko'u inoa. He pua o Kaua'i, he pua o Koloa. Appealing beaches, blue sky waters, coco palm tree lined shores, beautiful valleys and glorious sunsets are some of the things that come to mind when thinking of Kaua'i. A beautiful and natural involvement -- environment is not all there to enj - -- all there is to enjoy our island. Kaua'i is Home to people with a rich and diverse culture. The culture and traditions of Kaua'i are reflections of the island's beauty. Its cultural values can give an island its own identity. Culture is learned and passed on from generation to generation. As a community gains character and a personality of its own because of the people and its culture. Culture is a common bond that ties a community together. People follow customs and traditions. They learn, practice, celebrate and this binds us together as a people and as an island. In Hanapepe on Kaua'i, this bond is the salt beds by maka ohiaka. In 2007, the county wanted to convert the former Humane Society Shelter near the salt beds to residential drug treatment. But the County OHA trustee, Don Cataluna said even if the county implements mitigation measures, the risk of runoff from the project could cause irreparable harm to the salt pond beds. A rare and prized cultural site. He vowed OHA would take the County to court to block the Center's construction. The County acquiesced and moved the Center to a more suitable location on Maala Rd. in Hanamaulu. The County Open Space Commission is looking to acquire a buffer strip of land Mauka of Lolokai Road directly across the salt beds to prevent and protect our cultural enterprise from farming and generating runoff of pesticide, herbicide and fertilizer to the salt beds. How does one develop and flaunt laws on the location of its business and have the impertinence to apply for five after the fact permits and attempt to assure us there will be no environmental commit -- no environmental contamination of the salt beds and the springs that

feed them with additional request for new permits they are also applying for today. When it is -- this business -- when this business states it will protect the environment in, inspired of the new permits -- in, in place of the new permits they are applying for today, they have totally ignored our existing laws for a gain of a few more shackles. It appears our laws only work with them if the company is caught in violation and threatened with fines. I am against granting any after the fact permits and for granting any new permits to the applicant. They should be allowed to take off, land, fuel their aircraft and be held to a specific number of flights a day. Anymore activity on this site is hewa. A solution Maverick Helicopters should be exploring is finding another location at least a mile from the cultural or historical sites --

Mr. Hull: Three minutes, Mr. Blake.

Mr. Blake: -- and make and op - -- operate --

Mr. Hull: Could you wrap up your testimony, please?

Mr. Blake: Their business -- one more sentence.

Mr. Hull: Sure.

Mr. Blake: They can operate their business as they and the law -- within the law and not pose a threat to rare, prized, cultural site like Waimaka o Hiaka, the only one left of its kind on the planet of Hawaii. Mahalo.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: Next is uh, Haunani Kaiminaauao, followed by Namomi McCorriston.

Ms. Haunani Kaiminaauao: Aloha. My name is Haunani Kaiminaanao. And um, I am here on behalf of my ohana. Frank Santos is my uncle. Kuulei Santos is my cousin. And we have been practicing salt for generations and generations. And I am going to sit here trying not to be emotional, but if you can understand the struggle and the pain that my family have continued to go through, and we shouldn't have to. It's our, it's our right, it's our birthright. It's our way of living. And I'm pretty sure everyone who's sitting in this room and outside this room have received salt from not just our Ohana in the salt beds but other -- the other 25 Ohana that are there today. Um, I am also a grandmother and I, I always pledged that I leave behind a legacy. This legacy was left behind by my great-grandmother and I want it to continue for my children and their children. I am against the permit and I am against the helicopter flying over our salt beds because it's hard enough. Yes, there used to be a lot of airplanes and aircraft flying out of that airport back in the 60s and 70s, but look at what we got left. We don't have a lot left. And if you allow them to expand illegally and continue to not enforce what they have already done, then there's not going to have anything left for my children and their grandchildren. So I sit here today with my family against the helicopter and for our ohana at the salt beds. Thank you very much.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: The next speaker is Namomi McCorrison, uh, and followed by Kanani Santos.

Ms. Namomi McCorrison: Aloha. Uh, O wau o Namomiokalani Kaiminaauao McCorrison. Um, o wao mo'opuna no Sarah Santos (inaudible - 00:24:08). Um, I am in behalf of my family. Um, that was my sister speaking and my Uncle Frank and my grandparents that have gone before me who have blessed me with the ike and the knowledge of making salt. Uh, the generation that my Uncle Frank is speaking of us. And so um, I am humbly here to request that you deny the application, uh, for the future generations to come and the practice of salt making. There is so many variables to consider when you're making salt. And when we create and we develop our relationship with the pa'akai, we are touching our kupuna when we touch that dirt. And so I am humbly asking you to consider there are wells that get puna wai from our Āina. There is the clay that we have to search to make the beds. There is that red dirt that we have to scrape to make the beds. There are so many minerals that we touch that is in this Āina. This is such a unique cultural practice that is not done anywhere else in the world that is done here on Kaua'i that makes us unique. It is our kuleana, our responsibility to preserve this practice, to preserve this culture ike for our generations and for our children. I am humbly requesting that you deny the application on behalf of my grandparents and my family and my children and the future generations. So mahalo nui.

Chair Mahoney: Thank you for your testimony.

Chair Mr. Hull: Next up is Kanani Santos, followed by Bonnie Bator.

Mr. Kanani Santos: Wow. Uh, aloha. My name is Kanani Santos. Uh, my ohana said a lot and very powerful. And back there this crying about what the salt patch means to me. Growing up there, there's so many years this -- I, I, I want to preserve it for my kids. And these battles that's been going on forever and it's hard for us. Um, we have a lot of erosion from the airstrip down towards the end where sand is coming into our salt beds. And the sand mixes with the clay and it's hard to, to get the sand out. Um, I'm very blessed to be here. I'm very blessed to be a part of this ohana. Um, I, I, I, um, humbly ask you guys to deny the expansion of the helicopter and to preserve what we have in Hanapepe with the salt beds. Um, thank you very much.

Chair Mahoney: Thank you for your testimony.

Mr. Santos: Mahalo.

Mr. Hull: Uh, next is Bonnie Bator, followed by, by Wailea, by Waiuia and Sarah. Sorry. I can't read that.

Ms. Bonnie Bator: Aloha. My name is Bonnie Bator. Uh, for the record, I do have a son who's 50% Hawaiian. And I'd like to take a moment to acknowledge those who lost their lives adjacent to Salt Pond a few years ago in that crash. And I appreciate the opportunity for this public hearing. Uh, please, no to Smoky Mountain Helicopters, Maverick Helicopters' request for a class V zoning permit. The tradition of Pa'akai in Hawaii is limited to salt pond in Hanapepe. It deserves protection. It dates back to ancient Kaua'i and Hawaii. Helicopter tourism on the other hand is way too plentiful and ought to be -- not to besiege ancient Hawaiian tradition. Common sense, please, Planning Commission. Restore justice and integrity for traditional practices, which superfast are disappearing for the Disneyland type of experience here on Kaua'i, which

overtake labors of love and ohana versus more corporate venture proposals on Kaua'i resulting in near zero quality of life. Not to mention the demise of the Kanaka Maoli. Quote -- this is a Kuulei Santos. "Salt is very old world. It balances our modern lives of cars, TV, working to support a family. When we're making salt, we get to slow down. There are no cell phone, just working side by side with each other. There is lots of laughter, lots of stories and lots of affection." End of quote. Hanapepe Salt Pond is Home to the state of Hawaii's only natural salt ponds still used for practitioners making pa'akai nearly as kanak maoli traditionally did before the onslaught of western dominance. Mo' better. The state of Hawaii Historical Commission placed the pa'akai on Hanapepe to be on a national register of historic places. Salt Pond warrants protection against pollution, definitely noise, toxic fumes, harmful chemicals and further inundation of corporate profit at the expense of traditional customary practice. Salt making, one of the oldest forms of life, promoting practice on earth is a rarity. Helicopters and other profit driven tourism exploits have taken away most of Kaua'i lifestyle. Please exert wisdom, deny petition of Smoky Mountain Helicopters, uh, DVA Maverick Helicopters their request of a class V zoning permit. Mahala for your consideration, Kaua'i County Planning Department. P.S. Salt preservation of food, salt pork, fish, pipikaula. What about climate change? We might need that salt in the future when we're cut off from the mainline. Yes to traditional, yes to traditional pa'akai salt making at Hanapepe Salt Pan versus a class v zoning permit expansion of Smoky Mountain Helicopters, Incorporated, Maverick Helicopters' profit margins. Mahalo.

Mr. Hull: Three minutes, Mr. Chair. Okay.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: Next up -- forgive me. I can't read it. But I believe this is Waiuaia and Sarah.

Ms. Sarah Waiuaia: Uh, good morning everyone. O Sarah kou inoa. My dad is Kanani Santos and my grandparents are Frank and Abigail Santos. I like all of my older relatives grew up in the salt beds. When I was too young to work, I happily played on the side and enjoyed the Āina and enjoyed the area. When I was old enough to work in the beds, I learned How to rub the beds, scrape the beds, harvest the salt, process the salt. And as a member of the youngest generation, I first and foremost would like to say that yes, my kids and grandchildren will have problems. They won't have the same experiences as me, but it's not just them. Um, I have a sister that is 11 years younger than me and I do worry that she will never get to the point where she actually learns to harvest the salt. That she will never live past the point, the stage in her life, where she's just playing on the sidelines. Um, I have watched my grandparents and my auntie fight teeth and nails against the ignorance of beachgoers, against corporate expansion, against climate change, which is all encompassing and it is so sad.

Ms. Wailea: Um, aloha. My name is Wailea. Um, as a salt maker, I want everyone to experience um, the Āina that we walk on. I want future generations to have the opportunity that we have today. Um, pa'akai is what Holds us together. It's our tradition and it's our culture, so. What kind of people would we be to let these hel - -- helicopter companies come in and let our culture die? So I ask that you please, um, deny their request.

Chair Mahoney: Okay. Thank you for your testimony.

Mr. Hull: Next up is Berna Kali Vea and following is Momi Lan - -- Lansing.

Ms. Berna Kali Vea: I am here to represent um,, Berna Kali Vea for the record. I represent the past, which was my dad, Benjiman Kali, Senior. And I am also here to represent my future because of my grandchildren. The red in the salt pans represents the blood of our koko, of our ancestors. I have fought the last -- fought, uh, with Frank and many others for the drug treatment center. That is something that was a hard battle for us 'cause on this Kaua'i, we needed a drug treatment center. We felt it wasn't the right place for the center because of runoff, because of development. So we fought teeth, nails. We finally stopped the project. Now we're fighting against something that has no benefit to our Āina. It's no benefit to us. It has nothing to do with us. Just money, money, greed. They have a portion. They want to extend. At what point are we going to stop and say, no more. You guys have the power to do that. It's in your hands. I don't even know why we even fighting about this anymore. That airport should be just gone. It's corroding. The fence is corroding. You're at the beach. This chop -- there's planes flying in. When is there going to be a disaster there? There are many times that planes is just above our head. It's not even safe to be there anymore. You know, we got to take a stand as people and protect this area. That company has no benefit to our families, our salt, our Āina. It's just destroying everything. Yes, we did support -- my dad was a big supporter of Air One Interisland Helicopters. He was. Simply because Air One provided our Āina, our community, a service. What does this company provide for us? Absolutely nothing. And I, for one, am one of the original 13 families in the pond. And I will continue my dad's fight. He's fight his whole life to protect this area. He's fought for Hanapepe his whole life. He's got arrested many times for the Āina. It's my dad. Well, he may be gone. I am not gone. I will continue to fight. I will stand by the rest of my ohana. We all are ohana. We, we grew up in the pans. We knew each other for years. We -- in the same community. We fighting for something that we shouldn't even be fighting anymore. It's done. It's done. Get it out of there. Put them in Lihue where they belong with the rest of the air, air -- helicopters. That can be regulated. There's no, like Frank said. There's no, nobody down there to watch the area. We lost, what? Six people last there? We lost people in the ocean. There's no more -- nobody there. Nobody there. And I think it's just time that we step forward and say --

Mr. Hull: Three minutes, Mr. Chair.

Ms. Kali Vea: -- enough. Yeah. Thank you.

Chair Mahoney: Thank you for your testimony.

Ms. Kali Vea: But we need to say, enough.

Chair Mahoney: Thank you. I appreciate your testimony.

Ms. Kali Vea: Okay. I hope you guys do the right thing this time.

Mr. Hull: Next up is Momi -- sorry. I can't read that. But Lanning, Lansing, Mo -- ?

Ms. Momi Ka'iakapu-Lanning: Aloha. My name is Momi Ka'iakapu-Lanning. I am also uh, born and raised in Hanapepe and, and a salt maker. I am also an educator of young children and now I have moved into my older years as an educator of adults um, to teach, um, preschoolers. And one thing I do want to touch on is, we -- this company has written all over their proposal about respecting our culture. And the first hewa that was already done is they've already installed a bathroom without permits. They've moved into the facility without the proper

permits. And that already is against our culture. How can you even put that word, respect? The cesspool that they operate under has not been inspected, and so the underground, we cannot see what's happening underground. So how can you determine whether or not that the use of this cesspool is adequate? And if we are on the lower end of the terrain, everything hap -- that happens underground is affecting us. What I have to say about the quality of the practice that we've done before versus today, is almost something of the past. The stories that we can tell now, the quality of what we produce, the environment has an impact on it. You cannot tell us, the bunch of salt makers here, that the quality that we once knew versus what we see today has not been impacted. And it is your de -- your department's responsibility to protect us. We sit in that hot area and we look at the asphalt that was put there years ago that has never been taken out, and the asphalt is breaking into the salt beds. We step on glass. If the area was protected the way it should be as a natural resource, we should not be even looking at these things. We look up into the sky and we see the helicopter hovering over us. And you cannot see with the physical eye if you -- if those chemicals are falling into the salt beds, but I can tell you what. The quality of what we produce in the past versus now, there's a difference. And it is your responsibility to maintain that for us. Who is main -- managing or maintaining to check on their business? The building, putting in slabs of cement, using the cesspool, and the proper permits are not even in place yet. And then you say that they respect our culture? Our culture thing here is we, we -- when we come into -- on someone's hale, we take our slippers off. We honi. We very respectful. They have never asked us. And in their proposal, they have Mr. Kapahulehua as their, uh, person to speak on culture. And it does not have a culture insp -- a impact? I'm sorry, but Mr. Kapahulehua is not a salt maker. Why do they not ask the salt makers the impact that it has?

Mr. Hull: Three minutes, Mr. Chair.

Ms. Ka'iakapn-Lanning: So as an educator of young children as well as adults, I'm saying it is important for us to maintain our culture. That's what we passed on to our children. Their identity. To form their identity as young children, they need to have that connection to their culture. And this is a big part of it. Their beliefs and their practices. Thank you.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: Next up is Kanoe Sumang.

Ms. Kanoe Sumang: Aloha. My name is Kanoe Sumang. I follow my mother, Momi Ka'iakapu-Lanning. So um, in your -- their -- your memorandum on page 8, you -- there is a mention that they plan to protect Kaua'i's beauty. They want to reduce the cost of living. Um, and then again what she said, respect native Hawaiian rights and wahi pana, another word for special places. And then prepare for climate change. Big claims for a small helicopter company. I don't know how they plan to um, reduce the cost of living. I've been living in Hanapepe all my life. I also fly out to Maui Kihei every other week where they make salt in um, plexiglass boxes. Good luck with eating plastic when you can get organic salt from nature from our -- from the lepo, from the ground. I come from um, a lineage of salt makers. My hope -- my home um, alone in Hanapepe has been there for six generations now, right behind of Kaua'i Kookies, so we -- our kupuna literally wheelbarrowed salt home. Again, the, the, the salt beds is in the middle of a hydrology study conducted by the UH. It's not yet done. So how can a outside company who has been here for less than a year claim that there is no environmental impact when the study hasn't even been done? We all sit in here, Moikeha Building across from Piikoi Building, all alii

nui. Many of us here can trace our lineages back to Moikeha to Piikoi. Can any of you? Can this helicopter company? I say, no. To do things unpermitted, you – if you pass there, the airport itself is bigger than Molokai Airport, bigger than Lanai Airport, which I've lived on both islands. Three helicopters operating out of there. Two skydive companies um, aircrafts operate um -- operating out of there. A 'Ohana by Hawaiian aircraft with 54 passengers can land on small Molokai Airport. What do they plan to do with all the extra space that they have? They already put in um, cement places where they can land. Helicopter companies landing specifically all said Manawaiopuna where the water resources come from for our um, salt beds. Only one helicopter company allowed to land in there. And us Hawaiian people, we have to past through gates just to get there. As a descendent of my kupuna's, I cannot even go there with my children to bring them out to swim before I'm having to cut locks on gates. This is one disgrace. You guys name all the buildings in Hanapepe town as historical sites. And you guys don't even name Hanapepe pa'akai as a historical site like Limahuli Gardens? What is left for my, my kids? My daughter rubbed her first bed this summer two days ago, hands lepo.

Mr. Hull: Three minutes, Mr. Chair.

Ms. Sumang: And we cannot even get clay to make our beds because water isn't properly flowing. But companies on the outside can come with elaborate studies saying, oh, it's completed. A'ole, hewa, is all I get for say.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: Next speaker is Malia Norbriga, followed by Caroline Fre - -- Freudig.

Ms. Malia Norbriga-Olivera: Aloha. Uh, O wau no Malia Norbriga-Olivera. He kama au no Hanapepe no kea au no Hanapepe. Um, today I come before you as um, the president of the Hui hana pa'akai o Hanapepe. It is a native Hawaiian organization made up of representatives from 22 ohana that are cultural practitioners, kia'i or stewards, protectors of this wahe pana, this traditional place. We're also cultural and lineal descendants of the subject property and adjacent to the area used by the applicant. The Hui was formed in 1964 by the salt making ohana who are descendants of native Hawaiians who inhabited mainly Hanapepe Kaua'i in our Kona Moku on the island of Kaua'i prior to 1778. For many generations, these cultural practitioners and their ohana have exercised their traditional and customary practices on the adjacent parcel, which is also listed as a historic site on the state inventory of historic places. This gathering tradition began before the mahale of 1848 and continues up to the present time. I bring forwards names of our kupuna who were a part of that um, initial list from 1964. Clara and Jack Akuna, Barney and Mable Char, Joe and Helen Chu, Maykor Makanui, Eleanor De Costa, Charles and Mary Fu, Olga and Solomon Holi, James and Aloha Ho'okano, Linda Kaiakapu, Albert and Christina Kali, Robert and Lei Kali, Harry and Helen Kaneakua, Joseph and Rachel Kaohi, Tia Kapahu, John and Jenny Keuma, Andy and Est Kilowano, Lilly Komaki, Robert Napohaku, Louie and Lei Niau, Jero Okuno, Frank and Sarah Santos, Ruth Yorkman. These are the kupuna that we bring forward. And we know it that they are here with us today because you see, the mo'okuhauhau, the descendants of all of these kupuna that continue, that have led this path for us. History has documented that for 20 plus years now, salt makers have been rising up and raising our concerns relating to the Port Allen Airport at Burns Field. And requesting to protect our traditional native Hawaiian culture rights. To prepare salt beds and gather salt. In 2000, it's documented that

kupuna Wilma Holi was granted intervener status for this very purpose. Article 12, Section 7 of the State of Hawaii constitution states in part, the state reaffirms and shall protect all --

Mr. Hull: Three minutes, Mr. Chair.

Ms. Norbrigh-Olivera: -- rights. Customarily and traditionally exercise for subsistence, cultural and religious purposes and possess by ahapua'a tenents who are descendants of native Hawaiians who in -- inhabited the Hawaiian Islands prior to 70 -- 1778. Therefore I have brought forward the mana'o of our Hui Hanapa'akai, again, 22 ohana that continue this kuleana and this privilege to bring forth and to continue this practice. Ke aloha.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: Next up is Caroline Freudig. Caroline. Followed by Kealii Kaiminaauao.

Ms. Caroline Freudig: Aloha. My name is Caroline Freudig. I am a first grade teacher at Kalaheo Elementary School, and I call Kalaheo Home. It's been home since 2005 for me and my family. And I'd like to bring in a little bit of a different perspective for you guys to consider in denying the helicopter's request. From 2011 to 2018, I worked in a position at the district office where I worked with our newly hired teachers. On Kaua'i, we hire between 40 and 80 teachers every year. This year, we're looking to hire -- it's about 50 something already. Those teachers impact the lives of our students each and every day. And more than half, usually more than half of those teachers, come in from the continental U.S. whether they've been recruited in or whether they come in on their own, we still have more than half of our teachers. Usually, we're bringing in from not in the state of Hawaii. I myself was one of those in 2005 coming in from New York. Those teachers, whether they feel connected or not to this place, has a huge impact on How they work with our students, How they work with your children, your grandchildren, our keiki. And to allow our county to have a company take over our cultural practice sends a really big message to the kids, and it also denies us a place where we can bring the teachers to get connected to where they are teaching. Whether they're here for six months, a year, five years, doesn't matter. They have kids in their classrooms every single day. And every single day How they work with those students is it -- it makes an impact. Whether they build relationships or not, whether they take the time to get to know the students or not. Just this year, I found out we have deer in Kokee. I have lived here 15 years, uh 14 years. I didn't know we had deer. One of my students told me that, right? So as an educator, you're always learning. We brought our kids to the salt pond beds to the -- um, this year. Not to work in them. Um, our teachers have had the privilege of um, getting to know Auntie Janet and her family, and getting to hear from them the value and the importance of perpetuating this cultural practice. And we bought our kids there from the first grade, two classes. Kids that swim there every single day had no idea there was salt beds over there. No idea. Them, their families, they weren't really aware of what it was. And that's kids that live and breathe in, in Kalaheo. Um, so I just -- I urge you to consider that perspective and the message you would be sending if you allow the company to take over the cultural significance that exists here on Kaua'i that is special. Thank you.

Chair Mahoney: All right. Thank you for your testimony.

Mr. Hull: The next speaker is Kealii Kaiminaauao, followed by Keola Kaiminaauao.

Mr. Keali'I Kaiminaauao: Aloha. Uh, my name is Kealiiheluamakaloa Kaiminaauao. I represent the future of the salt patch and all the families in the salt patch that work hard inside that place. And before you guys make your guy's decision, I'd really like to invite you guys to help me clean the well. And, and maybe, maybe you guys can see How hard it is and uh, if you can keep up with me, I'll probably give you a hundred bucks. But that won't happen. But I bring you a lot of joy and happiness to the families inside the salt patch. I help everybody. And I gladly represent the future of the salt patch. So please deny this thing for the helicopters. My children will be real happy. Aloha.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: Next up is Keola Kaiminaauao, followed by Thomas Nizo.

Mr. Keola Kaiminaauao: Hello. My name is --

Chair Mahoney: You're on. You're on.

Mr. Kaiminaauao: Hello. My name is Keolalanikapalehua Kaiminaauao. I'm here to represent the salt makers and my family. I'm going to make it short and sweet. I'm going to say just do the environmental assessment. Make sure the environmental assessment is, is looked upon. To make sure that it's not going to affect, but it's going to affect it, because everything that happens down there at the salt beds, everything that happens there at the airport, down there, affects the salt beds. I mean, I, I work for the airports. I'm not here to represent the airports. I -- I'm going to state that again. I'm not here to represent the airports. Um, and it's -- the maintenance down there, it's just ongoing. They -- we can't even keep up. We can't even get the approval from the governor to get more funding. So I don't see How this is going to happen. So I'm just here to say to deny the application for Smoky Mountain Helicopters.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: Next up is Thomas Nizo, followed by Gerald Dino -- I can't -- the last name is illegible.

Mr. Thomas Nizo: Thomas Nizo for the record here representing the Kapoho Ohana that was read off just a little while ago. And for the record, I'm against the permit to Smoky Valley Helicopters. Um, as you all stated, it's true that when we put our hands in the dirt, we're, we're like truly connected, right? I'm pretty sure you guys been to luaus, graduation parties. You guys eat kalua pig? We've touched you. You guys eat poke? We've touched you guys. So, I understand the whole thing about balance, right? I -- I'm a PMRF employee. You saw Saturday's paper, we just constructed a paipai for -- to safe keep our iwi kupuna. That was my project. I was honored to make that happen. But at PMRF, I'm a, I'm a Hawaiian that provides guidance for those guys, right? That's my role. I'm a Hawaiian before I'm a PMRF employee always. So the balance, I can understand the balance we -- between, you know, some of our local uh, residents working for those helicopter companies. Again, it's about balance. And my thing is, they got -- what they got and that's enough. We don't need to expand that area. They -- they're doing just fine. You know, the other day when we went to check out our salt patches, there was a lot of people flying out of that place using their helicopters. They're fine. They don't need to expand. So the balance and the message that I guess I have for the people that are

working for the helicopter is, be a Hawaiian, be a local resident, be a kanaka, guide those people, you know? Help guide those poe haole on How to act in -- on our island. So uh, just deny the permit and mahalo.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: Next up is Gerald Dino. Go. If you could make a call outside for a Gerald Dino. I can't read the last names. Gerald Dino. Yeah. Just make that call outside.

Male: Sure.

Mr. Hull: Gerald Dino. Uh, there is no Gerald Dino, so moving on. Julie Souza. Yeah.

Ms. Julie Souza: Aloha, Commissioners. You've heard a lot today, and you're going to hear a lot more. But uh, I want to --

Chair Mahoney: Could you state your name for the record?

Ms. Souza: I want to say that my name is Julie Souza.

Chair Mahoney: Thanks.

Ms. Souza: I live in Kukuiula. I am a Hawaiian and it, it's, it, it hurts my heart to see what's happening down at the pa'akai beds. You know, these families -- and I don't have their koko, but I have their love in my heart because any time that we need pa'akai, there's a call. No problem. Come get. You know? So it's like they're not making a profit at, at doing what they're doing, which is part of their culture, part of our culture. Part of your culture, for God's sake. You have all probably benefited from the pa'akai from the salt beds at Salt Pond. So you know, deny this request. Why do we have to keep going through it, taking up your time, taking up the people's time? Whereas this is, this is what they, they do. They, they, they make pa'akai and keep their families together and share. The um, helicopter service, you know, they're the newbies on the block, and they have come to, to take the beauty that we have and to take what we have left of our culture. They're not making any money, the pa'akai makers. They're not making any money. The helicopter people are making money. So go figure. You know? It's like why do we have to go through this? Please, please deny this request by this helicopter service. Let them be in Lihue where all of the aviation is. Bring them back to Lihue. Leave Burns Field as a historical runway for, for emergencies. Thank you very much for your time.

Chair Mahoney: Thank you. I appreciate it.

Mr. Hull: At this point, the Chair is going to exercise a 10 minute recess, but the following speakers will be Patrick Thompson and Piilani Kali as soon as we get back from the break.

Chair Mahoney: We will recess for 10.

The Commission recessed this portion of the meeting at 10:10 a.m.

The Commission reconvened this portion of the meeting at 10:20 a.m.

Mr. Hull: Next speaker uh, on the list to testify is Patrick Thompson, followed by Piilani Kali.

Chair Mahoney: Please state your name for the record, and you have three minutes for your testimony. Thank you.

Mr. Patrick Thompson: All right. Good morning everyone, Planning Commission. Uh, my name is Patrick Thompson. I am born and raised in Koloa Uh, there's a lot of emotions here today. I am not a Hawaiian. I am not a Kanaka. But my kids and my wife are. And my goal is to make sure that the traditions that their ancestors practiced can continue on. And um, these kids nowadays have things we didn't have, which are cell phones, computers all that stuff. So they're easily lost in the modern day world on the mainland. So, why am I here today? The pa'akai, the salt, the Salt Pond, the beds, the families, the relation to the Āina. And to do this in three minutes is impossible. So I'll try to just get to it. Uh, the traditions are priceless. You are the Planning Commission. We're here pleading our case to you guys to do what's right, which is ironic because you are the Planning Commission, and in places like the Salt Pond and other cultural significant sites around the island, you guys should be planning to keep those places safe. Um, this is where I'll get emotional. I grow taro. I don't even make money on it. But I do that so my kids can understand and hold a pohaku ku'i ai as a poi pounder. And they learn the, the importance of hard work in the field and they get to connect that way. Now, if I wasn't growing taro, maybe we would be doing something that had nothing to do with Hawaii right now. So, I went up to the North Shore this last weekend and I saw a, an uncle, a kupuna up there, mahi'ai, a farmer. And uh, I saw the, the new boardwalk walking right through their lo'i, iloke'e And like we all should do, we asked permission before we enter these places, whether it's a salt pond, salt patch, fishing grounds, I asked them. I said, kala mai Uncle? Can I come into your place? At that point, he looked at me and he saw all these other people walking right through his, his place. His place to reconnect and breathe and decompress from the stresses. It's like his house. A house where they teach the next generations. How would you like people walking right through your house, your sacred area? So he said, come in. I took off my slippers, I greeted him, and I just got right to the point. I said, Uncle, How do you feel about this boardwalk coming through your lo'i?

Mr. Hull: Three minutes, Mr. Chair.

Chair Mahoney: Okay.

Mr. Thompson: And he, he said, you know what? We lost six of the, the taro patches. He said, because of the state can't do anything about it. But we can still teach the keiki on the other side. And I said, that's a great attitude. I looked at his shirt, and his shirt read, they love our culture, but they don't love our people. Which means, you got to listen to the people. Um, the, the, the family behind me -- like I said, I'm not Hawaiian. But I was born and raised in Koloa with many of these people. Side by side with Kanani and Kealii. With Uncle Frank and Uncle Abby. They always take care of many families. Now you're talking about Salt Pond. It's a jewel.

Chair Mahoney: Okay. Can you wrap it up, please?

Mr. Thompson: I will wrap it up. You guys need to see these jewels around the island and protect them. 'Cause I guarantee you, if you guys don't start stepping up and protecting these, they're just going to shrink smaller and smaller and get -- uh, censor that word. Uh, they're going to get messed up over time. I guarantee you it. And it's going to be gone. So take care our Āina, the Kanaka's Āina, and that's about it. I just thank you. I hope you got the message.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: Next up is Piilani Kali.

Ms. Piilani Kali: Okay. Aloha mai kakou. O wau o Piilani Kali, no wai maka hou hi'iaka u kula Hanapepe mai au. I am a salt maker. I was born and raised in that area called Wai Maka hou Hi'iakaa I have been making pa'akai for 25 years. I am 25 years old. I have fought to protect this Āina along with my family throughout my entire life. Just when I thought we were even finished with the battles, someone or somehow something happened where Maverick um, put in things that weren't supposed to be put there. I would just like to say that we are tired. My family and I are tired. We are tired of having to justify the impacts of the surrounding areas to this salt patch, Wai Maka hou Hi'iakaa. By now you should have heard many reasons as to what impact they, they have on the salt patch. Today, I am not here to repeat what other people have already said about the dust control, the cesspool, the tourist traffic, the sand and erosion. I am here to talk about the cultural genocide you folks have been allowing to happen for so long everywhere. I am here for my family to speak for my kupuna for those that cannot. I am here for my next -- for the next generations to speak for those generations who cannot. I am here on behalf of my entire bloodline. Everybody in this room I am related to pretty much. To tell all of you, this Planning Commission, that my kupuna are tired of having to speak through me to protect this place. I shouldn't have to see my grandfather come up here and testify for the place that he has to protect. I shouldn't have to see that. I shouldn't have to see my mother come up here and say -- and talk about how much of an importance this is for our family. They shouldn't have to -- my kupuna, the people that can't. They shouldn't have to be woken to protect their families, their Āina. It shouldn't be -- it should already be protected by you folks. This county, this state have my kupuna in a choke hold, holding them from resting. Holding them back from their peace. And I will not allow it. As for our keiki.

Mr. Hull: Three minutes, Mr. Chair.

Ms. Kali: Oh, well. Huh. As for our keiki, you are taking away their future. Their mo'olelo, their culture and their connection. You are taking away their connection, their connection to their kupuna. You all will be taking that away from us. I hold all of you, the Planning Commission, county and state, for the future of our keiki responsible.

Chair Mahoney: Can you wrap it up, please?

Ms. Kali: Mm-hmm. Mahalo for your time. And if you totally don't know where I stand, I am against any and all matters that are related to the cultural genocide of this area. Mahalo.

Chair Mahoney: Thank you.

Mr. Hull: Uh, next speaker is Abraham Kahiwahiwa Makanani.

Mr. Abraham Makanui: Yeah. For the record, my name is Abraham Kahiwahiwa Makanui. I am a 17th generation Kanaka, and let's get this straight. Okay. I'm not going to candy coat this. There's no subtleties. Previous Planning Commissions, the county of Kaua'i, the state of Hawaii, have failed us Kanakas. Our culture is prostituted for profit. Our island is impacted beyond belief. We wait two, three hours in one direction for traffic. Why? Because the Planning

Commission didn't do their job 20 years ago. Feel it? Not, not, not pono, right? Doesn't feel good. Now when it comes to Maverick and a mainland based company who's coming over here solely to seek profits, has nothing to do, no correlation or addition or benefit to the Kanaka. To this island. But only desecrating that sacred spot out there, which doesn't exist anywhere else in the world. A practice that doesn't exist anywhere else in the world. We Kanaka are tired of being beaten, ran over, disgraced, disheveled, shoved to the side. We are the rightful heirs and we are the caretakers and the stewards of this land. You guys, the state of Hawaii and the county, are temporary stewards. And you are failing horribly in your mission to protect our rights as an indigenous people. And our culture. Okay? For the record, I am Abraham Kahiwahiwa Makaanui, and I demand that you do your job right and deny permits and rescind the permits for operation out there, and have them move their operations to the Lihue Airport where it belongs. Thank you very much for your time.

Chair Mahoney: Okay. Thank you, Mr. Makaanui.

Mr. Hull: Next speaker is Joseph -- it's not very legible. Kamai?

Mr. Joseph Kamai: Hello everyone. Uh, sorry being out of -- or standing for our people. I've been sick for quite a while. I'm here to state -- hello, everyone. My name is Joseph Kamai. From the Geneva Convention four, these lands still belong to the Hawaiian Kingdom. And their heirs. This whole side right here, this side right here, we are all heirs to the throne, but you guys neglect to understand who we are. You treat our Kanakas really bad. I lived on the land for four months, made a beautiful garden where we were feeding everybody. All of my cousins were making the pa'akai. And they were giving it away to people. There used to be water flowing straight to the shoreline, but there was little fountains coming out. Because of all the traveling and the -- you get these people running in and out with their vehicles and you have -- I've seen those gliders crash. And within three hours, they disappear and there's nothing done about it. But yet, you guys are saying you guys are helping our people. You're trying to do what is right. Well, start doing what is right because all of us here all -- we have our foot hold on that land. It belonged to our families. But yet, since the 40s when the State got a hold of the, the um, lease, it was never paid to our families. You guys stopped paying for it. The military stopped paying for it and it was supposed to be returned back to our family. Evidently, the job wasn't done the way it was supposed to be. We as Kanakas, we stand for our land, we stand for the pride of our people, and we stand for our country, the Hawaiian Kingdom. I am a veteran. But the thing is, what you're doing to our country and our family and our people, we're the ones that look like we're poor. But we have -- we're rich. We have everything here. But not one of you guys here understand that. Maybe you guys should start looking back in the past and seeing what really happened before you guys just stepping forward. 'Cause the rules and the law still pertain to us. And you guys have to respect that for each and every one of us here. As far as I'm concerned, the building should stop completely. That runway should be taken out because it's messing with an aquafer. You guys didn't know that, did you? The water comes straight from that land 'cause I raised a whole garden out there with no water.

Mr. Hull: Three minutes, Mr. Chair.

Chair Mahoney: Okay.

Mr. Kamai: And I'm here because of my family. I'm not going to let you guys walk all over us anymore. Even if it means going to the Governor, going to the Feds. I'm tired. I will make formal complaints. Thank you.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: Next up is Kalanikumai 'Onali'i Hanohano.

Mr. Kalani Hanohano: Aloha kakou. Aloha.

Chair Mahoney: Aloha.

Mr. Hanohano: Although publicly I'm known as Branch Harmony, my name and my legal name is Kalanikumaikamakaululipuamo'ionaali'i Hanohano. I am a seventh generation of Koloa, born in Makaweli Camp, uh, which is in Wahiawa, Koloa District. Uh, I represent the Nakapaahu and the Kekauoha families, as well as the Schimmelfennig family -- families, which I was born into. In my travels in America of 28 years, uh, with my first nation relations, I became involved in a pipe manufacturer, pipe carrier, pipestone, which in 1932 was declared by congress to be a national monument to protect the resources upon which Native American tribes all over America, uh, have as a religious practice. I work with pipestone, kalai pohaku. However, while the U.S. and Congress made pipestone a protected resource and um, created a national monument there to protect it, we need the same protections for the pa'akai. Uh, for one, I think my word for the day is, aohe kukai no ka pa'akai. It's a travesty that there is a cesspool in that system. Uh, forget septic system. Forget uh, cesspools. Forget, you know, about the chem trails, uh, uh, that you can see the, the expanded fuel and stuff drifting over the salt beds when the planes come in and out. I call you to terminate all commercial activity at Burns Field. Suspend it. Have a moratorium. Uh, uh, have it available for emergency vehicles, but no commercial activity. I ask that you designate a no fly zone excepting for emergency craft on, on the issue of drift. You can see when they come in and go out. You can see, you know, some of the particles floating in the air going down. You can smell it. And it impacts. Uh, and as far as a cesspool, you're contaminating uh, this precious resource. As a representative of, of Maheulepu there used to be salt pans at Maheulepu until World War II when they evacuated the village and the people. There are no more salt pans there. There are two salt pan places in Hawaii. They are the only ones left in the Pacific.

Mr. Hull: Three minutes, Mr. Chair.

Chair Mahoney: Okay.

Mr. Hanohano: It needs to be protected. This Maverick company, uh helicop -- we call these kind of folks, businesses kolea. They come in starving. They come in. Uh, they try to make nice. They make profit and they take it back with them.

Chair Mahoney: Okay.

Mr. Hanohano: They don't do anything here except raid.

Mr. Hull: Could you wrap it up, please?

Mr. Hanohano: Yes. Uh, I ask you to seek to establish a heritage resource protection for this whole area, and to set off uh, not only a no fly zone, but a barrier so, so that even the parking is restricted to an area that does not impact the salt pans. My families have been associated with this for generations. Uh, I put the burden on you guys to take this step and call for a moratorium and deny these after the fact permit applications and future permit applications, and just close that airfield down. Thank you very much and aloha.

Chair Mahoney: Thank you. Thank you.

Mr. Hull: Next up is -- it isn't that legible. Janet Kahelekomo. Vil, if you can call outside.

Chair Mahoney: Okay. Could you state your name --

Ms. Janet Kahelekomo: Aloha mai kakou.

Chair Mahoney: -- for the record, please?

Ms. Kahelekomo: Uh, Janet Kahalekomo.

Chair Mahoney: Okay.

Ms. Kahelekomo: I uh, would like to at this time thank Ke Akua for the opportunity that we have now to share our mana'o with you. Why we think it's so important to be able to continue to protect a place that for many generations have meant a lot to all of us. I would also like to thank the 'ohana that came this morning. They brought their children, grandchildren, and great-grandchildren. And I am one of them. I would like to um, especially thank those people who came to support us in this thing. I am one of the kupuna that continue to farm sea salt. The farm, the pa'akai that means so much to all of us handed down to me by my kupuna before me. And now I stand here hoping that you will listen to me and continue to allow my generation of my children, my grandchildren - this is my granddaughter right here with me. And my great-grandchildren. So I have three generations before me that are no longer here. I am in the middle and I have three more generations that are now, they're farming pa'akai. To some people, it's just a matter of a place to go, but of us that love it so much, we enjoy going there. And you know, sometimes I speak in this tone, but you know, my grandchildren and my great-grandchildren, especially the great-grands, they tell me, it's too hard job. They don't want to go. But you know what? As long as Tutu is alive, she's the boss. Guess what? And that's true. You can ask my granddaughter and she'll tell you that. So anyway, please listen to us as to what we say. First of all, we want to preserve. We want to protect, and we want to perpetuate. Now how can we protect this place that means a lot to us? If you've ever gone there, and maybe we should take you all there to see how we actually do the farming of the sea salt. Mahalo. Because you know why? You don't know how hard it is. You don't know how hot it is. And after you go there, you will understand how we love it. You know at my age and going in there, it's pretty hot. And sometimes I want to bring an umbrella. Yeah. But this is not the way to teach my great-grandchildren and my grandchildren. 'Cause why? They follow by example. Yeah. And who is the best example than me? For all of our families that are here today, it's them to their children, their grandchildren and their great-grandchildren. So we would like to continue to practice this culture that means a lot to us. I -- and I'm going to --

Mr. Hull: Three minutes, Mr. Chair.

Ms. Kahelekomo: -- really freely say, we are the only culture that continue to practice the farming of pa'akai in the whole Pacific archipelago. Can you imagine how much that is? Why? Because our kupuna before us taught us how humbling of an effect that can be. Yeah. And I'm still here. And as long as I'm still here, I'll keep fighting that we will be able to preserve this area so that we can continue to perpetuate. And what does perpetuation mean? To continue to have our generations do it. Um, I have a two-year-old great-granddaughter, and I took her in last week for the first time. She thought it was wonderful 'cause she could play with the mud. But she didn't know that that was just an introduction for her into this. Now when they're young, you can take them because guess what? They cannot say, I no like. 'Cause Tutu is the boss.

Chair Mahoney: Okay.

Ms. Kahelekomo: Right?

Chair Mahoney: Okay. Tutu, I know you're the boss --

Ms. Kahelekomo: And eventually --

Chair Mahoney: But uh --

Ms. Kahelekomo: Oh, okay.

Chair Mahoney: Could, could, could you wrap in a, a -- respectfully so, could you wrap it up so-

Ms. Kahelekomo: Oh, okay. Wait.

Chair Mahoney: We have many --

Ms. Kahelekomo: I'm going to give one minute to my granddaughter. Thank you.

Chair Mahoney: Okay. She can have three minutes if she would like.

Ms. Kahelekomo: Okay. You --

Chair Mahoney: Or whatever.

Ms. Kahalekomo: Say something.

Ms. Brandy Coglin: Uh, sorry. I never signed up, but uh --

Chair Mahoney: Well, state your name for the record.

Ms. Coglin: Brandy Coglin. Brandy Kahelekomo Coglon. Um, whatever everybody else say, just say no. Thank you.

Chair Mahoney: Thank you so much we appreciate your Testimony, thank you.

Mr. Hull: The next speaker is Joseph Kali. Kali. Joseph Kali.

Chair Mahoney: He's testifying outside?

Mr. Joseph Kali: Hi, my name is Joseph Kali. And I'm a son of Benjamin Kali. And I think you guys should uh, deny this --

Chair Mahoney: Could you speak up just a little uh, louder and talk into the mic please? Thank you. So we can --

Mr. Kali: My name is Joseph Kali. I'm the son of Benjamin, this is son of Benjamin Kali. Um, I think you guys should deny this thing 'cause from when I was a small kid, um, I never wanted to be there. It was, it was too hard work. But now as I am -- I have grandkids. And what my dad taught me was the same thing I trying to teach my grandchildren and my children. So yeah. I just think we should just try to dismiss this and that's all I got to say. Thank you.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: The next speaker is Mel Rapozo, followed by Abby Santos.

Mr. Mel Rapozo: Good morning, everybody.

Mr. Hull: Good morning.

Mr. Rapozo: Melvin Frances Rapozo. The most non-Hawaiian name you're going to hear today. Uh, first of all, I want to thank the Planning Department. I, I -- and I read the director's re -- report. It was well done. And if that doesn't convince this body what to do, then I would assume the testimonies that you heard today, uh, should. Um, I'm not going to talk about the cultural significance. I will say, though, though, from a very young age, born and raised here, mom, dad, grandma, grandpa, auntie, uncle, grandma's, grandpa's, everybody taught us, directed us from a very young age that that was sacred. Salt pans were sacred. That you don't go in the salt pans unless you're invited. It's -- it -- we knew from a very young age the importance of that area. And over my years, uh, living on this island, that has been reinforced over and over. This cannot be duplicated. You will never be able to rebuild the salt pans. Mother Nature made it and man is going to destroy it. And I think we got to be very careful. And I'll -- the couple of things. Back in '04, uh, myself and Council Chair at the time, Kaipō Asing, went down, uh, to the uh, salt pans. And we, we visited with um, the -- some of the families down there. Believe it or not, there was oil in the pans. And I had it on video on those video cassette tapes that destroy themselves after you know, about a 50 years or so, so it's gone. But I'll never forget that oil like -- you know at the um, memorial in Honolulu in Pearl Harbor? The oil still comes up. That's what was happening in, in, in the pans, in the beds. And apparently what had happened was, the county had used old asphalt material to fill in the pot holes. And this was done throughout that dirt road. The reason I bring that up is because not too many, but I have heard uh, people say that there is no impact. But there is an impact. And the impact is one that we don't know. We cannot see. We know that oil didn't come from heaven. And we know that oil didn't come from hell. That oil came from vehicles. That oil came from asphalt. So the county did their best to remove what they put in, but it's still impacted those beds. Back in 2014, myself and Councilmember Fafaro, we initiated a money bill for \$90,000 to do geological study 'cause we wanted to find out what was going on in those pans. What was going on? I mean, where, where were the veins, the arteries, the, the water. We, we wanted to make sure that that place was safe and it was going to be safe forever. And we put \$90,000 and, and we had sent over three

different follow-ups to the administration at the time. And we finally got word back on March uh -- from the county, the administration, saying that uh, unfortunately, the money had lapsed.

Mr. Hull: Three minutes, Mr. Chair.

Mr. Rapozo: And that the study was not done.

Chair Mahoney: Okay. Uh, we're on the three minute rule here, but uh, but you can continue and uh, wrap up your --

Mr. Rapozo: Okay. So you know, I think the county um, could have done a better job. But the bottom line is this. We have an opportunity now to stop. What I read in that report, again, a very good report, was the fact that these people have constructed and built things without a permit. What if it was anyone of us, regular, normal people, decided to build a bathroom on our lots, do a commercial activity, without a permit? What would the Planning Department do to John Doe who lives in Hanamaulu or Puhi or -- I can guarantee you, we would be suffering some, some wrath from the Planning Department. Thank you.

Chair Mahoney: Thank you.

Mr. Hull: The next speaker is Abby Santos.

Ms. Abigail Santos: Aloha everybody. Uh, so my name is Abigail Santos. Um, that's my family back there. And um, when I first came to Kaua'i in the early 70s and married Frank, um, he was um, obsessed with making salt. And I thought he was crazy because he worked so hard there and spent a lot of time that I thought he should be Home with me. And, and then, he gave it away. I couldn't -- it was like, what? Why are you working so hard and then you give it away? I don't understand. Um, it took me, it took me, it took me a while to figure that out. Um, the aloha, that my family has for this um, giving away the salt. They don't -- they give -- he just gives it away. And he tells me -- I still struggle with it a little bit. Not as much as I used to. But he doesn't expect anything in return ever when he gives it away. So um, he says he owes everybody. That's what he feels like. So if someone calls and asks for salt, he just gives it away. He never expects anything in return. So we really appreciate the community coming out now and supporting us. So it looks like we're getting our return now. Because um, I think a lot of the people here he has gifted, we have gifted as a family, um, for salt for a lot of people. So um, in 2 -- in 2005 when the Planning Department signed the um, SMA Use Permit, they -- in my opinion back then, it should have been an SMA mi -- a major permit because the value was over \$100,000. I think Smoky Mountain did far more improvements than um, the -- that should have triggered an EIS back in 2005. And um, I appreciate the Department's report. I really do appreciate the um, the Planning Department, the report that you've done. I think you've done an excellent job, but I think you should take it up a step further. I would rather see an EIS than an EA because this um, project, if you go back when um Ian Costas signed that permit from a Smoky Mountain, I think that was a big mistake back then. And so if on page um, 10 of the director's report at the very top, it says that, the expansion -- let me see. The Department has requested that the applicant submit an environmental assessment prior to the Planning Commission action. But I believe it should be an EIS. And I also think, I also think that um, Maverick didn't really understand what they're doing to our community when they moved in.

Mr. Hull: Three minutes, Mr. Chair.

Ms. Santos: And hope -- and hopefully now, they get it. So in my uh -- I tend to be more um, not so pessimistic. But I would hope that everyone would direct all their negativity to um, Maverick. Because they're the ones I wish that they would withdraw. And leave our community because they are not wanted in Hanapepe. We don't need them. We don't like them. We'll never like them. The noise that they create and the humbug that they create for our whole entire community of Hanapepe, our community will never be the same because of this company. So I would request that they withdraw and get out of our town. Thank you.

Chair Mahoney: All right. Thank you. Thank you very much for your testimony.

Mr. Hull: The next speaker -- sorry. The signup is a signature, so I'm getting Louie Cabebe.

Mr. Louie Cabebe: (Hawaiian Chanting) Louie Cabebe. Kou inoa. Noa au Hanapepe. Basic, basic the chant is about asking first before doing. Respecting the people of that Āina before entering. Becoming part of that ohana before bringing your ohana. This kind stuff no can. You cannot do that. This is our culture. This is the way we live. 'Cause if you do that, then the aloha is provided. You come, you come visit, you're a visitor. Visit then go home. But if you're coming to do something with our community, basic, you should come to meet the elders. That's how I was brought up. Meet the elders. Meet the people of that area. Meet the people of that Āina. Get to know them. My first experience with salt is with the Santos Ohana. And yeah. I was just talking to Frank about if you remember me, throwing me into that hole to dig that stink pond, which came out to be so beautiful. 'Cause he called me up and he said, brah you got to come look at the pond now. It was red. It was totally red. It was this brine shrimp that makes the salt what it is. It is a sacred area. It is a living museum. People can come and see what it was -- what has been -- work there that has been done through years. And it's a living museum and it should be untouched. It should be protected. It should be expanded. We should have more people doing salt down there. Based on How these people came in, that's hewa already, you know? I not going your house and go walk inside there, I like use your bathroom. You know?

Mr. Hull: Three minutes, Mr. Chair.

Mr. Cabebe: So just to wrap it up, so you come and you ask and you make yourself recognized and you get to know the people. And when you leave the area, you try to leave the area ten times as most as you got. So aloha (Hawaiian Chant).

Chair Mahoney: Thank you.

Mr. Hull: The next speaker is Ann Keeler, Keeler.

Ms. Ann Keeler Herkies: Aloha. My name is Ann Keeler Herkies. I am a third generation kama'aina. I'm also a long time teacher on this island. Um, I wonder what message the county is sending our keiki when it accepts -- if it -- if, if it accepts an after the fact permit. What message are you sending the children when you have a money making cor - -- when you value a money making corporation over a cultural resource that freely gives away their bounty that was made with love and aloha? The helicopter's actions do harm the people. And I saw it in there somewhere like there was lines that said, cannot -- should not do this, should not do that against

people and places. And they are. So they're already violating their own things they -- their own words that they said they wouldn't do. Um, this is a one of a kind, which you've heard over and over again, a one of a kind um, place in the world. I just, I just want you to really think about what you are teaching the keiki of this island. Does their culture matter? What message do you as the County want to send to our next generations? You've heard from our next generations. They've spoken to you. Um, I want you to listen with your hearts. Pau.

Chair Mahoney: Thank you.

Mr. Hull: Next speaker -- sorry. The last name is a little illegible. But James Oana?

Mr. James Oana: Aloha. My name is James Oana. I'm originally from the shores of Kakuhihewa. I moved here about 20 years ago. I've been making salt with the Santos family for the last 17 years. We are the last of the um, salt makers through these islands. We also have people from all over the world, Europe, Asia that have heard about Kaua'i salt and the salt pans here. And they come to visit. When they come to visit, they see us in the parking lot. We walk them through, we teach them the culture, the way that the Kupuna, prior to us, How they made it. And they're all shocked when they come to find out that all this is happening to us. We may not be a, a big company with millions and millions of dollars. But I could tell you this. We are rich in culture and the way we do things. I hope that you do shut down these uh, permit process for Maverick Helicopters 'cause as I am in the construction business. When there is no permits, the job gets shut down. So please, I hope you shut these guys down and go through an environmental impact statement. I am -- it just saddens me to know that we are the last of the salt makers, and you allowing this mainland company with millions of dollars to come in to shut us down. It's not right. We need to keep some of our culture, some of our ways without any interruption from any mainland company. And maybe someday I hope to see some of you come down and actually feel the mana, feel, feel the Kupuna in that area because that Āina down there is sore. It's hurting. And we feel it every time we're in the salt patch. It sets our mood for the day sometimes. I just hope you think twice when you think about us Hawaiians for, for a change. Mahalo.

Chair Mahoney: Thank you.

Mr. Hull: The next speaker is Billie Tevao? Billie -- the last name is a little illegible. Tevao, I believe. Make a call for Billie Tevao. Terao.

Ms. Billie Terao: Aloha mai kakou. My name is Billie Aina Terao. And this is my daughter, Riana. Uh, I'm asking you to deny the application today. Um, what we speak of today is not no -- not only about the Hanapepe salt beds, Kaua'i, Hawaii, or America's issue. It's a global issue. King Kamehameha III, Kauikeaouli. He said, Ua Mau ke Ea o ka Aina I ka Pono, he didn't say that the people are perpetuated in right, righteousness. He said that it's the land. It's about the land. So how do we balance the commerce engine with our land management body? I came today with this mana'o in mind. If not you, then who? If not now, then when? So pa'akai, pa'a means firm or solid, secure. Kai is our saltwater. There's uses for the pa'akai. Treatment of illnesses. It's a flavor enhancer. There's a preservation of food, cleansing and protection of our places, our body and our spits. Tanning, dyeing and bleaching. Production of pottery, soap and chlorine. Our Hanapepe cultural practitioners continue a tradition that spans generations. Hanapepe is the only place in the world that continues to cultivate pa'akai in a traditional

manner. It's not for sale but given freedom. My personal interest, I've received pa'akai as a gift and in turn, shared it with others. Each recipient is grateful for the precious gift of pa'akai o'Hanapepe. Kekahi e'kekahi. What goes around, comes around. So I'm also a hana no'eau lauhala. I understand that who stands before me are my kupuna, my keiki and myself. So impacts are not readily seen or measured. One issue of the many that threatens our cultural traditions and practices, individuals without 'ike or insight of cultural traditions and practices. Let us understand that once Hanapepe salt beds are gone, they'll never come back. Unlike 'ohia on Hawaii Island, lauhala on Maui, or other extinct flora and fauna. Our salt beds do not have the opportunity to regenerate via seeds or eggs. We cannot collect, bank or store to be recreated or brought back from extinction. Mahalo in advance for your careful consideration for the preservation and protection of hana no'eau pa'akai for our future generations, my keiki, my mo'opuna. So pa'akai preserves, or it corrodes. Which will you choose? So I leave with this. If not you, then who? If not now, then when? I ask you humbly, please deny the application. Mahalo.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: The next speaker is Helen Samper.

Ms. Helen Samper: Good morning. My name is Helen Samper, and I represent my family who's originally from Kaua'i. And the family that still lives in Hanapepe. Um, I'm not a salt farmer, but I have had the opportunity to experience Frank Santos, Santos' generosity. Um, and be very succinct, I strongly oppose the approval of the Smoky Mountain Helicopters' request. Thank you.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: The next speaker is Elsie Godbey. Elsie Godbey, Godbey.

Ms. Elsie Godbey: My name is Elsie Godbey. Uh, I was born and raised in Hanapepe and -- but I moved to Wailua, so I'm, I'm not there yet, but we still have some property in Hanapepe. I'm older than Frank Santos, so I remember the salt pan and the salt pond area as being more natural than it ever was -- is right now. In fact, um, I recall that there was uh, from the ocean to the salt pans, there was always a little stream of water going back and forth because we used to have to go over that to get to the little swimming pool, um, east of uh, the area. Uh, I'd like to show you some of the uh, news -- some of the progression of all the uh, things we had to go through from the interisland helicopters uh -- what was that? No, no. Okay. So I'm going to -- um, on June 29th, 2000 -- no. June 25, 2000, I have this uh, news article from the Garden Island where it says, OHA may ask state for Burns Field. And I am presenting these articles just to show you How long ago we've been trying to have the salt pond area, the whole peninsula there, go back to the community to take care of and to keep it as a natural site, even before all of this salt maker's thing coming up. I remember in my days uh, after I had left and I came back, all the things that they have asked for permission to put in that area; a golf course, a, a ocean park and -- oh, I don't know what else. But the most important things I heard of was the golf course they wanted, and then a, then a ocean park with uh, dolphins and all that sort of stuff. Well, that didn't go over, but in June 25, 2000, OHA, the article here says, OHA may ask state for Burns Field. Well, that never happened. And then on June 29th, Commission Holds off on Burns Field decision until

state finishes new study. Whatever the old study was, I don't know. And uh, on May 10th, 2001, dog fight over airport expansion resumes.

Mr. Hull: Three minutes, Mr. Chair.

Ms. Godbey: And then, of course --

Chair Mahoney: Okay. Could --

Ms. Godbey: -- yesterday --

Chair Mahoney: Can you, can you wrap up your testimony with this last thought?

Ms. Godbey: Yeah. This is it. This is it. The --

Chair Mahoney: Well, thank you.

Ms. Godbey: Okay. Anyway --

Chair Mahoney: Well, we appreciate that. Thank you so much.

Mr. Hull: Sorry. The last name is a little illegible. Kahiau Kaiminaauao.

Ms. Kahia Kaiminaauao: Aloha. Uh, my name is Kahiau Kaiminaauao. This is my sister, Ka Nanea Kaiminaauao, and this is my cousin, Alekea Kaiminaauao. Um, I am here to represent my ohana that sits behind me and the Āina. Pa'akai is just more than salt. It is a part of us Hawaiians and especially to my ohana. Even though I personally may not have worked in the pa'akai, I see and feel the dedication and the hard work that my family consistently puts into this. It is so devastating to see how hard they have to fight for something that is part of us Hawaiians. What about the keiki? We won't be able to see them enjoy cultural activities because there won't be any. What are the keiki gonna think when they can't continue to do what their kupunas and their Makua did? My cousin right here, Alekea is from Minnesota and she and her family bring pa'akai from Kaua'i to share with hundreds of families there, and they love it and they continue to want it. So we deny the application of the helicopters so that not just us could have it, but people around the world could have it, too. Long before some of our kupuna couldn't even learn to olelo Hawaii and pass it on because it was taken away from them just as this may be taken away from us and future generations. Mahalo.

Chair Mahoney: Thank you.

Mr. Hull: The next speaker is Troy Hinano Lazaro. Troy Lazaro.

Mr. Troy Lazaro: (Hawaiian Chanting) Aloha. Aloha. My name is Troy Allen Hinano Lazaro and this is Kekoa Tango. And we come from the west end of the island of Kaua'i, and I am a Kumu Hula. And this spiritual practice, um, is so sacred to us as Hawaiians, and as kanaka of the Āina. You know, I was born on the island of Kaua'i, and when I was a child, I was given dirty, dirty lickings for playing in the pa'akai because it was kapu, forbidden. We did not belong there, even as kanaka, as Hawaiians. I didn't have a place there. I wasn't born into the kuleana of taking care of that kuleana. All of these families that have come here before you to speak in behalf of all us kanaka, we utilize the pa'akai for our spiritual practices. I was 37 years old when

I was given the first opportunity to hana ka pa'akai. That was when the halau was born. The Kaiakapu ohana invited us into their beautiful practice, and there we learned to hana ka pa'akai. The traditions that they were born into, all of these traditions that they were gifted at birth, can you imagine in your lifetime, all of that to be taken away? And the kuleana rests in your presence for all of you to make a decision for all of us and the generations that come behind us, and the kupuna that came and taught us. There is so much to be learned and so much to be shared, and I'm just so blessed to be a kanaka, a person of Hawaiian culture, a person of hula. We utilize the pa'akai in all of our practices, and the pond, our first arrival at the loi, the first thing that we did was pule, to pray. To ask Ke Akua's permission. To call upon our ancestors to be amongst us as we endeavor in our hana. It is a temple for us Hawaiian people. It is a temple for us to gain our experience. It is an opportunity for us to connect deeply to the roots, to every vein. I learned so much as a kanaka, as a Hawaiian, by just being there in the presence of Auntie Momi and the Kaiakapu ohana who were so gracious to teach us.

Mr. Hull: Three minutes, Mr. Chair.

Mr. Lozaro: And the Santos ohana, who so lovingly opened up their pu'uwai to so many for educational purposes. I ask you to listen to us as kanaka, to hear our call. Our kupuna have fought for us and now we're continuously fighting for them and for every generation that comes behind us. So I ask you to think about your kuleana, your responsibility to Kaua'i, to kamawailualani and to all things Hawaiian.

Chair Mahoney: Thank you.

Mr. Kekoa Tango: Can, can I speak?

Chair Mahoney: Yeah. Go ahead.

Mr. Tango: So you know, as kanaka, we, we look to the past. We look to kawa ma mua, the time in front of us for answers, for, for purpose. And so we as kanaka, we look to our kupuna for the answers. And so when one understands the waiwai, the, the value of pa'akai, for example, for this situation, we under -- you -- understanding you will not disrespect or disregard a practice like this. And so I just ask you like it's been asked before, How will you stand by us to protect, preserve and perpetuate this hana aloha a ka pa'akai? Mahalo.

Chair Mahoney: Thank you very much.

Mr. Hull: The next speaker is Noa Mau Espirito. Noa Mau Espirito.

Mr. Noa Espirito: All right. Can go now?

Mr. Hull: Yeah. Just state your name.

Mr. Espirito: Aloha. My name is Noa Kanealiioponoi Mau Espirito. I am a Kingdom of the Hawaiian Islands executive branch public official. I am from Puna District Kapahi. It is my intention to notify you that under the County of Kaua'i, state of Hawaii, public officials are owed to uphold the constitution of the United States, the proceedings and procedures which Smoky Mountain Helicopters, Inc, on Kamehameha third private property known as Hanapepe ahupua'a is unconstitutional. Let me say that again. It's, it's unconstitutional. And it is in violation of

United States constitution Article 6, Section 2, Article 1, section 8, piracy and treason on the high seas and United States Federal law 18 US Code Section 9569571091 and 2441. I demand, one that the unconstitutional proceedings at Hanapepe Salt Pads by the County of Kaua'i, State of Hawaii, cease and desist immediately. Two, rules of war under 18 US, Code 2441 is complied with by the State of Hawaii and the County of Kaua'i immediately. You guys need to comply with rules of war. As long as you guys stay on this island with guns on your hips with the State and County, you guys on the streets with guns on the hips, you guys got to comply with rules of war. Three, the -- I demand the County of Kaua'i and State of Hawaii immediately sit down with the ohanas that have interest in the area under Kamehameha third great mahele. So I would pretty much ask of you guys to halt all this action you guys doing right now. This whole thing is totally unconstitutional under you guys own oath of office to uphold the constitution of the United States. You guys know it's unconstitutional. You guys citing the, citing only HRS laws. The HRS laws no even apply over here. Under 28 U.S. Code 91, you guys have no Hawaiian Islands to constitute over, the State of Hawaii. So you guys like do stuff over here, you guys got to comply with rules of war. As long as get -- you guys stay here with guns on your hip on this island, you guys got to comply with rules of war, and you guys only can take properties for military necessities. This helicopter guys is not for a military necessity. If it was the army and the navy is a whole other story, but it's not the army or the navy or the coastguard or whatever. So I just ask you guys comply with you guys' oath of office, comply with the laws, treaties and constitution of the United States, please. I don't like going to court over this issue with you guys. I get enough court cases all over the place. I don't need more court cases. It's a fucking missing dates here and there all over. So I don't want to go there with you guys, but we are prepared --

Mr. Hull: Three minutes, Mr. Chair.

Mr. Espirito: -- going to court over these laws. But can you guys please cease and desist in all of you guys' actions? Thank you.

Chair Mahoney: Thank you for your testimony.

Mr. Hull:The next speaker -- I, I can't read the first name. Last name Kaiwi.

Mr. Benehakaka Kaiwi: Aloha. Benehakaka Kaiwi. Uh, I am a descendant of uh, Alexander Kali, and also grandson of Solomon Kali. Uh, both of my tutus have uh, salt pond beds, uh, a little area. I am actually one of the first families to, to make salt, and I say, no on the expansion of the heliport. Um, everything is just even the airport is basically pretty much our family, our land that was stolen from the United States. Yeah. Just 30 years after the overthrow. And now you guys want to take more land, take more land until you guys ruin everything for the salt makers and our family and everybody else. I yield my time. Aloha.

Chair Mahoney: Thank you.

Mr. Hull: The next speaker is K. Hoku Cabebe, K. Hoku Cabebe. Uh, single sheet was on this page. The Chair will be exercising a 10 minute, uh, break and will return. The next speakers are Victoria Takamine, Leilani Kalilimoku, and Puanani Rogers. We will begin a 10 minute break.

The Commission recessed this portion of the meeting at 11:28 a.m.

The Commission reconvened this portion of the meeting at 11:47 a.m.

Mr. Hull: Uh, next speaker signed up is Victoria Takamine, I believe. Victoria Takamine?

(Unrelated background dialogue not transcribed.)

Ms. Vicky Takamine: Aloha mai kakou, I'm Vicky Holt Takamine. I am the, uh, po'o of 'Ilio'ulaokalani, a coalition of native Hawaiian Kuma Hula and cultural practitioners statewide. Um, I come from Honolulu, Oahu. I live in Aiea. Um, I just want to say How important this site is for the entire State of Hawai'i. This is the only agricultural salt ponds in the entire state that has been producing pa'akai for all of our people for generations to come. Um, it's shameful, the permit application -- I read through it -- that they think you're going to rubber stamp this, so I'm en- -- encouraging you to deny this application. They will not -- they don't have any good faith. Interviewing one person as a cultural practitioner -- practitioner -- who doesn't live on Kaua'i, who's not a cul- -- who's not a -- who's not a -- a salt pa- -- salt maker, that's shameful. It -- it puts to shame your entire permitting process. The fact that they think that -- I -- I highlighted, "The applicant is attempting to reduce any potential impacts from dust," you cannot attempt to reduce the impact from dust. The dust on our pa'akai, any dust on our pa'akai, then damages our pa'akai, the entire -- all 22 ponds. I'm -- I'm thankful for all the families that are here, that are here to stand up for their rights. This is a salt pond that has been in practice for generations, for centuries. You have to protect this and shut down all of the airports in -- in Port Allen. We don't need it. They got plenty other places to go. We really don't need it. But it -- it really puts to shame our permitting process that they think that they can submit a permit like this and get rubber stamped by all of us. That's shameful. It -- it really is shameful that they think that they can get away with this. So, mahalo, thank you so much for hearing this.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: Next speaker is Leilani Kalilimoku.

Ms. Leilani Kalilimoku: (Hawaiian chanting). Aloha. O wau Leilani Kalilimoku Kaleiohi keia. My grandmother's side comes from Kaua'i, the first families that ever came here. And I'm still looking at all this palapala, and I say, "Why are we here? Why are we here? Why do our families have to continue to come and testify what is so precious, not only just for us but for everybody globally?" Really, this is a global thing. I'm a kahu and a kumu. I'm a kumu au. I teach Hawaiian culture in many different ways in the many different venues. The importance of the purity of the -- of the pa'akai is important to my practice as well, because as a kahu, I use this to -- to bless, to cleanse, to mix with medications that come into our body that help our people and others around us. And as kumu hula mentioned, every little element that is foreign or, uh, How you call -- um, kupau, not good for the mix, makes us sick. Uh, I use it to soften the kapa that we use as gifts to give in global, international, cultural, uh, exchanges and teachings. It is something that signifies not just our culture and the greatness of our culture here, a living legacy from them, but it also encourages others around the world, the importance of our bio-environment, our biosphere, the purity of the families that have worked so hard to continue and keep this legacy alive, and that we -- they are perpetuating. They're doing everything pono, and yet when we have people come in, that's not so pono, and picking away at -- at -- at what is

traditionally precious, sacred. Um, you hurt our spirit and the spirit of this island and the spirit globally. So, I ask in all humbleness, please, please, please, please help us to not have to keep coming here and explain this. Please help us protect and take care of this legacy. Mahalo nui loa a pau oa.

Chair Mahoney: Thank you.

Mr. Hull: Next speaker is Puanani Rogers.

Ms. Puanani Rogers: Aloha.

Multiple: Aloha.

Ms. Rogers: I love all of you. I do. Welina mai kakou. Greetings to all present and unseen as well. I invoke the presence of our kupuna and your kupuna as well to dwell here in this presence and to hear what is going on here today. You are messing with our spiritual realm, guys. Do not do that, because you do not understand the ramifications of what you can do in our spiritual realm that will turn around and bite you. Do not mess with our spiritual and cultural practices. Did I say my name? Okay. Puanani Rogers, born and raised in the ahupua'a of Kealia in the moku of Puna on this beautiful island, moku Puna of Kaua'i mano o kalani po. Uh, mahalo. Mahalo for this, um, opportunity to share some mana'o with you. And feeling the pain, feeling the hurt, feeling the cries of our people, feeling the fear, the fear that this can be taken away from our grandchildren and our great-grandchildren, stealing their future of learning and propagating the making of pa'akai at our sacred wahi pana of Hanapepe. This, um, process we're going through, which is to permit expansion of, uh, Burns Field, a.k.a. Port Allen Airport, but the real name is Puolu Point. Puolu Point. If you will picture it as it was formerly before it was an airport, you will see that it is a place that should be preserved for our people to enjoy and to propagate, uh, the use of it for our future generations. That Burns Field should be dismantled, um, destroyed like How you are so good about desecrating and destroying. Well, go destroy that. Go destroy Burns Field. Take it away. Take all the old asphalt away. Restore it to its natural beauty of Puolu Point. Get that name right. It is Puolu Point. It's not Burns Field. It's not Port Allen Airport. This is How we grew up, knowing that place. The people in Hanapepe, they know that so well. There was a favorite fishing place and camping place for them and their ohana. Why take it away?

Ms. Mr. Hull: Three minutes, Mr. Chair.

Ms. Rogers: Why did we have to have that? You know, Burns Field was temporary. It was built for, um, what you call fixed-wing aircraft, not helicopters. So, it's not right that the helicopters are using that place.

Chair Mahoney: Okay. Could you wrap up your testimony, please?

Ms. Rogers: It's not right, and -- I beg your pardon?

Chair Mahoney: Could you wrap up your testimony? Everybody gets three minutes. If you could finish your thought?

Ms. Rogers: I know that.

Ms. Chair Mahoney: Yeah.

Ms. Rogers: But, uh --

Chair Mahoney: Go ahead. Go ahead. You can finish your -- what you got to say, please.

Ms. Rogers: Okay, well, hear me, and hear me clearly. Get rid of that Burns Field. It does not belong there. And if you do not, you will have to suffer the ramifications of how our spirituality will challenge you, because it is cultural genocide. It is, um, desecration and, um, I'm sorry for you if you do anything bad, because guess what, if it doesn't fall -- the -- the pain doesn't fall upon you, it is going to fall upon your family and your children. Do not mess with our -- our sacred sites. Okay? Um, bless all of you. Thank you. I hope you make right decisions for us. I hope you listen to the voices of the people for once and do not permit this to happen. No more permits. Destroy that Burns Field. Mahalo.

Chair Mahoney: Thank you.

Mr. Hull: Uh, next speaker is Stormy Bradley.

Ms. Stormy Bradley: Aloha. I notice -- or I hope you have noticed -- How many people have come out -- oh, excuse me. My name is Stormy Bradley. I don't have an ounce of Hawaiian blood in me. But I started coming to Kaua'i when I was a child of 12 and cried every time my parents took me back to the mainland, and I said, "Why can't we move here?" And my father said, "Stormy, when you're an adult, you can do whatever you want," and so when I was 23 years old and just graduated college, I moved straight here, and I have been here for 46 years. I'm a retired schoolteacher, and I have written two Kaua'i history books. That said, I understand what is in their hearts. I taught Kuulei Santos as a student, and I'm very proud of her for sticking up for her culture. I have been here long enough to know How many times she's had to fight for Salt Pond. We shouldn't have to keep fighting. But one thing I have realized, I've been quite lucky to travel the world, and I've been to many world heritage sites. This is a world heritage site yet unnamed. We on Kaua'i are trying to protect a cultural thing that is over 1,000 years old, and I understand their frustration. The -- Kaua'i -- oh, excuse me. Often, people don't realize when you live where you live that what you have is of cultural importance. It's people from the outside that notice that it's important. And Uncle Louie said it was a living museum, and it is. You heard how the families are passing on the tradition of not selling the salt of -- of it being so rare. The problem is, we had salt ponds on all the islands, but due to people, um, paving over them, this is the last remaining Hawaiian salt pans in Hawai'i. And the people who were on the planning board in 1949 -- you know, flight started in 1925, the very first flight --

Mr. Hull: Three minutes, Mr. Chair.

Ms. Bradley: Okay. The first flight was in 1925. We had Burns Field, such as it was, and then the people looked around and goes, "This is not a good place for an airport," so in 1949, and --

Chair Mahoney: Excuse me. Could you wrap it up, please?

Ms. Bradley: I --

Chair Mahoney: I'm not -- I'm not trying to interrupt you, but everybody gets three minutes.

Ms. Bradley: I know. Okay.

Chair Mahoney: We have so many people. We all want to hear from all of them, and I don't mean to cut you short, but if you could wrap up your, uh, thoughts --

(Crosstalk)

Ms. Bradley: I was born in 1949, so I know it was 70 years ago. The planning department of Kaua'i changed it to a more centrally located location, and it was dedicated in 1950. There was a reason for that. They wanted to protect the salt pans, and it should be protected. Thank you for listening to me.

Chair Mahoney: Thank you --

Ms. Bradley: Aloha.

Chair Mahoney: -- for your testimony. We appreciate it.

Mr. Hull: The next testifier is Kehaulani Kekua.

Ms. Kehaulani Kekua: Aloha e na kumu akua, na au Makua, na kupuna kahiko ame na ohana makou, aloha mai kakou no keia la. Uh, greetings of aloha to all of us on this very significant, um, day. My name is Kehaulani Kekua, and I'm born and raised in Anahola, Kaua'i. Um, I am also the Kumu Hula of Halau Palaihiwa O Kaipuwai, uh, which is a traditional hula school that was established by my grandmother, the late hula master Helen Kekua -- uh, Helen Kaipuwai Kekua Waiau -- in, uh, 1945. Her hula school was based in Hanapepe for many years, um, from the '40s to the '50s. Mahalo nui for this opportunity to speak to the application filed by Smoky Mountain Helicopters, Inc. I am opposed to the approval of the permits, and I am here in support of the Hui Hana Pa'akai of Hanapepe and the Hawaiian salt-making families and community. So, I -- you know, I stayed up all night last night trying to put my thoughts together, and I even made copies which I'm going to leave, but I'm not going to even speak to most of it, because as I was listening, uh, throughout the morning to the different speakers, there are things that, um, I cannot speak to because I am not from a salt-making family, but I have many friends and many colleagues and, um, so many families have -- that have been very generous with me personally, um, with my Halau, uh, with the hula community. So, there are a couple of things that stick out, um, uh, that I think needs to be addressed. One is, uh, the religious and cultural significance of historic properties. This is the only place that remains in all of the Pai'aina. It is a treasure. The -- the iki kupuna, the ancestral knowledge and the skills of O Hui Hana Pa'akai, is so rare and unique. These are families that have preserved and maintained and perpetuated this knowledge and the skills. They pass it down through their families, and so we should look at that as something so important. Um, when we say a place is sacred, it is not because it's beautiful or special. It is because they are inextricably linked to the deities, to the akua, the gods, the goddesses, the ancestral spirits, our ancestors that are connected to these places, and the oihana, or the making of salt, is sacred because its primordial function is to cultivate and process the elemental kinolau, or the nature body forms of the deities themselves, that result in pa'akai, or Hawaiian salt. So --

Mr. Hull: Three minutes, Mr. Chair.

Ms. Kekua: That was three minutes already? Wow. Okay.

Chair Mahoney: You can wrap up your thought, there.

Ms. Kekua: I'm going to wrap it up.

Chair Mahoney: You -- if you want to finish your -- yeah.

Ms. Kekua: I just want to say -- okay, so I have all of this stuff that I wrote in here, but I just want to say, there are some -- there's a -- uh, the word that comes to me is lokomaika'i. Lokomaika'i means "good insides", yeah, your "loko", your -- is your insides -- is pono. And lokomaika'i is generosity, and these families that I'm so privileged to be in the presence of have been so filled with aloha and -- and generosity. In 2014, we had over 1500 hula learners from, uh, around the world that came here. The Santos family hosted two days of teaching and sharing. So, I want to mahalo all of you. I want to, uh, say thank you from the bottom of my heart to all of the salt-making families, and I implore you to please, please deny the permit application. Mahalo nui.

Chair Mahoney: Thank you. Next speaker is -- first name is illegible, Gail Masuda.

Ms. Gail Masuda: Aloha. This is my first time. Okay. And I'm -- I'm excited, and I'm yet -- I wasn't going to speak or share anything. I just came to listen.

Chair Mahoney: Okay.

Ms. Masuda: And as I was listening, something brought me up to --

Chair Mahoney: Can I interrupt you for a second?

Ms. Masuda: Oh, I'm sorry, Gail Niau Masuda.

Chair Mahoney: There you go. No, you're doing great. Thank you, Gail.

Ms. Masuda: Okay. Okay. He did a good job, though, this time with my name. I know he was struggling with a lot of names.

Chair Mahoney: Yeah. Go ahead. Thank you.

Ms. Masuda: So, anyway, as I was listening outside, I came to support -- in support of the salt makers of Hanapepe. And as I listened -- and by the way, I'm number 47 -- oh, 46 -- I'm number 46 sharing testimony, and I decided to share my testimony after listening. And I thought to myself, I have a six-year-old grandson, my first, and I was told maybe my only, grandchild. And if any of you have children, you know How children love to ask. Okay, my grandson will say, "Grandma, what is this, or what is that?" And we ride through Hanapepe Town, where I was born, and there are old buildings that are just the front part of the buildings facing, like Hanapepe Theater. And as we ride through the town, my grandson asked me one day, he said, "Grandma, what is that?" and I said, "Oh, that used to be our theater," and I said -- he said, "A theater? In this town?" and I said, "Yes, Hanapepe town used to be a really busy town before we -- as a matter of fact, we had two theaters in our town, and now we have none." And I didn't realize How important -- How that struck me until I started listening to the testimonies. What am

I going to tell my grandson? Or maybe if I have my future grandchildren, if they were to ask me -- or as we're riding along Salt Pond, "Grandma, what is that?", I don't want to have to tell them, "It used to be the salt pans where we used to make salt, where Grandma used to sit in the hot sun with her parents. We used to play mud, and that was how -- I think kupuna was one of the people that mentioned it -- that's how they taught us to learn how to make salt beds. We used to play mud, and that was our first learning there. And I realized how important this is, and it seems that every so many years we're here asking. There are people from the salt pans here asking please don't let it change. Don't take away that tradition that we have been doing for years and years. Think about the future. We're not going to be here. Sometimes I tell myself, "Why should I care? I'm not going to be here in a couple more years. Why should I care?" But I do care. I care about the future or the future of my grandchildren. I want them to know especially the traditions that were Hawaiian traditions. I'm three-quarters Hawaiian, and I love being Hawaiian. I'm proud. I'm proud to say I live on Kaua'i. My youngest son lives on the mainland. He has been trying to --

Mr. Hull: Three minutes, Mr. Chair.

Ms. Masuda: -- get my husband and I to move -- I will -- to move to the mainland. We've always told him, "No, Kaua'i is our Home." He's even gone as far as telling us, "But it's so expensive to live there. Come to the mainland. It's so much cheaper." We said, "No, 'til the day we die, Kaua'i is our Home." Hawai'i is our Home. And I thank you.

Chair Mahoney: Thank you very much.

Mr. Hull: Next speaker is Kehaulani Kahalekai.

Ms. Kehau Kahalekai: Aloha. My name is Kehaulani Kahalekai. I am a kanaka, Hawaiian cultural practitioner of Kaua'i. Um, I'm in a group called, um, the Kupuna Council, which is with Ho'ola Lahui, and, um, as a cultural practitioner, this area -- and if you look on your plans that you have had many years ago, this area was all salt bed, Puolu Point was all salt bed, until we had that strip put in. And when that strip was put in, it was only for military use, and we still had all that area to do our salt bed. Actually, that area is a leina. Do you understand what a leina is? A leina is an input and output of every -- I would say in the western terms would be called a vortex. It's a spiritual area where our ancestors exit and come in. Why do you think we have a lot of crashes over there? And it's the certain time and a certain period. I -- for the last 20 to 30 years that I've been in that area and prayed in that area, I have found that it -- it was -- it wasn't only for the salt practitioners, for the la'au, for all -- all the practitioners of cultural descent. They come there and they take what they need to make medicine to do healing, and as Kehau was here earlier to say, they call them the deities. There are several different areas in that point that is historical. Totally, I'm against expansion of -- of any type of -- of, uh, commercial use there. Before our pa'akai that has been there for years, and this is so important to us cultural practitioners, without that pa'akai, we cannot -- we cannot do the healing. We cannot continue on our practice. But that's only up to you, you know. And I know it's -- I've heard so many great, great, great reasons why we -- we cannot have that area for commercial use. This is not commercial use. This is our culture. This is part of us, and we need that. I need that, and every practitioner on this island or on the island -- other islands, they're going to need it, too. So, I implore you to really think about helping and making that historical preservation, making that area historically set like we have done for Hanapepe Town. This can -- you can do this. I know

you can. You just got to be part of it and say yes, we will do it. That's all I can tell you. Thank you so very much. Aloha.

Chair Mahoney: Thank you.

Ms. Mr. Hull: Next speaker is Jolena Kali-Nahaku, I believe is right. Nahaku?

Ms. Jolena Kali-Nahaku: Hi, my name is Jolena Kali-Nahaku. I am, um, the granddaughter of the late Benjamin Kali, Sr. Um, a couple years ago was my grandpa's last year of making salt, and me, my husband, and my son was on the beach swimming. He said, "Come, Tita, bring the - - bring them." I go, "Papa, he too young yet." "No, bring him. I'm going to teach him." My son was two years old. He taught my son How to scrape it, and just watching him, my grandpa looked at me, he goes, "That is what I had fight for. That is what all the kupuna had fight for, so that the next generation can continue." He goes, "You bring him back every year. You come with the family. You bring him back. You come with your husband. He's allowed to come inside." So, my husband had make a bed. My grandpa allowed him to make a bed. Every year, we go, we make beds. All the family go together. We wait until my uncle say we can go. We go, and then we go, we can scrape. We, um, emptied, uh, the wells together. We scraped the beds together. We harvest together. Nobody go in by them self anymore. Everybody -- my grandpa is watching us now. We harvest together. That's what he always wanted was for our family for be together again. He did it for years by himself, all 40-something beds, and just the past five or six years, we all came together and helped him. Two years ago, he said, "I'm too old for this. I cannot do it anymore." So, we went. We all had -- we all had, um, helped each other. We all went. So, I just want to say, please don't let this company come in and ruin it for us. I want to be able to tell my grandkids my grandpa had teach them. I want to be able for my son to tell his grandkids, "My papa had teach me How to do it." Thank you.

Chair Mahoney: Thank you very much.

Mr. Hull: Next speaker is Tommy Oi.

Mr. Tommy Oi: Morning, board members. Uh, my name is Tommy Oi. I'm, uh, speaking to, hoping that you guys will deny the project. Uh, I remember when I was a land agent for Kaua'i in the early -- I was a land agent from 2003 to 2011. And I think it was, uh, either Mayor Carvalho or Mayor Baptiste wanted to put a -- a [sic] adolescent treatment center on the old, um, dog pound. The community fought that because of the fact that they would have to put the sewage treatments, and the sewage treatment would affect the salt beds, and I think that stopped the mayor from putting the, uh, adolescent treatment center there. They put them in Lihue now, so -- I think that was the main reason that you can't allow this, because, uh, for the healthy and safety of the public and the salt, because it will affect the salt (inaudible - 00:30:27), the salt. I think that's the main reason you cannot -- uh, you should deny this project because of the fact that it would contaminate the ground. And the other thing, too, is, uh, I sit on the land board right now, and in 2017, this company came to get -- uh, for us to -- to assign the, uh -- the lease from Jack Harter, I think it was, to them. We denied it because of the fact that there's too many issues from the planning department, the mayor, and other public agencies, so we denied the, uh, permit. Uh, we deferred it 'til they come back and -- and, um, give us all the answers to all the questions the county and the state had. They never came back to us. What they did was they bought out Jack Harter Helicopter Company and moved right in, and according to state highway

-- uh, airports, they can do that. And so, all they did was pay the money, buy these guys out, and now that's how they got in there. That's why, you know this company, you know. I been fighting them tooth and nail every time, trying to tell them don't fly over the -- the helicopters over the salt pan, and all I get from them is, "We got the right, because FAA allows us to do it. FAA controls the flight path." But to me, you know, that's the attitude these guys get. So, for me, I would like to see you guys deny this permit. Thank you.

Chair Mahoney: Thank you for your testimony.

Ms. Mr. Hull: The next speaker, the first name is illegible, but last name Kaiwi.

Ms. Belle Kaiwi: Good afternoon, Commission and Chairman. Uh, for the record, my name is Belle Kaiwi. I'm a third-generation, I guess, that made salt down there in -- at, uh, Hanapepe, but I'm not going to touch on the historical or the cultural thing or whatever my sister did in the past. She already -- I think it's on record already, so I'm not going to go into that one. But I just wanted to say that the Lihue airport where I retired from just completed their, um -- their building of the fuel tanks, and I think the helicopter company should relocate to the Lihue one and not the Hanapepe one, because when my sister first did the, um, thing against the county for approving the permit down there, it was about the fuel tank and How it would impact the soil which would leach into the salt bed area, so that's my opinion. I think the helicopter company shouldn't be allowed a permit after the fact, because before the fact, there was other things that should've been done, and the fuel tank was one of them that should've been removed in the first place, and no buildings were supposed to have been erected after that. So, they should relocate to the Lihue one, where new tanks were recently completed, and they can expand helicopter operations down there. Thank you for your time.

Chair Mahoney: Thank you for your testimony.

Ms. Mr. Hull: Next speaker is Noe Kauai-Naumu.

Ms. Noe Kauai-Naumu: Aloha mai kakou o wau o Noelani Kauai-Naumu. Um, I got up this morning with a strong kuleana in my heart to be here as I watched these ohana battle for their lo'i pa'akai. I stand here to represent my Kaneakua ohana as well as the ohana behind me. I showed up today and saw the multitudes of people, but what you do not see that I feel is the multitudes of our kupuna behind us. The kuleana that has been mentioned by the testimonies given before me, I hope you feel and you know how great the kuleana is, the decision that you make. To have to see these ohana fight for something that, as has been said before, is our birthright is sickening. To see these people that already have so much that they've taken from us, that they're making profit from us, to ask for more is sickening. Just like our language was stripped from us, this pa'akai is not only food for us, it's medicine for us. As mentioned before, it's our cultural practice. It brings ohana together. It binds us in a way that cannot be done anywhere else. As a mother of four, I listen so frequently to the -- the talk on the street, all these kids nowadays. These kids now can -- always on iPads, always doing things that are of the world. Well, what do you expect when you strip us of the classroom that I like to call with no walls? What do you expect when this is the place we want to bring our keiki to learn? We want to get them in the lepo. We want them to reap the efforts of all the things that they're capable of. We want to instill in them the values that are stripped from us. So, as mentioned before, I -- just listening to the testimony before me, it's just so heavy on my heart like we have to beg. We have

to beg for you guys to make a pono decision. Everyone has to go Home tonight and sleep with whatever kuleana you have. I once actually sat in your seat, believe it or not. I once worked for the County, so I understand the kuleana that's in your hands, but I also left because I couldn't sleep with the things that we had to do. So, beyond a paycheck, I hope that you make this decision with you na'au and not with your titles. Mahalo.

Mr. Hull: The next speaker is Yolanda Sullivan. Yolanda Sullivan?

Mr. Hull: Moving on, the next -- the next name is illegible, but I've got Ola Cook? Ola Cook?

Chair Mahoney: Okay, could you state your name for the record? And you have three minutes for your testimony.

Ms. Maoli Cook: Yes, my name is Maoli Cook, and, um, I would like to thank everyone who came today. It's been such a privilege and so uplifting to hear what has been shared, and to be part of this community and experience their -- their love, their passion, their dedication. It's really a wonderful thing. I myself am an enthusiastic student and practitioner of Hawaiian culture. I'm also an educator on the Island. I've been teaching in the schools, in the Hawaiian studies program and in Hawaiian charter schools for many years, 30 years or so. So, you have heard all this moving testimony of How very precious this tradition is, and I support it with all my heart. I could share perhaps a -- a different insight as an educator who has brought hundreds of students to the salt pond How wonderful it is for a child to experience something real and alive, not just in a book or in a museum, but to see and feel and breathe an experience like that, to understand, um, the values that are taught. To me as a teacher, that's what I care about imparting to children. And they -- when they go to the lo'i, they see what is pa'ahana, what is industriousness, what is hard work. What is onipa'a? To be able to hold on when it's so hot, and to be able to do something like that, to experience ohana, to see it alive and well, what it really means, what it can be at its most powerful, to know and see what is aloha, to be able to share, to understand those qualities and those values. For me as an educator, that is another precious aspect of this amazing place. I also feel -- my kumu came and spoke, and she said shame, shame that anyone would consider that they could just make an application and get a rubber stamp. I feel a sense of shame myself as well, because being, uh, not from this place and having come to this place, I'm so grateful for everything I experience here. And I feel a sense of resentment when others come from other places and they take advantage of all the beauty that Kaua'i has to share. That you could live in such a wonderful place with people that know aloha, and practice aloha, and live it, and that you have the beauty of the ocean and the land, and the lifestyle, and the breezes, and the fragrances, so much wealth that people come and get here just by being able to live here, that they would not want to give back, they would not want to honor their neighbors and the traditions and the practices that they see. I don't understand it, and in a way, I -- I feel judgmental about it, so I would feel that message -- I hope that message would get across to the helicopter company when they see all of the people that came, their neighbors, the people that they're living with, to express their -- their dismay at their actions and what they want to do. So, I -- I wish they would listen.

Mr. Hull: Three minutes, Mr. Chair.

Ms. Cook: I wish they would open their hearts and hear these things. So, thank you all for what you're doing. It's a very hard job, and I applaud you for your dedication to sit here and listen to

all of us, and I do hope you'll be very blessed and guided by these words of your community and those who you serve. Thank you for this time.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: The next speaker is Sherri Ephan.

Ms. Sherri Ephan: Aloha, Sherri Ephan. Uh, Kaumakani. Uh, mahalo for having me here. Um, I'm in opposition of any expansion of Maverick Helicopters, um, and in support of my hanai family to my left, which is the Santos ohana. Um, it's hard for me to be up here, because, uh, born and raised here, so what we -- what we're taught as we grow up is that not to say anything, because that's going to cause trouble. But there comes a time where we actually have to stand up, and we have to stand up for the traditions of our own people here as well as the many sacrifices that they -- they have made over the centuries of pa'akai making. Um, bottom line here, guys, it's all about the money. Yeah, it's all about the money, and money is the root to all evil, and that's what this is as of this point. And I agree with Auntie Abby, there should be no helicopters there. They have been fighting about this particular issue for 30-something years, and, you know, it's -- it's disheartening that we're even here having to beg you to deny these applications when, first and foremost, How did they get in? They got in through a loophole. That's where the outcry is. And then now, we stay -- we're here years after the fact begging you not to have them expand their -- their business, and -- and that's what it is, guys. That's what it is right now. It's all about the money. I've been in the tourist industry for half of my life, and, you know, it's sad, because that's where we make our living. That's where we make our money. That's How we have a lot of people that -- that are afraid to come up here and speak from their hearts. But as of this point, you know, I'm a mother of four children. We use the Hawaiian salt for medicinal purposes. Whether it's cuts, injuries, whether you have a sore throat, whether you have, you know, a torn muscle, we use all of these things regardless if it's FDA, um, approved. Yes, we do not sell these salt, because it's due to tradition that it states that it's not supposed to be sold or bought. On another hand, you have a helicopter that's one of the biggest in our country that is right here in our hometown. That's the outcry. The outcry is that, where it's all boils down to the money and the selfishness and the greed, despite the fact of all of our outcry as -- despite the fact that we've been begging the County of Kaua'i to dismantle that airport. It's unnecessary, and it's not wanted. Thank you for your time.

Chair Mahoney: Thank you.

Mr. Hull: Next speaker is Tammy Pu'u.

Mr. Tammy Pu'u: Aloha, everyone. My name is Tammy Pu'u, and despite having a Hawaiian last name, I have no Hawaiian blood running through my veins whatsoever. However, I am here in support of all these families who are just wanting to protect what has been born to them, cultural, tradition. Um, myself personally, I am a Kaua'i girl, born and raised in the town of Kalaheo. So, guess what? It's not only their kuleana. It is my kuleana as a Kauaian to protect the salt beds as well. Born and raised in Kalaheo, Japanese-Portuguese girl, spent a lot of time in Hanapepe Town. Some of you guys might remember that my family had a store down there right next to Saimin Corner that was called Hanapepe Garden Supply. Some people called it the Icee Store. But my sister and I spent a lot of time down there, and Salt Pond was one of the places that we would go to refresh and just have fun. I remember that stream that went from the

salt beds into the -- into the bay, and I remember looking at the salt beds when I was a little girl, thinking, "Wow, look at all those diamonds, all that sparkles in the mud," and I had to actually ask my parents what it was, um, and then to later find out it was salt. My hope is that I don't have to show my granddaughter, who is 2-1/2 years old, a picture of what salt beds looked like. I hope and pray that I don't have to go to Long's Drugs and buy a bag of salt that is made in plastic. I want to see the days that we can go back over there and talk to all these families and have them share with us about their family and about their tradition and how they came about into these beds, and what it takes. And I remember having a big 5-gallon bucket next to the refrigerator in the garage full of salt. Now you need salt, you get one Ziploc bag. What are we coming to? Please, I beg you, on behalf of this Japanese-Portuguese girl who makes malasadas every Malasada Day and who pounds mochi every -- every year before New Year's, protect tradition. Protect culture. Protect Kaua'i. Mahalo.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: The next speaker is Tobi Sibolboro.

Ms. Tobi Sibolboro: Hello. My name is Tobi Sibolboro, and just like Tammy before me, I might not have an ounce of Hawaiian in me, but my grandfather was lucky enough to have a salt bed years ago, and he was able to learn the practices of making salt and share it with our family. And although I might not personally have memories of my grandfather making salt, the Santos ohana here, they have graciously, um, allowed me to come recently and learn the practices of Hawaiian salt. And this past Sunday was the first, um, time that my five-year-old son -- going to be five-year-old son -- was able to go to the salt patch and experience, um, looking for clay, um, cleaning the salt bed, and hopefully we will be able to protect this area to continue the tradition and continue the practice of making salt. So, I am here to humbly ask you to deny, um, the permit -- the after-the-fact permits for this helicopter company. Thank you.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: Next testifier is Cecelia Hoffman. Cecelia Hoffman?

Ms. Cecelia Hoffman: Aloha mai kakou. I'm just taking a look at you people and seeing, "What am I looking at?" Um, who is --

Chair Mahoney: Could you state your name for the record, please?

Ms. Hoffman: Yes.

Chair Mahoney: Thanks.

Ms. Hoffman: And so, take notice of who you are. I want to address -- my name is Cecelia Kaleiokalani Napohaku Hoffman. Um, I see that as Planning Commissioners that you are the konohiki, and back then konohiki has a kuleana, a heavy, heavy responsibility upon your shoulder. So, here we are, addressing the pa'akai lo'i, which is very important to our ohana. I don't see my ohana here, so it gives -- it's a privilege for me to be a part of the Napohaku, Uncle Robert Napohaku ohana that does work in the pa'akai lo'i. I will come with you with 'once upon a time'. Once upon a time, we had Mana. There was a thriving town, and now we have dust. Once upon a time, we had, um, Polihale. We used to call it -- my family used to call it 'pule

hale', a place of House, a House of prayer. And now, Polihale is just a -- a place that we go to, not to give thanks, but to relax, a place for vacationing and a place for -- for everybody to -- to get together. We also have a place where we call, um, Nohili, Nohili. You know it as PMRF. So, these places that are sacred to -- to us as this wahi pana of Kaua'i is now no longer strong in the -- no longer is places that we see or we can take our family to, because it's not -- become private property that we don't have access to. And I can see as our pa'akai lo'i becoming a place, if this is permitted, for, um, Maverick and for this helicopter to have advantage of expanding their -- you know, expanding their greed or expanding their places to -- to have this helicopter. We as family and as, um, people of Kaua'i have had the advantage of having these blessings of having pa'akai as a blessing to our lives. I know that many of you have had pa'akai touch your hand. You've tasted it in your -- in your meals. We say to you that please, please listen to our voices. Please heed what we have to say, and we ask you to -- to take notice of what we have -- of these things --

Mr. Hull: Three minutes, Mr. Chair.

Ms. Hoffman: -- because this pa'akai is special to us. As one of the ladies mentioned earlier, these are diamonds. These are Hawaiian diamonds, and we hold precious to us. I -- mahalo.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: Next speaker is Reverend Jade Battad.

Rev. Jade Battad: Aloha, Planning Director, Ka'aina Mr. Hull, and everyone else here on the Commission. My name is Jade Waialeale-Battad. I am honored to be here today. On Thursday, I had the privilege of being at the salt beds, the lo'i pa'akai. The beauty of it was -- was so ethereal. It was -- it was a spiritual experience. I looked out over all these salt pans and beds that were laid out, glistening with pa'akai. I stood there in the serenity and peace of this sacred, special place, and I could feel our ancestors. I could feel the spirit of the land. I -- I stand with the Santos ohana, every single family that has, um, connection to this area. They're not wealthy. They're not the mavericks of the world. These are ohana that are continuing this treasured tradition of preserving who we are and our salt practice. I -- I wish all of you would -- would go and experience the area just to be there, just to feel the energy and the spirit of this sacred, special place. You know, the Bible, in Matthew 5:13, says, "You are the salt of the earth," and then that became a saying that when I looked it up in -- in Webster's dictionary, it says, "To be said that you are the salt of the earth refers the individual or the group considered as a representative of the best or noblest elements of society." So, if you were called the salt of the earth, you -- it refers you to being of the highest nobility. Then, our pa'akai is a precious resource that dates back to the Bible. So, I -- I beg you, I beg you, to preserve our cultural practices. Look at this ohana. Look at everybody. The entire island has turned out to support who we are as a kanaka. You know, as, um -- as a minister, I go and do -- I have the privilege of doing God's work, and I'm so grateful. And every time I go, I take pa'akai with me, because when people -- when we use it in our spiritual blessings, it -- you hold on to this pa'akai that is a preservation. It preserves, right? It also is known as a cleansing. We would go to the ocean, get in the water, do a hi'u wai, to cleanse, right, to make pono. So, when they hold this pa'akai, their -- their spirit becomes one with this, and when they -- they dust it on the earth, on the lahui, the . honua, it -- it's such a -- a -- a blessing. And so, when I go, I -- I say, "This pa'akai I have today is from --"

Mr. Hull: Three minutes, Mr. Chair.

Rev. Battad: "-- the Santos ohana. This pa'akai is from, you know, the Nizo ohana. This pa'akai is from the Kualii'ohana." We need that for who we are. I -- I beg you to do what's right, to do what's right for our people, for our island, and I thank you for the position you hold and for being here today. Mahalo. God bless.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: The next testifier is Lala Ryan.

Ms. Lala Ryan: Aloha awakea kakou. O Lala ko'u inoa. This is my ohana. This is my dad, Kalani Kapuni'ae, my husband Rob, our daughters Ihilani and Ka'ua. Before I get started, I'd like to mahalo Ke Akua for allowing us to all be here today. We come from Oregon now. I grew up on the west side of Kaua'i in Kekaha, and 23 years ago I moved away to become a nurse and to start my family. Raising our kids in the mainland and also being a alaka'i of our halau, I realize that teaching our keikis the traditions and our Hawaiian culture was going to be really hard. And so, a few years ago when I was invited and my ohana was invited by Uncle Thomas and Auntie Puni to learn How to make pa'akai, I told my dad, "Yes, take the keikis. We all going to learn." We jump at every chance that we can to pass on our culture. And it is a true blessing to be able to learn that, because it is not easy trying to teach that on the mainland. With this knowledge and mana'o, we were able to bring pa'akai back to Oregon and then to educate our keiki in Oregon and Washington and California. What I didn't realize was that over the years, I wasn't only educating our keiki, I was also educating those foreigners that come and visit our island and How to treat our people and How to treat our land. So, it is -- I felt like this is not only my kuleana to pass on our culture to our generations, but to also educate those that are going to come and enjoy our land to respect us, respect us as a people, respect us as a culture. So, I'm asking you today on behalf of not only the kanakas that transplanted on the mainland, but all the foreigners that back me, all the doctors and all the nurses and all the people that I have come to hanai as my ohana, please, please protect our land, protect our culture, and protect our people, because it is all of our responsibilities to pass that on to the next generation. Mahalo nui loa.

Chair Mahoney: Thank you very much.

Mr. Hull: The next speaker is Noelani Murray.

Chair Mahoney: Could you state your name for the record and -- yeah.

Ms. Noelani Murray: Aloha. My name is Noelani Murray.

Chair Mahoney: Okay.

Ms. Murray: Um --

Chair Mahoney: And you have three minutes to testify.

Ms. Murray: I'm a little shy, so I have something --

Chair Mahoney: Oh, it's all right.

Ms. Murray: -- to read that I wrote. Um, “so, I’m here asking that the proposal to expand and those permits be denied. My name -- um, so I was born and raised in Kalaheo, currently living in Kalihiwai, and I’m a student at Kaua’i Community College. So, um, my family and I was lucky enough to grow up next to the Palama family. Uh, our neighbors were salt makers, and they’ve been blessing us with the pa’akai for years and years and years. Um, even still today as my family’s moved to the mainland, they’ve been blessing me with -- with pa’akai gifts, and I’ve been blessing those around me with it the same. Um, this family’s practice has facilitated community in our very suburban neighborhood, created connections, um, and friends around us. Um, furthermore, it has been an integral part of my passion, which is cooking, and utilizing the aina’s abundance. There’s something so rich about using, um, the fresh pa’akais in my meals and serving it to those around me, sharing the aloha with them. I’m beyond grateful to everyone who has put, um, their mana in the lo’i’s and fill up my kuleana to give it my testimony. Um, we are living in a paradoxical time where money is on the forefront of society’s mind, when what is truly most important is focusing attention on our earth. We are in a climate emergency. This is straightforward and understood in our ike kupuna. Hawaiian culture and aloha ‘aina values are completely embedded in one another. Thus, it is embedded here in our ‘aina, our Home, our older sibling, here long before any of us. He ali’i ka ‘aina; he kauwa ke kanaka. The land is chief; man is its servant. Like many before me have said, the fight to support the lo’i pa’akai has taken enough of the people’s time. The answer to this proposal is painfully obvious to me: Protect and uplift the cultural practice of salt making. This practice was here way before the helicopter companies and is beyond more beneficial for our island and its community. Without it, what do we have? There has been enough development in the name of tourism. To accept this proposal would be putting greed before the health of our community, culture, and earth, especially to a mainland-based company that does not even ask permission before illegally expanding and then asking for more. Any Hawaiian knows this as complete and utter disrespect. Do you see this as a healthy pattern? I humbly ask that you consider this question when you make a decision. What is more important to you, economic greed or a thriving culture and community?” And thank you for your time and consideration.

Chair Mahoney: Thank you very much for your testimony.

Mr. Hull: Next speaker is Pa’alahi Gonsalves.

Mr. Pa’alahi Gonsalves: O Pa’alahi ko’u inoa.. I’m 76 years old, uh, and I’d like to, uh, quote some of these things that were mentioned in the memorandum that -- that the planning commission, uh, adopted and, uh, real quickly. April 13, 2000, uh, a permit, where four 45,000 square foot helicopter lease lots to accommodate 18 to 24 hangars with helicopter imprints, two three -- 3,600 square feet fixed-wing tie down areas, 10 to 12 foot, and so forth, parking areas, uh, for the public, for the employees, and this one, uh, “Runway lights for emergency use, and a fuel storage tank and landscaping” that was heard by the planning commission. It goes on further. Uh, some of you in the house remember Wilma Holi, a native Hawaiian requesting to protect traditional native Hawaiian cultural rights to prepare salt beds and gather salt located on the projects identified in Hanapepe. In May 11, 2000, Judge Gil Nakatani ordered that the final environmental assessment for the project was legally inadequate and ordered the preparation of new draft environmental assessment, because the agency failed to consider the alternate, moving to Lihue Airport. Uh, there’s another one right here. Anyway, some of you know Bully Kapulehua and he is also another cultural practitioner, lived on Kaua’i and -- and now reside on

another island. You know, I -- I've been to Salt Pond. I've taken a group of kids, and, you know, like many of the people here mentioned, it's a very sacred place. I mean, you know, it's not -- you don't throw trash around, and you don't just step any way you -- you -- you want to step. I've taken Boy Scout troops to Salt Pond, and you know what, we never, ever went to the Salt Pond, because, you know, we were not allowed to go there. We weren't invited. And, you know, I mean, when I read this in the paper yesterday, I mean, How can this ever get to this point today?

Mr. Hull: Three minutes, Mr. Mahoney.

Mr. Gonsalves: A hearing, how ridiculous it makes to me. Not to you guys, and not to the ones who ask for the permit, which is a company like any other company, trying to make money, and it -- it really touches me. I mean, this is the only place in the whole world that they make pa'akai. And I don't know if any of you have seen the movie of the salt making. Amazing. The Hawaiians say kupaianaha, amazing. I've never seen anywhere, any other place in the world that they make salt.

Chair Mahoney: Okay.

Mr. Gonsalves: My ohana is from Molokai, Pa'aluhi, Iaea, Joiau and even Maui, but, you know, I'm not even talking about my family. I'm talking about the salt pond. I mean, if you guys have common sense --

Mr. Hull: Four minutes, Mr. Chair.

Chair Mahoney: Okay.

Mr. Gonsalves: -- then you guys will make the decision. I'm not making the decision for you guys, but I know how the planning commission --

Chair Mahoney: Will you wrap up your --

Mr. Gonsalves: -- operate.

Chair Mahoney: -- testimony, please?

Mr. Gonsalves: Okay.

Chair Mahoney: Thank you.

Mr. Gonsalves: I'm almost pau brah. I know how you guys operate, and -- because we've had similar cases like this in Anahola. You know, KIUC came in, "Oh, we're going build panels." "Go ahead."

Chair Mahoney: Okay.

Mr. Gonsalves: "Who going make the money?" "Kaua'i Electric." And I said, "What are you going to do for the Hawaiians?" "Oh, we going to give them jobs." You know what? Nobody work for KIUC out in Anahola. All lies. You know, I mean, it -- it burns me up, because the Hawaiian's always getting shafted, shaft here, shaft there.

Mr. Hull: Five minutes, Mr. Chair.

Chair Mahoney: Okay.

Mr. Gonsalves: Uh, you guys make the decision. You guys probably made them already.

Chair Mahoney: Uh, I don't think so, but thanks.

Mr. Hull: Uh, the Chair's going to actually, um, entertain uh, going to a five-minute recess. I think there is some discussion about possibly taking a lunch, but being that there's only, uh, nine or ten more speakers left signed up, the Chair's decided to hear that before breaking for lunch, uh, but they're going to take a five-minute recess and return back to hear the last of the signed-up speakers. So --

Mr. Hull: Okay.

The Commission recessed this portion of the meeting at 12:55 p.m.

The Commission reconvened this portion of the meeting at 1:05 p.m.

Mr. Hull: The next speakers signed up are Sherri Cummings and KipuKai Kualii'i.

Mr. Kipukai Kualii'i: I think I'll go first 'cause I'll be pretty brief. Aloha, I am KipuKai Kualii'i. So I am testifying today on behalf of my 85-year-old father, uh, Wilfred Kualii'i III. He is the eldest hanai son, pure Hawaiian, of Melapa Makaanui-Core. Um, and I'm testifying as well on behalf of the rest of our Kualii'i-Core and Makaanui ohana, who are all, uh, salt makers at Hanapepe Salt Ponds. Um, we do not support this application for the after-the-fact permits. Um, you all know that the salt ponds of Hanapepe is a one-of-a-kind cultural treasure. It's sacred, um, and spiritual, and you really wouldn't know that unless you experienced it and I'm—it's an awesome privilege and an honor to have the kuleana and to be a part of a family that—that has experienced that and that get to experience that year after year. I'll just tell you that, you know everyone talked about how hot it is and how hard the work is, and yet when you're there with your ohana and working together there's this energy, there's this mana, there's this spiritual—I think it's our kupuna that comes to be with us and work alongside of us and comfort us and—it's magical. I mean, you just—you can't describe it and you only have to experience it. And—and the beautiful thing is that along the way, over the years, we've brought family and friends, extended family to come and work with us in—in the pans and they get to experience that too. So I think it would be wonderful if you came and experienced this. You would truly see that this is a one-of-a-kind special place that everyone should be doing everything they can to protect it in—in all ways possible. This is just a small thing we're talking about today. But we need to do a lot more, um, to preserve and protect, um, pa'akai as a cultural practice. Mahalo.

Ms. Sherri Cummings: Aloha mai kakou. My name is Sherri Lee Uilani Cummings. I'm a descendent of Keo Naumu Nakahiki, my kupuna hoa'a. The capacity I come under is I'm the Native Hawaiian Director of the Sovereign Councils of Hawaiian Homelands Assembly. And I'll just talk about our rights as native Hawaiians. State constitution recognizes native Hawaiian traditional and customary rights and the state's obligation to protect those rights. Article 12 Section 7 provides "The state reaffirms and shall protect all rights customarily and traditionally exercised for subsistence, cultural and religious purposes and possess—possessed by Ahupua'a attendants who

are descendants of native Hawaiians who inhabited the Hawaiian islands prior to 1778. And arguably so, if access and gathering rights exist, then the traditional knowledge that is being utilized to exercise such rights should be protected by the state and the people." Legislation passed a regulation in 2004 stating that the native Hawaiian people are recognized as indigenous, traditional knowledge-holders and that they have collective intellectual rights to their property. It is of vital importance that we tie in our cultural practice which is protected by the above mentioned laws to the right of self-determination. It is a fundamental premise upon which indigenous people have asserted inherent and inalienable rights to traditional knowledge. In 2003, the Paoakalani Declaration makes that assertion on behalf of our people, Kanaka Maoli, that we have the right of self-determination which includes determining appropriate use of our traditional knowledge, cultural expressions, and art forms. There are many other state, federal and international laws that support the rights of native people to freely pursue our cultural development. Too many to mention or cite but I am willing to provide it if this is requested by you. I will leave you with this final note. The right of self-determination for indigenous peoples is the ability of indigenous peoples to apply their own customary laws to protect their soon-to-be make customary practice if you allow this tour aviation company to rewrite the landscape of this sacred wahi pana. I urge this body to stop the desecration—

Mr. Hull: Three minutes, Mrs. Chair.

Ms. Cummings: And implore you to assist our native people to maintain what many others have lost through this type of attacks. Mahalo nui. Sherri.

Chair Mahoney: Thank you very much for your testimony.

Mr. Hull: Next speaker is Aurora Rosin. Next speaker is Nanea Nobrega.

Ms. Nanea Nobrega: Sorry. Aloha. Uh, my name is Nanea Nobrega. This is my keiki, Kaisea [ph]. And my tita, Becky. Sorry, I'm very nervous. Um, I am 25 years old and my tutu was one of the first guys that was part of the pa'akai. That was many years ago. After my tutu passed away, uh, it was given down to my papa. And my feet have been in that mud, my heart has been in that grounds and I've—from the moment I was able to hold onto that basket and shake that salt and clean all that salt out of—out of the beds and be able to bring it home and show our friends and our families that this is what we do, this is what we work hard for. We get sunburned, we've—when papa said it's time to make salt, we would get excited. We—we wouldn't care what we would wear. We would wear our bikinis and we would get sunburned and cry later because we got burned. When papa said it was time to work, it was time to work. And when we were little, all we wanted to do was go swim, and papa said no, you cannot just go swim. You gotta work. And so we would work, and we would work hard. And my papa's not here anymore, and he's not here to wake us up everyday for tell us let's go, it's time to work. And that's all we like do. We wanted to do it this weekend, and we couldn't, because it rained. And I want my keiki to be able to go there and put his feet in there, and I want his keiki's to be able to do that as well. And the crap—sorry for my language—the crappy part is these helicopters or all these tours that wanna come out there, us local people, we cannot even—we cannot even go on top of those helicopters. We don't have that kinda money. We cannot pay \$300, \$400 to f—go on these tours. But what we can do is we can preserve our culture, and we can continue this. I don't even know what I'm saying, but.

Chair Mahoney: You're doing very well.

Ms. Nobrega: It just sucks that us as Hawaiian people that live here for years and we grew up here, born and raised and we did this for years and years that we gotta come here and we gotta fight. We gotta fight for tell you guys not to do this. And it's not fair, it's not fair to us. This is—this is all we get left. No more anywhere else that can do this. This is all we get. And this is all we really like. And I just ask that you guys just make the right decisions. And if you guys don't, there's nothing we can really do, right? So we just ask you guys to make the right decisions and, you know, nobody going—yeah. I don't know. That's all I can say. Mahalo.

Chair Mahoney: Okay, thank you very much.

Ms. Rebecca Cameron: Aloha, my name is Rebecca Cameron. Born and raised on the island of Kaua'i. I'm here to oppose the opposition to access reconstruction of, uh, the helicopter pad. I'm also speaking on behalf of my kumu ohai who is no longer with us anymore. Um, when I first heard of this, the first thing I thought of was, um, I'm a young practitioner of la'a lawa au and the importance of the pa'akai that we use for our ceremonial practices, cleansing, healing bones, is so important to what we represent and what we represent as a lahui, our wahine ha. We do nothing but—for money, but for the care of people, and to take this precious resource from us as a tool to help us heal other people is just—it hurts. And we hope and pray to Ke Akua that you can see the importance of what this means to us. And just—this is just one aspect. There's so many, so many other components that mean so much to us. This ohana behind me, um, so blessed to have the privilege to have worked in the pa'akai lo'i with Nanea and her ohana. And it's just—I hope that you can see the importance and what it means to us. Mahalo.

Chair Mahoney: Thank you.

Ms. Sandi Kato-Klutke: Can I say something?

Mr. Hull: Next speaker is Sandi Kato-Klutke.

Ms. Kato-Klutke: Am I the last one?

Chair Mahoney: There's a few more.

Ms. Kato-Klutke: They wanna go to lunch. Well good afternoon, everyone. Um, my name is Sandi Kato-Klutke. As you can see, I am not Hawaiian. And I don't live in Hanapepe, I live up in Kapahi. But I have wonderful besties. You know what a bestie is? It's your best friend. So my wonderful besties, Frank and Abby Santos has graciously invited my family and I to help them and to be part of the ohana at the salt beds. And so we've been there for a number of years since Abby and I served on the planning commission. So I know what you're going through, but you can sit here longer. We—we've done meetings to 1 a.m., so you can just stay here. But you know what, um, I was reading this, and it shows that the petition is for 5,000—er, 54,461 square feet. It's a larger and—of—of a portion of a larger parcel that is 166.452 acres. Now that's huge. So can you tell me where it ends? How far can they encroach toward the salt beds? Do you have a stake out there that we can see? Or can—are they allowed to build on this 164—166 acres? So that's something you can an—answer later, but what I wanted to tell you is that in the beginning, when I first started going to the salt beds—salt beds, is we had Olokele Sugar. Remember Olokele Sugar? They used to burn sugar cane. So all of the ash from the sugar cane used to come down into the salt beds and we would have these great big chunks of black soot stuck to the s—stuck to the salt, so when you went to do the salt, you had to take out all those stuff. So the salt-makers doesn't just have to fight

one thing, they have multiple issues that they had to fight. The other one was the road that cut—that cut the salt beds to get—um, in half. That was a County decision. The other thing is that we had people driving up to the sa—uh, sand dunes, so when they came down with their big—with their trucks with the big tires, they would come speeding down with all the sand and come speeding around and going through the middle road and dumping all the sand into the salt beds. So their fight is not just about the helicopters. Their fight has been forever. And I think that it should end here, that you should deny their, um, after-the-fact permit, and I really believe what others are saying. That they should be moved to another location. Because as the cesspool seeped into the ground, it actually moves into where the salt beds are. And the salt beds, the salt that—the water that comes for the salt beds is not from the ocean.

Mr. Hull: Three minutes, Mrs. Chair.

Ms. Kato-Klutke: It's from underground. So I want you to all really recon—consider all of that and please deny them their—their after-the-fact permit. Thank you.

Mr. Hull: Thank you very much. Next speaker is Allen Kapali.

Mr. Allen Kapali: Aloha. Allen Kapali from Kapa'a. Uh, I would like to, uh, have the Commission deny the, uh, request from Maverick Helicopters. Uh, for one thing, it is stated that their goal is to showcase the beauty of Kaua'i as one of the world's top destinations. I think that's kukai. Their goal is to make their pockets fat. The—the beauty of Kaua'i is being showcased by the people who is doing the salt work over there. People come to see that kind of stuff. The problems with helicopters is a problem of instant gratification. You go up, come down. You don't see the beauty of Kaua'i. The beauty of Kaua'i is the people and the values they share. A lot of testimony today has shared that mana'o with you. And that's what's showcasing the beauty of Kaua'i, not these helicopters. So I say to the Commission to stop, think about your actions if you grant this permit by reviewing the consequences of granting the permit. And if you grant it, one of the conditions should be that the Maverick Helicopters employees experience the power of the pa'akai cleansing so that they can get rid of all the kukai they're trying to dump on us. And this is my testimony. Mahalo.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: The next testifier is Katie Carlson. Katie Carlson. The next speaker is Kala Kaiminaauao.

Mr. Kala Kaiminaauao: Aloha. My name is Kala Kaiminaauao. I was born in Minnesota. I moved to Kaua'i when I was about two years old. When my sister was just born a month ago. And I got raised in Anahola, Kaua'i and I've been working in the s—I've been playing and working in the salt beds since I was about three years old. And the salt beds is fun to my family. My dad was the first one who taught me how to gather the clay. He taught me how to scrape off the dirt, told me how to try not to get any mud in the clay 'cause he taught me that if there's any mud in the clay, it would ruin the salt, so we tried to get as much clay as we could, and then for the past few years I've moved back to Minnesota and I haven't been really seeing the salt beds too much since I've moved away. And I just wanna say please deny the Smoky—Smoky Mountain Helicopters Inc. Thank you. Mahalo.

Chair Mahoney: Thank you. You did a good job.

Mr. Hull: Next speaker is Alakea Kaiminaauao.

Ms. Alakea Kaiminaauao: Hi, my name is Alakea Kaiminaauao and this is my cousin Nanea and Kaiminaauao and we—we been working on the salt patch for years and I've been living with my brother. And we lived in Hawaii and then we decided to move to Minnesota. And then we—I was born i—in the afternoon and my brother was born in the morning. And I—and I—I was—I was just, um, I was just ...

Ms. Nanea Kaiminaauao: Hi, my name is Nanea Kaiminaauao. I was born and raised on Kaua—Kaua'i and my family and I have been working on the salt patch for many years. And us kids like me, we're not ... I can't.

Chair Mahoney: Okay, so you worked on the salt pond—on the salt patch, on the beds.

Ms. Kaiminaauao: And me and my family have been hoping that we could wish that the Smoky Helicopter Mountains—the Smoky Helicopters have been—could go somewhere else, like in Lihue, not where the salt patch is. Mahalo.

Chair Mahoney: Thank you. Thank you for your testimony.

Ms. Mr. Hull: Next speaker is Vivian Davenport.

Ms. Vivian Davenport: Aloha, my name is Vivian Davenport. Um, you've heard so much beautiful manao today about, uh, salt-making, the—all of the reasons it should be preserved. Um, I'm afraid I'm gonna bring up a darker issue here. Um, the death count at Burns Field I believe is about 10 in the last 20 years, so what, that's hitting one every other year in an unregulated airstrip. Now, I wonder why it remains unregulated for at least 50—since it's been there. It's because the military uses it at night for their exercises. Um, if it became regulated, they would have to give the schedule for their secret night exercises. So I believe that PMRF is very invested in keeping this an unregulated airstrip. I wonder what your liability is, County of Kaua'i, in giving permits in an unregulated airstrip when 10 people have died in 20 years. Um, I didn't get the exact count but I can go over the air accidents for you. The first one I believe was Ken D'Attilio's son, was a pilot, he owned Air 1. He crashed mauka somewhere, died with several tourists. There were two Ultralight accidents, one I don't believe anybody was hurt; we just saw the red, white and blue flag all crushed in the airfield and never read anything about it in the paper. Soon after that, another Ultralight accident, um, along the Na Pali Coast and a gentleman died and the pilot died. Um, oh I didn't mention the, um, jumpers, the sky jumpers. An entire—uh, several people died, and the pilot, um, again, 'cause it's unregulated. People can come and go, I mean when are you gonna have an air crash there? There's no, uh, there's no regulations. I think the county should look again seriously at their liability, uh, of course they—anybody would sue Maverick first, but anybody with a good lawyer would say why not the County too? So please deny all applications for using that airfield, 'kay? Mahalo.

Chair Mahoney: Thank you.

Mr. Hull: Next speaker is Yolanda Sullivan. Yolanda Sullivan. Next speaker is Leina'ala Jardin. Leina'ala. Next speaker is Dennis Oliver.

Mr. Dennis Oliver: Uh, good afternoon. I wasn't intending to testify today before the Planning Commission. Uh, I was compelled by hearing the testimony of many of our long-term citizens and residents. Uh, I'd be—was—Hanapepe was my Hometown from the late '60s when I was a kid. Uh, Salt Pond, Burns Field was a drag strip for us, it was a place where the Hawaiian community and the valley used to come down and relax. It still has been. In the general plan there was efforts to use Burns Field and, uh, Salt Pond in zoning. I was a part of the general plan. This was when Princeville and the actual original, under Anton Kona Vidinha had, uh, had promulgated. And the west side, there was faith to develop. But then that I would ask the commissioners, I—I have served in different capacities as a commissioner, uh, with the police department years ago. You are the representatives of the island people. Uh, there's been, of course, controversies year after year that we needed growth. Growth is fine for maybe the state of Texas, but we're an island. We have a culture, a soc—a society that is an—at risk. I remember as a kid, we were all poor, we had junk cars, now we have all that, but we are lo—losing. And one of the gentlemen that just testified earlier talked about the value of Burns Field, the value of Salt Pond, is the people here, it's the actual spirit of Hawaii that is at risk. Now, if there was a need for employment, uh, our company, Puni Nani Pools, we can't find really good employees—when I say good employees, there's a shortage of manpower as it is. Our road capacities, we are seeing that from a local level, not the federal government, not the state of Hawaii, but our County Councils, our Mayors and Commissions on—across the board, we are the one have—who have created the Kaua'i and the—the—the pathway that we find ourselves today. We have—have a better standard of living if we're counting maybe unem—uh, employment and our own financial, uh, situation. But Salt Pond, Burns Field, is a sacred place. We do not need—our infrastructure, our capacity for tourism is about having a thriving industry. This is not anti-growth at all. It's capacity—

Mr. Hull: Three minutes, Mr. Chair.

Mr. Oliver: And—and making it efficient.

Chair Mahoney: Could you wrap up your testimony, please?

Mr. Oliver: Yes.

Chair Mahoney: And did—could you state your name again for the record?

Mr. Oliver: Yes, uh, Dennis Oliver.

Chair Mahoney: Okay.

Mr. Oliver: Resident of Koloa now.

Chair Mahoney: Thank you.

Mr. Oliver: Thank you very much.

Chair Mahoney: Thank you, appreciate it.

Mr. Hull: Uh, we have a last signed-up speaker, Alana Wilson.

Ms. Alana Wilson: Aloha everyone, my name is Alana Wilson. I am a Native Hawaiian and Indigenous Health, um, student at the University of Hawaii at Manoa studying Public Health. Um,

my focus is on climate change, so I would like to speak from a Kanaka Oiwi or Native Hawaiian standpoint on this issue that is going on today. Um, for Kanaka or Native Hawaiians, salt plays an integral part in our health and—our spiritual and physical health. However, with sea level rise and the change of weather patterns and much more, like the pollution caused from the, um, the airport there, um, there's little to no production of salt. And this means—the little and no production of the salt is very detrimental to Kanaka because of the health and spiritual practices and the benefits that it gives us. So I believe that because of this reasoning that it's detrimental to the—our community and, um, I just would like to say that, as a Kanaka, that we really need you guys to take this into consideration. Um, I believe it's a social justice and health equity issue, and I, um, I disagree with what is going on. That is it.

Chair Mahoney: Okay, thank you for your testimony.

Ms. Wilson: Thank you.

Mr. Hull: Uh, the Department has no other sign-ups to testify. Would anybody in the audience now like to testify who hasn't signed up?

Chair Mahoney: State your name for the record. You have three minutes to testify.

Ms. Sherri Majeski: Aloha kakou. My name is Sherri Naea Majeski. I've been sitting here, uh, from this morning and I've seen—I've seen all of you on TV, so I'm gonna talk to you like—like kinda like you're my friends. I know we're not friends, but like, I've seen you and, um, I know that each and every one of you, um, are human beings with heart. Um, my family is from Moku O Mr. Keawe and that's a—kind of a far place from here, but um, I just thought I would come out and support my Kaua'i cousins. So that's why I came. I'm also a teacher, I teach at 'Ele'ele School, I teach fifth grade. And I think I just stand in solidarity with, uh, with—with everyone who has spoken today on—uh, on behalf of the salt beds and the importance of them as a cultural, uh, culturally significant place, but one thing that I would like to bring to your attention is the fact of, um, what cultural identity brings to people, especially our youth. And I'm sure you're aware that there's a—a crisis right now going on with our youth, which is about their identity. I, myself, was—kinda came late into my Hawaiian identity, and um, I've been a kapa practitioner now for, um, almost 10 years. And for me, that really meant a lot to me as a person. I just wanna say that, you know, it really strengthens a person to have a strong cultural identity. For our youth today, especially with the—especially with the suicide rates and things like that that I'm sure you're aware of, so important for our youth to understand who they are. And this place, especially from me teaching in 'Ele'ele, I can tell you that our—our children are—are desperate—are desperate for making meaning out of this—out of this world. And for you to sit in your chairs now, to have the power that you have, it—it's so important. You know, I—I—I know that—you must be aware of that, you have so much power here, you know, and we all know that there's been so much wrongdoing. Uh, let's just say 100 years, we know it's more, but let's just say 100 years past filled with wrongdoing and right now where you sit, you have a chance to do something to—to—to correct something on—on behalf of the people which you serve. So I just humbly ask you that you would take this—what I've said into account—

Mr. Hull: Three minutes, Mrs. Chair.

Ms. Majeski: Thank you. Do it for the youth. Do it for our keiki. Do it for your position, you know, have mercy. Have mercy on the people that you serve. Mahalo.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: Uh, we actually have a few more people that have signed up. Last name Keana'aina.

Ms. Loea Keana'aina: Okay, um, aloha. My name is Loea—wait. My name is Loea Keana'aina and I live in Anahola. As—I just wanna say that could you please, um, could you please deny the permit for the helicopters 'cause as a Hawaiian there is like, not much Hawaiian stuff left to do and it means a lot for, um, it means a lot for the salt pan for a lot of people. And could you—could you just deny the permit, please? Thank you.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: Um, another signed-up speaker, Emily Manuel.

Ms. Emily Manuel: Hi. I'll just take a second to compose myself. My name is Emily Manuel. I'm actually a local born and raised on the island of Kaua'i. I actually grew up in the sugarcane plantation industry, so my father was a sugar plantation worker. Um, very blue-collar family, my mom worked in the hotel industry. When I was about to get kicked out of my house I had to pick a career, and my career choice at that time was hotel management and tourism. And so I am a participant and I understand, um, How important tourism is, uh, to our economy, but there is a point where you have to draw a line, and this is probably the only time I've ever spoken on anything that seems valuably important to me. And I've been sitting here crying because—sorry. It—it is a very important part of our culture to be able to keep and preserve if we could. Um, you know, I—I grew up—I'm not Hawaiian, but I grew up dancing hula, participating in the culture, doi—doing a lot of things that, even though I was in the tourism industry, I also partake in a lot of things that are, um, very cultural, uh, being born and raised on the island of Kaua'i, it's kind of easy to do. And a lot of people here behind me are not necessarily my family, but they are friends of mine and I respect what they do and what they stand for. I've also been someone that has been gifted—uh, gifted the, uh, salt from the salt bed and I'm very grateful. I actually don't purchase any salt from the stores. Um, so all the salt that I use to cook is actually from the Kaua'i salt bed and I've been very proud to be able to say that I've been using it exclusively. So thank you for the families who've been gifting me Hawaiian salt. Um, I know that sounds kind of crazy, but I—I—I—if I ever use any other type of salt, it's salt from someone else's House. But in my household, I exclusively—exclusively use Kaua'i salt from the Hawaiian salt bed here. And so I am in a—opposition of the permitting, the after-the-fact permitting from the Maverick company, um, and Smoky Mountain company as well. And I would actually love to see them not be allowed in Hanapepe at all, and if there is a possibility to have them move to Lihue, that would be preferable. I do thank you so much for your time. As you can tell from my voice, I'm super nervous. I'm actually super shy. So for me to even, um, speak on behalf of the families, uh, is—is huge for me, so, um, thank you so much for all the gifts you've given to me and my family, uh, over the years.

Mr. Hull: Three minutes, Mr. Chair.

Ms. Manuel: And I hope that you would consider—thank you so much. I hope that you would consider, uh, denying the permits. Thank you so much.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: Uh, again, we now have no further sign-ups. Is there, again, anybody else in the audience that would like to testify who has not si—I see the Kumu here actually, so.

Ms. Leina'ala Jardin: Aloha mai. For the record, I am Kumu Hula Leina'ala Pavao Jardin of Halau Ka Lei Mokihana o Leina'ala and I literally just got off the plane and sprinted in here. I am fortunate to be here today. Um, the good news is I'm here. The bad news is our Kaua'i Little League team didn't win the state championship, but it's okay, it allowed me—Ke Akua allowed me to be here, so I am—I'm grateful. And, um, first of all, a sincere mahalo to all of you commissioners for being here today, for sitting here. I know exactly, um, the time that you put into this and mahalo for listening. Mahalo nui for listening. Uh, and what I think is really, really special is that today is—everybody listened to, really all of these people that came out there are the voices of our kupuna, which is quite special. This day will go down—I made some notes on the plane flying in—this day will go down in the history of Kaua'i and Hawai'i as a day of setting a precedent. You have the opportunity to echo the voices of our kupuna who shared—and all these people—who shared their testimony with you here today. I personally call Kalaheo my Home or my one hanau, my birthplace, but Hanapepe is and will always be my backyard. I grew up at Salt Pond Beach Park and I spent many, many a days and—and time down there enjoying the beach and I always, always got to witness the ohana down there working in the salt beds. I watched year after year as the many ohana, um, at the salt beds worked so hard. Because it's such a special place to me, this is where I take my halau to do our blessings. It's perfect, it is protected, it is surrounded by the pa'akai, Ni'ihau is in the distance. It just makes for beautiful setting for my keiki, all of my haumana. We carry—we carry this sacred pa'akai on our kino, on our body, as we take the Merrie Monarch stage. We have it on our body. I'm not sure if everybody understands that the hula encompasses so much more than just a performance. It is a journey. And that journey is so sacred that when we take that stage, we need to be protected. And we choose to take the pa'akai of Salt Pond with us to Hilo. We choose to take the pa'akai of Salt Pond with us to the Neal Blaisdell Arena as we celebrate Queen Lili'uokalani. So very, very, very sacred. So what you are deciding today is much, much more than, um, a simple permit. It's so much deeper and—and I know you've witnessed that. The recent devastating plane crash on Oahu which took 11 lives should serve as a ho'ailona or a sign to all of us. There's many a times that I'm sitting down at Salt Pond and the plane flies right overhead. I can see in the wheel well, like, right inside. It comes down so low, right?

Mr. Hull: Three minutes, Mrs. Chair.

Ms. Jardin: I'm sorry.

Chair Mr. Hull: Three minutes.

Ms. Jardin: Okay, three minutes already? Oh, my goodness, that was so fast. Anyway, let that serve as a ho'ailona. But I want to especially mahalo and praise the Santos ohana for their leadership in pushing this forward and in my letter I shared with you a, um, a olele no'eau which said "He ali'i ka 'aina; he kauwa ke kanaka." The land is the chief; man is its servant. Please remember that. And I congratulate you in advance for making the right decision and being part of our people and what we stand for. Mahalo nui. Aloha.

Mr. Hull: Is anybody else in the public that would like to testify who hasn't signed up at this point? Could you state your name for the record, please?

Mr. Jonathan Rivera: Aloha, my name is Jonathan Rivera and I am, uh, uh, from—from this island, grew up in, um, I grew up in McBride and Salt Pond has always been a special place for me. I never, like, talk 'cause I knew this was gonna happen. I'll be real short. I don't even need three minutes. The chipping away of ... chipping away of our culture and us as Hawaiians just gotta stop somewhere. I bring my son down there. And we always watch the ohanas down there working hard. The Santos ohana, plenty of you guys, all you guys working down there. Some—know that saying about somebody being worth their salt. That's not just words. The salt is what the salt is. We have more than just salt, you know what I mean? Anyway. Mahalo, you guys, for listening to all the testimony, especially the kupuna. That's what really matters and hopefully you guys feel some kinda way about that place, the special place, and what it means culturally, what it means literally to us and all our people. You just gotta stop chipping—chipping away 'cause we're talking about just fractions of our—of our culture left. And thank God for all the practitioners that keep them going, like Leina'ala and everybody, and, uh, anyway. Mahalo.

Chair Mahoney: Thank you.

Mr. Hull: Would any other members of the public like to testify who have not—

Ms. Primrose Rego: Aloha, my name is Primrose Unea Kamano Naukana Rego. I am Randy Rego's wife. He usually come up here. I don't say much. I just like, look. I just like, see How everything goes. All the ohanas back here, it's so sad to see. I'm from Molokai. I was born and raised in Kalihi. Now I reside here on Kaua'i. Never been here, but since I moved here, she no let me keep quiet anymore. I hold them all in, yeah, 'cause I don't know How to talk like How my husband know How talk. But he said speak from the heart. And I speak from the heart only 'cause Ke Akua give me that, yeah? And it's so—I'm so angry. Of course, all of us are too. And I'm hoping that you guys can see and sleep when you guys make the decision, it's very important to know that these tears are salty tears from the salt pond. It's 'cause I had auwee, I got bit by the centipede and I used the Hawaiian salt and that's what healed me. You know? It's just so, so—we are so blessed and it's so free, but hard work. And it takes a lot of aloha for us to malama the 'aina, it takes a lot of strength for me to be up here to speak, but from my heart, my husband told me, "Baby, just speak from your pu'uwai." And that's all I have. And, you know, Ke Akua is so awesome. If each and every one of you with your eyes looking at me and everybody else looking at you guys back, just feel the right decision, you don't have to know the right decision, just feel 'em. 'Cause it comes from within, and that's our alo alo, our soul, yeah? And that's what our Hawaiian salt go in when we eat our food, when we protect our auwees and fix our keiki. These little ones, you see that little one come up and—and cry and say please deny, that takes a lot of strength and heart for a keiki to come up here and practically beg each and every one of you. You know? We see you guys here on Kaua'i, we all live on Kaua'i. I know you guys are gonna do the right thing, 'cause Ke Akua will guide you. And it's hard, but money, you cannot—you cannot, um, take away How we live because money, 'cause all the other islands, they—they're doing the telescope on big island, they're doing all of this, but over here, I never heard of something like this happen. Where we—where we are blessed to have Hawaiian salt in this whole entire world, only here on Kaua'i. Ever since I landed from Kalihi to over here, I never visited. I just know I have to open my mouth when I see something wrong, and when it's not pono. And I can't stand here look in each other's eyes, each and every one of you, and I know you guys gonna do the right decision, 'cause that's all—that's all it is.

Mr. Hull: Three minutes, Mrs. Chair.

Ms. Rego: And I thank you so much for your time. Mahalo nui. Aloha.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: Again, we have no further sign-ups. Is anybody in the, uh, public here wanna testify?

Ms. Pualilia Kahale: Hi. Do I have to speak into the mic?

Chair Mahoney: Yes.

Mr. Hull: Speak into the mic and please, uh—

Ms. Kahale: My name is Pualilia Kahale. I speak on behalf of the Kilo—Kiloano family and it hurts, just hurts a little bit. And I'm really shy so sorry for my shaky voice.

Chair Mahoney: It's fine.

Ms. Kahale: I used to not enjoy going to Salt Pond because I did not like getting m—mud into my nails. But last year my mom told me that it was our year to do salt, and I was like, really excited for the opportunity because everybody was working so it was only gonna be me working. So I would wake up at 6 a.m. in the morning. When my mom would go to work, I would leave with her to go to Salt Pond, get down and clean. And I would just clean and I would think about all my f—my past generations before me, all my kupuna. And I think about my papa Andy standing there next to me just guiding me and holding my hand and telling me that I'm doing it all right. I remember when I came out with my first bucket, oh my gosh, my mom said my smile was really big. I was just sitting outside listening to everybody tell their stories. We work really hard out there, and this is your guys' crossroad and decision-making where you can either take the good path or the bad path. Where you nourish the future generations or you starve them of the opportunity that I was given what—that I wanna still pass down to my children that I'm thinking about right now, that this is them. They—I want them to have this chance that I had last year to pull that first bucket, to ha—gift other people. It's diamond, it's gold, that's all I was taught when I was growing up. That's all I have to say.

Chair Mahoney: Thank you for your testimony.

Mr. Hull: Are there any other members of the public that would like to testify on this hearing item? I feel like a final call outside will.

Chair Mahoney: State your name for the record please, thank you.

Ms. Allison Ka'ili: Aloha. Aloha, I'm, um, Allison Ka'ili.

Chair Mahoney: Thank you.

Ms. Ka'ili: I am a descendant of, uh, Ka'ili Kolu Ham Young ohana and I'm really nervous so I'm sorry. But I have plenty family that has, uh, salt beds at, uh, salt beds. I have the Kali family which is my ohana and the Niau And, um, I'm a military brat, so I've been—travelled all over the place. I never really got a chance to go in the pa'akai but I've heard stories from my dad. So I'm representing my dad and it hurts him to hear about this expansion on the helicopters. And I hope

this, that you make a de—a good decision is hard, I know it's hard. Um, the pa'akai is like our foundation and us as the ohana for the land. We are the branches. And if you were to cover the branches, you will kill the branches and you will kill the foundation. And it's hard, it's a hard decision. I know it's a hard decision. But with this us—with our testimonies about this aina and about this land, we hope that you can make a good decision and to keep our ohana close and that we would be able to work together. Um, mahalo.

Chair Mahoney: Thank you.

Mr. Hull: Uh, any other members of the public would like to testify? Mr. Kubo, I don't know if you want to testify.

Mr. Kubo: Yeah, How's it going? Uh, Clayton Kubo, Waimea, Kaua'i. The only tie I get to the actual salt bed is I use salt for cooking, okay? So in a way that, do you guys use salt? The salt from Salt Pond? Would you guys like to use salt that is contaminated? Which the people have spoken, so, by the way, what is the pr—um, the planning, uh, department think about this one? Because actually was after-the-fact, that guy said do you? And then now they like, correct them. So what does the planning department think about that one there and what is their recommendations? Okay, so kinda think about it. It's like, maybe everybody going to end up making like Maverick, so is that right? I don't think so, yeah? They don't think about the laws, they just think about, you know, the cha-ching, making the money. Mahalo. Aloha.

Chair Mahoney: Thank you.

Mr. Hull: Again, any other members of the public that would like to testify? Vill, if you could make one last call on the outside venue. Uh, seeing no further testimony, Chair, uh, members of the Commission, the Department also has received, uh, several hundred pieces of testimony in the past few hours that we will be essentially copying and distributing to you folks for your packets. Um, seeing no further testimony, the Department would, uh, recommend closing the agency hearing at this time.

Chair Mahoney: The Chair will entertain a motion to close the agency hearing.

Ms. Apisa: I make a motion we close the, uh, agency hearing.

Mr. Keawe: Seconded.

Chair Mahoney: Moved and seconded. Any further discussion? Hearing none, all in favor signify by saying aye. (Unanimous voice vote) Any opposed? (None) Motion carries 5:0.

New Agency Hearing (Cont)

Class IV Zoning Permit Z-IV-2019-13 and Use Permit U-2019-10 to allow modifications to existing helicopter tour facility that includes restroom facilities, office trailer, storage, and associated improvements on a parcel located along the

mauka side of Kuiloko road in Hanapepe, situated at its intersection with Lele Road, further identified as 3441 Kuiloko Road, Tax Map Key: 1-8-008:0041, (Portion) and 1-8-008:005, and affecting a portion of a larger parcel that is approx. 54,461 s.f., a portion of a larger parcel that is 166.452 acres. = Smoky Mountain Helicopters, Inc. [Director's Report sent to Planning Commission 6/13/19.]

1. Request to postpone hearing and waive timelines by letters dated April 25, 2019 from Lorna Nishimitsu, Eqs, and ("Exhibit F" of the Director's Report).
2. Supplemental No. 1 to Director's Report pertaining to this matter.
3. Pettion to Intervene (6/17/19) by Hui Hana Pa'akai O Hanapepe, Ku'uleialoha Santos, and Malia Nobrega-Olivera.

Mr. Hull: and Use Permit U-2019-10 to allow modifications to an existing helicopter tour facility that includes restroom facilities, office, trailer, storage and associated improvements on a parcel located on Hanapepe situated, um, um, property identified as Tax Map Key 1-8-008:004 and 1-8-008:005 affecting a parcel that is 166.452 acres. Smoky Mountain Helicopters Incorporated is the applicant. Uh, as the agenda was amended to move, um, 2.a.3, the petition to intervene by Hui Hana Pa'akai o Hanapepe, Kuulei Santos and Malia Nobriga-Olivera, um, I think—well, at this time that the commission would entertain that petition. So would the petitioners approach the microphone please?

Chair Mahoney: Okay, um, may I have the counsel for the petitioner, counsel for the applicant, counsel for the department move forward.

Ms. Ku'uleialoha Santos: Come on over. I—I do bite, just so you know. You wanna sit in the middle.

Chair Mahoney: Okay, so petitioner for the, uh, commission, uh, has received your petition and—for intervention. Do you have anything else to add to your petition for—uh, for intervention, nothing else to add? You're satisfied with your—your, uh, petition? You're satisfied with what? Your, uh— Okay, so, all right. That's fine. Um, counsel for the applicant, uh, what is your position on the petition?

Attorney Mr. Jonathna Chun: Um, just gonna for clarification, uh, we saw the petition and, uh, is the petition being, um, is the association being asked to be the intervention, or are the members—or all of them? M—my f—our—our position is—is if the association is being the one—the petitioner, then we have no—we have no objection to that. I think that would be a proper, uh, party to the proceedings, because they do represent their members, uh, and it could help in the clarification of some of the issues. Uh, it's just that we're kinda concerned that if we have every member of—of the association petitioning as a intervener, then it becomes a bit awkward having so many people participate as parties. And I think in the—the rule 1.4-5 it does allow the commission to, uh, consolidate multiple petitions into one intervening stater—status. So I just needed clarification.

Chair Mahoney: Yeah, okay. Okay, okay, uh, the petitioners, could you clarify your intent?

Ms. Malia Nobriga-Olivera: Um, yes, so, um, we did decide to put that all together and so that's why you can see in the petition, um, that we listed it as Hui Hana Pa'akai o Hanapepe. Um, we did include ourselves because I serve as the president and Kuulei serves as the vice-president. And we do come with the support of the Hui to file this petition.

Chair Mahoney: Okay. Is—does that satisfy you?

Mr. Chun: Yeah, I just needed clarification. That would be fine. We have no objection to Hui being the—the intervener.

Chair Mahoney: Okay. Planning Department counsel, uh, what is your p—uh, position on—or Director—

Mr. Hull: Apologies, Chair, the—our legal counsel is away for the moment, but I can—I have no problem speaking on behalf of the department.

Chair Mahoney: All right, if you could--

Mr. Hull: Um, the department doesn't have any objections to the petition and is in strong agreement with the standing that the petition states that the, uh, Hui has and should be a party to these proceedings.

Chair Mahoney: Okay. Are there any questions from the commissioners?

Mr. Keawe: No, I think—I think you've clarified the positions with regard to, um, the Hui and who you represent.

Chair Mahoney: Well, if there's no, uh, questions from the commissioners, could I ask the parties to step back and the commissioners could, uh, deliberate, please? Um, now, is there any motion to either grant or deny the petition?

Mr. Keawe: I move to approve intervener status for Hui Hana Pa'akai o Hanapepe.

Ms. Apisa: Second.

Chair Mahoney: Seconded—it's been moved and seconded to approve status. Is there any further discussion? Hearing none, all those in favor signify by saying aye. Aye. (Unanimous voice vote) Any opposed? (None) Motion carries 5:0. So, now at this point—

Mr. Courson: So what we need to decide now is whether we're gonna send this to contested hearing officer here.

Chair Mahoney: Okay. Now, the next, uh, deliberation for the commission is whether to send this to a hearing officer or for the commission to hear it in-House here.

Mr. Keawe: Okay.

Chair Mahoney: Commissioner Mr. Keawe?

Mr. Keawe: Yep. I move that the Planning Commission hear the contested case itself and that the Chair of the Planning Commission be authorized to handle local logistical matters concerning the

filing of documents, the setting of deadlines and dates, and the disposition of any motions or objections.

Chair Mahoney: There's a motion on the floor.

Ms. Nogami Streufert: Seconded.

Chair Mahoney: It's been moved and seconded. Any discussion?

Mr. Ho: Uh, Mr. Chair, is there a timeline for this?

Chair Mahoney: Um, will—we're gonna—to—to start the hearing?

Mr. Ho: Yes.

Chair Mahoney: Yeah, well that's what we're gonna have to work out that detail. That—yeah. I—I think what we're gonna have to get all the parties together and work it out. I mean, it's gonna be expeditious as possible, but we're still gonna have to work on scheduling. Because once the interveners—well, they—they've been approved, they're gonna have equal status as—as the Commission to cross-examine and this goes directly into a contested case. So, um, we have the—the attorney for the applicant, the interveners and the Commission. So we're gonna have to work on the details.

Mr. Keawe: Right.

Chair Mahoney: But right now on the motion on the floor, um, is there any further discussion? It's been moved and seconded.

Ms. Nogami Streufert: I have a question. Um, the—the—the choice bet—before us at this point is either to, uh, refer it for a hearings officer or for—

Chair Mahoney: The commission.

Ms. Nogami Streufert: This body to hear the, uh, can you—can our attorney tell us the, uh, pros and cons of either one?

Chair Mahoney: It's our discretion, uh, the commission, to—to choose. But—and if I might just interject before the attorney, is—this is such a compelling local, um, issue that, um, I—I—I feel that we should go have the Commission hear it, not a hearings officer. This isn't a TVA—a TVR, but, uh, I think, uh, this is a deep community concern.

Mr. Keawe: Mm-hmm.

Chair Mahoney: There's been compelling testimony, and, uh, and I think we should go with the commission hearing. And the County Attorney can, uh, weigh in if he—uh, for your question.

Deputy County Attorney Mr. Nicholas Courson: Uh, Nicholas Courson, First Deputy County Attorney. I—I would echo the Chair's comments, the pros are probably that this is an issue that's of deep concern to the community. Uh, the con is a contested case hearing of course is, um, procedurally an intensive thing to go through. This particular motion invests the Chair with the ability to set a lot of the procedural matters that need to be dealt with outside of the actual contested

case hearing, so I think the motion is appropriate that way. And then otherwise you have, you know, my full support. I can help you folks with the actual hearing, so if we were to do 20 of these a year, that would be a con that would quickly surpass my ability to help. But if we're doing one, it's not really much of a con at all.

Mr. Keawe: Yeah, just a comment. I—I think we—we clearly heard from everyone that it was you guys, meaning us, the Planning Commission. So here's your opportunity to make your case legally. Here's your opportunity to do what you want to do and move forward your case. So we are going to hear your case, rather than a hearings officer, because we felt what you folks said. That's why we're doing it.

Chair Mahoney: On the floor, there's a motion to, uh, to have the commission hear the case. It has been seconded. We didn't vote on that, just discussion, so. The motion on the floor is to have the—the commission hear the case.

Mr. Keawe: Yep.

Chair Mahoney: Okay, so, um, it's been seconded. All in favor of the commission hearing the case, signify by saying aye. Aye. (Unanimous voice vote) Any opposed? (None) Motion carries 5:0.

Chair Mahoney: The ayes have it. So the commission will hear the contested case. So now that it—it's going to a contested case, th—there won't be anymore, uh, testimony taken until, uh, until the case is heard, so. Is there anything we could add about the scheduling or procedures that you might aid us in, or?

Mr. Courson: Uh, not at this time. We—we'll—

Chair Mahoney: Contact all parties?

Mr. Courson: Yeah, there—there's a whole procedural set to—that the hearings officer normally does for us that we will be—the Chair and I will be, uh, dealing with personally.

Chair Mahoney: So as Chair, I'll work diligently on doing the be—the best I can to work with our county attorney to get this to happen and, uh, everybody will be aware and, um, so it's gonna be a bit of—a little bit of a learning curve for me, but uh—

Ms. Nogami Streufert: May I ask a question?

Chair Mahoney: Yeah.

Ms. Nogami Streufert: In the meantime, before all of the hearings and—and before the decision, does all work stop at the—at the—at Burns Field or...

Chair Mahoney: I might have to call on the Director to offer his opinion?

Mr. Hull: Uh, sorry, could you—Ka'aina Hull on behalf of the Department, could you repeat the question, Commissioner?

Ms. Nogami Streufert: At this point, until the hearing and until the—just as if it were going to a hearings officer and before there is a decision, uh, does all work stop at the—at Burns Field?

Mr. Hull: Uh, all the work is for the most part been done already, quite honestly there's—there's an after-the-fact permit being reviewed, and this was initiated by an inspection, essentially a zoning compliance notice being sent to the operators that their structures were out of conform of the permits they did have. Um, now, under enforcement actions by the department, you—you really have two options. Get the permits to, um, to permit the structures and the use, or remove them. Um, so affording the—any landowner the opportunity to get the appropriate permits is in keeping with our zoning enforcement. Given the—what's occurred today, and the timeline that it will—will essentially, you know, require—which is a substantially long timeline, arguably—um, and the fact that those improvements are out there, is—it—it does warrant us returning back to our enforcement team to discuss How those improvements are handled from an enforcement matter, um, because if they had walked out of here today with permits in hand, then arguably there would be no problem. But being that there's gonna be a significant amount of time, that is something I will be returning to—back to with the enforcement team essentially as soon as this meeting is done.

Ms. Nogami Streufert: Thank you.

Mr. Keawe: Okay.

Chair Mahoney: Okay, so at this juncture—[inaudible – 01:11:56].

Mr. Hull: Sorry, just don't know the decorum. I don't know if I can, you know, approach back to the Clerk position or if there's any other further questions concerning the—the contested case.

Mr. Courson: I believe you can return as Clerk.

Chair Mahoney: Okay, yeah.

Mr. Keawe: Okay, so now we break for lunch?

Mr. Hull: So essentially that agenda item is done; it's been moved to contested case hearing. We'll be moving on the next agenda item, However I believe the Commission and [inaudible – 01:12:28] Chair is gonna break for lunch for the next hour, and I would request that the Commission, uh, entertain modifying the agenda so that it could be, in discussions with the Chair, a working, uh, lunch in which you go through the executive session and the Director evaluation. Um—

Ms. Apisa: I so move.

Ms. Nogami Streufert: Second.

Chair Mahoney: Moved and seconded.

Ms. Apisa: So amending agenda.

Chair Mahoney: Amending agenda and go into executive session during lunch. All in favor signify by saying aye. Aye. (Unanimous voice vote) Any opposed? (None) Motion carries 5:0.

EXECUTIVE SESSION

Mr. Courson: Okay, you gotta—we gotta read the language, then, we gotta say what [inaudible – 01:13:03]. Pursuant to Hawaii Revised Statutes Section 92-5(a) (2 and 4), this executive session is for the Evaluation of the planning Director for the first six months of the fiscal year 2019. This session pertains to the evaluation of the Planning Director's work performance where consideration of matters affecting privacy will be involved. Further, to consult with legal counsel regarding powers, duties, privileges, and/or liabilities of the Planning Commission as it relates to the evaluation of the Planning Director. Uh, provided that if the Planning Director wants an open meeting, an open meeting shall be held.

Mr. Hull: I'm okay with it being closed.

Mr. Courson: Okay. Uh, it would be—it'd be appropriate for a vote at this time, then.

Chair Mahoney: All in favor, signify by saying aye. Aye. (Unanimous voice vote) Any opposed? (None) Motion carries 5:0.

Mr. Keawe: Okay. Gonna clear the room?

The Commission recessed this portion of the meeting at 2:18 p.m.

The Commission reconvened this portion of the meeting at 2:35 p.m.

Continued Agency Hearing

All remaining public testimony pursuant to HRS 92 (Sunshine Law)

Continued Public Hearing

Class IV Zoning Permit Z-IV-2019-4, Use Permit U-2019-2, and Special Permit SP-2019-3 to demolish and replace the existing water tank with a new 0.5 MG tank on a parcel situated on the makai side of Kuhio Highway in Moloa'a, approx. 1,500 ft. north of the Koolau Road/Kuhio Highway intersection, further identified as Tax Map Key: (4) 4-9-009:009, and affecting a portion of a larger parcel containing an area approx.. 1.882 acres in size = Moloa'a Irrigation Cooperative (MIC). [Director's Report received 10/9/18, Deferred to 1/8/19 on 10/23/18, deferred 1/8/19, deferred 2/12/19.]

1. Moloaa Farms LLC and Jeffrey S. Lindner's Petition to Intervene; Memorandum in Support of Petition to Intervene: Exhibits "1" through "7" Certificate of Service (10/15/18). [Deferred to 1/8/18 on 10/23/18, deferred 1/8/19, deferred 2/12/19.]

Chair Mahoney: We'll call the meeting back to order.

Mr. Hull: Good afternoon, Chair and members of the Commission. The next agenda item we have up is the continued agency hearing for Class IV zoning permit Z-IV-2019-4, Use Permit U-

2019-2, and Special Permit SP-2019-3 to demolish and replace the existing water tank with a new 0.5 million gallon tank on a parcel situated on the makai side of Kuhio Highway in Moloaa, approximately 1,500 feet north of the Koolau Road/Kuhio Highway intersection, further identified as Tax Map Key: (4) 4-9-009:009 and affecting a portion of a larger parcel containing an area approx.. 1.882 acres. The applicant is Moloa'a Irrigation Cooperative. As you guys may recall, there was a petition for possible intervention. It has been deferred several times to allow the applicant and potential petitioner for intervention to work out, um, the possible compromise. The department has received a request from the applicant to defer it to the July 23rd meeting. They're not able to be present at this meeting. I'm not sure if the petitioner is here for intervention, but that's essentially -- the ultimate request is deferral from the applicant. So, unless the applicant wants to speak to his petition concerning intervention, the department is recommending -- the department's recommendation will be to defer to July 23rd.

Mr. Randy Rego: Is there any public testimony on that?

Mr. Hull: Uh, my apologies. It has been a very long day. In fact, this is the -- this is -- this is -- this --

Mr. Rego: I've been here, too, all day (inaudible - 00:02:21).

Mr. Hull: No, this is the agency hearing portion. This is the portion that's for public testimony. My apologies. So, yeah, so any -- any testimony now would -- would be you come up to the microphone.

Mr. Rego: Thank you.

Chair Mahoney: State your name for the record, please.

Mr. Rego: My name is Randy Naukana Rego. I come from Waipake. I was here initially just to support na ohana and the friends of Hanapepe. I had no intention of staying all day. Um, I supported them because we were also beneficiaries of getting salt from the pond, so it needs to be protected. But when I came here is when I first saw on the agenda Jeff Lindner asking for intervention on this. My position is, anything Jeff Lindner tries to do in this committee should be denied. The reason is, he has agreements for Waipake subdivision that have not been adhered to for close to 30 years. Before this man does anything else in the County of Kaua'i, I want the damage he did in Waipake, which he has agreements, signed agreements -- I'm not talking out of my okole -- he has signed agreements, damaged my land, signing he will clean it up. He got an after-the-fact permit with that agreement. And I was telling people from Hanapepe, Jonathan Chun, Lorna Nishimitsu, the same people who represent Hanapepe, guys, are the same guys who represented Jeff Lindner. Do not trust them. They will sign anything. They will say anything. And once you guys provide that permit, they will piss on it like they did in Waipake. So, I just want you guys to know, before Jeff Lindner does anything else in Hawai'i, he complies with agreements that he had with the County to clean up my land, and he didn't, and Kiyoji Masaki was the last one for public works who sent the County Attorney in the 1990s to sue him. It's been sitting in the County Attorney's office for over 30 years. I want compliance. I'm not a Hawaiian who's stepping on some land, trying to claim it. I own this land, and he can't even protect it, with agreements, with conditions, with assignments, and once you give them that permit, they piss on it. That is what I want you guys to know, and, yes, I am damn angry. So,

for 30 years, I haven't been able to plant taro. The spring is dead. You can't even find the lo'i anymore, it is gone. So, before this man does anything else in this place, you make sure he complies, or you sue him like you were asked to by the Public Works Director, Kiyoji Masaki. Before this man does anything, intervene, walk in here, or anything, I want compliance. Adhere to your own laws. Adhere to your own rules. Thank you.

Mr. Nogami Streufert: Okay, thank you.

Mr. Hull: Are there any other members of the public that would like to testify on this agenda item? Uh, the department, because the deferral request came in, uh, the department would recommend still keeping the agency hearing at this point -- agency hearing open at this point. So, again, the -- like I stated previously, we'll be recommending, uh, deferral on this action item.

Mr. Nogami Streufert: I move to defer this matter until the July 23rd hearing.

Mr. Keawe: I second.

Chair Mahoney: It's been moved and seconded to move this agenda item to -- what was the date?

Mr. Hull: Uh, July 23rd.

Chair Mahoney: July 23rd, leaving the agency hearing open. Is there, uh, any further discussion? All in favor, signify by saying aye. Aye. (Unanimous voice vote) Any opposed? (None) Motion carries 5:0. Thank you.

Special Management Area Use Permit SMA (U)-2019-5 to construct a single family residence on a parcel situated along the mauka side and at the terminus Moanakai Road in Kapaa, immediately adjacent to Baby Beach, further identified as 1139 Moanakai Road, Tax Map Key: 4-5-002:002, and Containing a total land area of 19,095 s.f. = Joseph M. Horak.

Mr. Hull: Uh, moving on, the Smoky Mountain Helicopters' petition has already been handled, so it'd be number -- agenda item 2B. Special Management Area Use Permit SMA(U)-2019-5, to construct a single-family residence on a parcel situated along the mauka side, at the terminus Moanakai Road in Kapaa, immediately adjacent to Baby Beach, further identified as 1139 Moanakai Road, Tax Map Key 4-5-002:002, and containing a total land area of 19,095 square feet. The applicant is Jeff Horak, and, um, uh, they -- I didn't have any individuals sign up to testify. So, are there any members of the public that wish to testify on this Jeff -- Joseph Horak, petition for an SMA permit? Seeing none, the department would recommend closing the agency hearing.

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

Mr. Ho: Second.

Chair Mahoney: It's been moved and seconded to close the agency --

Ms. Apisa: Um, just a point of discussion. This is the letter that someone gave us. It -- do we bring it up now or later?

Mr. Hull: So, this is the agency hearing section.

Ms. Apisa: Oh, okay, great. Okay.

Mr. Hull: We'll get into the actual, um, meat and potatoes of the agenda item once we move into the general business.

Ms. Apisa: Thank you.

Chair Mahoney: Okay. So, it's been moved and seconded to close the agency hearing.

Ms. Nogami Streufert: Oh. Oh, we're just closing?

Chair Mahoney: All in favor, signify by saying aye. Aye. (Unanimous voice vote) Any opposed? (None) Motion carries 5:0.

New Public Hearing

All remaining public testimony pursuant to HRS 92 (Sunshine Law)

Zoning Amendment ZA-2019-9: A bill for an ordinance amending Chapter 10, Article 6, Kaua'i County code 1987, as amended, relating to the South Kaua'i Community Plan. The Proposal amend Section 10-6.6 Of the Kaua'i County Code relating to text and mapping requirements within Special Planning Areas "H" and "I", commonly referred to as the Koloa Town Walkable Mixed Use District (SPA-I)= County of Kaua'i Planning Department.

Mr. Hull: Uh, the next agenda item up we have is new public hearing zoning number ZA-2019-9: A bill for an ordinance amending Chapter 10, Article 6, Kaua'i County Code 1987, as amended, relating to the South Kaua'i Community plan. The proposal amends Section 10-6.6 of the Kaua'i County Community Plan -- or, sorry, Kaua'i County code relating to text and mapping requirements within the special planning areas H and I, commonly referred to as the Koloa Town Walkable Mixed Use District, and Kalaheo Town Walkable Mixed Use District. The applicant is the County of Kaua'i Planning Department. There is a director's report. But before I move into that, I'd like to ask if there are any members of the public that would like to testify on this agenda item. Seeing none, I'll turn it over to Mr. Bukoski to give a summary of the report and proposed amendments.

Staff Planner Mr. Bukoski: Good afternoon, Commissioners. I know it's been a long day, um, so I'll make things brief. Uh, the action required by the planning commission in accordance with Section 10-6.6 of the Kaua'i County code, a zoning amendment is required to amend the text and mapping requirements within the South Kaua'i Community Plan. Um, the name of the applicant is the County of Kaua'i Planning Department. The project description and use: The Koloa, Po'ipu, Kalaheo, uh, development plan was updated with the recent adoption of the South Kaua'i Community Plan by County Council on July 10, 2015. The South Kaua'i Community Plan repealed and replaced, um, new procedures, designs, guidelines, and, uh, recommendations. Furthermore, the plan implemented three special planning areas for portions of Kalaheo, Koloa, and Po'ipu. Uh, these special planning areas utilized -- utilizes form-based code to guide

physical development of the area through new building types, form requirements, improved uses, civic spaces, and development standards. The form-based code provides an alternative -- an alternative approach for -- to Euclidean zoning to emphasize its physical form -- oh, physical form rather than separation of uses. Furthermore, the form-based code has been utilized to reinforce walkable, sustainable mixed-use environments that build upon the existing character of historic places such as Koloa and Kalaheo Town. Um, the applicant's reason and justification: During the community process in the -- in the -- developing the South Kaua'i community plan, various areas were analyzed to be zoned accordingly to the evaluation of each community walkthrough. However, some oversight of textual uses and certain parcels were adopted with specific zoning designations within the form-based code that restricts the physical and potential use of the area as compared to the prior Euclidean zoning. Um, also below, you can see in the report that I've, um, added in a -- for example -- um, what -- the transect zones, um, currently exist on the property, and then also what was previously, um, within the, um, comprehensive zoning ordinance before it was adopted. Um, as you can see, a lot of the commercial uses were, um, taken out, unfortunately, um, due to the oversight on community walkthroughs, and this amendment here is to correct that. Um, and that concludes my report, and I'll hold off on my recommendation.

Chair Mahoney: Is there any, uh, questions by the Commissioners for the Planner?

Ms. Nogami Streufert: This is still part of the new public hearings. Is that correct?

Mr. Hull: So, yeah, they -- it might seem a little convoluted. The way that the rules are structured is when you have an actual petition for a, uh, zoning application, an SMA permit, the agency hearing is held first, and then later on we get into the actual agenda item for the discussion and deliberation. When it's a zoning amendment and a, uh, quasi-legislative action that this body is taking, the public hearing and the actual deliberations happen simultaneously. So, I -- I'll just -- I'll just -- I'd like to ask if there's any members of the public that want to testify. I -- those things -- one person really wanted to testify earlier on this subject matter, so, um, with your discretion, Chair.

Chair Mahoney: Yeah. Okay. You can, um, give your name for the record and --

Ms. Leina'ala Pavao Jardin: Aloha ou. I am Kuma Hula Leina'ala Pavao Jardin Aloha again. I -- I apologize I have to come up and speak again. But this, um, matter affects my halau directly. Um, the property that my halau is currently situated on was a property that I inherited from my parents, who -- it's been in our family for years and years, and for years my family paid commercial land tax for this property. Um, without my knowledge and without me knowing, our county decided to turn it into a residential property, which, um, would basically mean, I guess, Ka'aina could, you know, express more on this, but would mean that my halau would need to shut down, which would be devastating, because -- but again, I think the key is we were never even told about this. Um, and then recently, with God's, you know, blessing, we acquired the property that's right next to my property, which was also commercial when we purchased it, hoping to expand the halau a little bit, since the halau has grown, and we found out after purchasing that that has been also -- it's also in this plan as a residential area. This area has been commercial for years and years and years. Um, um, I don't know anything else I should add to that, but I'm hoping that this can be a -- a place for, you know, hula school and our halau to grow. Is that maika'i now? Okay. Mahalo.

Chair Mahoney: Thank you.

Ms. Jardin: Any questions?

Chair Mahoney: No.

Ms. Nogami Streufert: Where exactly --?

Ms. Jardin: We're located right behind the Kalaheo Neighborhood Center and right next to the fire station, so we're -- there's the chiropractor, and then our property is right next, so we're all in that commercial area there. It's dual use for years, yeah. We lived there, and then I have my halau there as well.

Ms. Nogami Streufert: There's also a -- a -- a painting, uh, shop back there somewhere.

Ms. Jardin: Painting shop? I think --

Chair Mahoney: Painting?

Ms. Nogami Streufert: It sits behind, um -- it's behind the, uh, (inaudible - 00:13:44).

Ms. Jardin: That's further up the road, yeah. I -- my neighbor is actually the Neighborhood Center and the fire station.

Ms. Nogami Streufert: Okay.

Ms. Jardin: Yeah. Yeah. So, for -- you -- you know, because we're growing, we needed the parking, and we acquired this -- this property that's next to my property. Assuming that it was commercial and later to find out that it wasn't was quite a blow, because it's been for years and years and years.

Chair Mahoney: Okay.

Ms. Nogami Streufert: So, if this is accepted, then -- then it becomes residential. Is that what is happening to this?

Mr. Hull: No, I can -- I can lend some clarification to that, and -- and it was actually the kumu's, um, interest in applying for a site to expand the halau practices that brought us to the, uh -- the attention that there were some issues with the transects with the South Kaua'i form-based code plan had overlaid in Kalaheo. Um, so essentially for -- in particular for the kumu's situation is -- is she -- her property was -- was zoned commercial general, which is arguably one of the highest zoning from an intensity level of permissible uses. When South Kaua'i Community Plan, through a lot of community output, um, decided to go with a form-based code route to preserve a lot of the character of the town core areas, but free up some abilities. Um, in -- in the, uh -- in -- in the notes that we have and minutes we have from the meetings, indeed there was some discussion of this area because it had a residential quality to it that it should have this residential transect or transect 3, um, which is overlaid. But in the further discussions about, you know, the fact that with smart growth development, form-based code, and us trying to infill development, you know, preserve the agricultural rural areas for that and -- and allow for more infill and more uses to occur in our town core, what we're realizing is with the transect that overlaid her property

-- and we had Mr. Bukoski kind of just do a mapping process to see what was actually zoned commercial, were there more properties like that that we put a more restrictive overlay on, and we found several, in fact, uh, at -- at least a dozen, I want to say. And so, um, what you have before you folks is to reestablish a transect that is commiserate to commercial general so that certain commercial type of uses can occur as an outright permitted use. Um, there are also, um, some amendments to the use table, like Koloa Town has transect 4 village center, where they had, um, prohibited -- or required a use permit for a restaurant, right, in Koloa Town. I mean, like, it's not quite appropriate to -- to throw up these various barrage -- or barricades or barriers to entry for, uh, commercial uses in our commercial core. So, Mr. Bukoski has essentially worked with the long-range team as well as other regulatory division staff to scrub the, uh, form-based code transects to ensure that no -- no property rights are -- are further regulated from what they already had, and in fact to -- to in certain scenarios free up more property developments in other areas, but for the most part, it's -- it's cleaning this up. So --

Mr. Keawe: So -- so, uh, Chair --

Chair Mahoney: Go ahead.

Mr. Keawe: So, basically, um, what this does is provides a mechanism for, um, people that have had the commercial designation to, uh, preserve that?

Mr. Hull: Correct. Right.

Mr. Keawe: And it was a result of changing from the old code to the form code?

Mr. Hull: Correct. And -- and quite honestly, um, the form-based code has a lot of, um, I will say, very appropriate and wonderful things that it allows for communities to preserve some of their character, um, but at the same time, it was -- uh, to a certain degree, it was a bit of a pilot project. No municipality in the State of Hawaii has adopted form-based code. Many have been entertaining it and trying to figure it out. This county is the first that did, and -- and, um, it appears that there are a few hiccups. I don't say that seriously, because, Leina'ala's property you -- arguably is significantly impacted --

Ms. Jardin: Thank you.

Mr. Hull: -- by this overlay, um, and -- and there's a need to fix that, so --

Chair Mahoney: And this -- this does the corrective action --

Mr. Hull: Correct.

Chair Mahoney: -- to satisfy your needs? Okay.

Ms. Jardin: Yes.

Chair Mahoney: Okay.

Ms. Jardin: Mahalo.

Chair Mahoney: Thank you for your testimony and helping to clear that up.

Ms. Jardin: Mahalo nui. Aloha.

Chair Mahoney: Thank you.

Ms. Jardin: Thank you.

Chair Mahoney: Do we need any vote for this?

Mr. Hull: Um, at the end of the day, the, um -- well, uh, the department will recommend first closing the public hearing, and then, um, if you guys have any further action, whether it's approving or if you would like to defer for further discussion. But it would take two motions, one first to close the public hearing and then a second motion for action.

Chair Mahoney: Right. The Chair will entertain a motion to close the public hearing.

Mr. Keawe: I move to close the public hearing on this item.

Ms. Apisa: Second.

Chair Mahoney: It's been moved and seconded to close the public hearing. All in favor, signify by saying aye. Aye. (Unanimous voice vote) Any opposed? (None) Motion carries 5:0.

Chair Mahoney: Hearing closed. Now, can we --

Mr. Hull: So, then, to dispose of the agenda item, um, either if there's further questions that you have for the department, um --

Ms. Nogami Streufert: If -- if we didn't, uh, make this change, and if someone had commercial property that was then --

Mr. Keawe: Re-zoned.

Ms. Nogami Streufert: -- rezoned as residential, would the only way that they could have their business reinstated is to have a variance to that code?

Mr. Hull: Uh, uh, it depends on what's proposed. Um, some of the uses in the commercial district can be done via a use permit in transect 3, or they have to apply for a variance, and the variance threshold is -- is fairly high in the sense that it's not just like a use permit, a compatibility issue to demonstrate compatible -- you know, to be compatible with your surrounding neighbors. A variance permit is very exclusive, and it's, um, a litmus test, if you will, that it should only be granted if the applicant can demonstrate that the size, shape, or topography of their property deprives them of the -- of the land use rights that other properties around his or her property already enjoy. So, it's -- it's -- it's a very, um -- it's -- it's a much higher threshold that -- that many, quite honestly, wouldn't be able to meet.

Ms. Nogami Streufert: So then, the question becomes, were there other changes that were made that for the halau, they were able to identify what the change was for them? Are there other changes like that that people may not yet be aware of that we would be making it more difficult for them to go back to where they were originally with the commercial property, uh, if we were

to approve this now? Or should we just defer it to give people more time to identify whether in fact they're going to be affected, negatively affected, by this?

Mr. Hull: (Inaudible - 00:20:32), the -- that's what Mr. Bukoski did with the mapping process --

Mr. Bukoski: Yeah.

Mr. Hull: -- is he virtually identified every single property that was in the commercial general district and was overlaid with a transect 3, which is arguably a more residential transect, and overlaid in Kalaheo, for example, a transect 4 village center, which is essentially one of the highest, um, intense uses within the transect to be able to do commercial or residential.

Ms. Nogami Streufert: So, he's already identified --

Mr. Bukoski: Yeah. Yep.

Ms. Nogami Streufert: -- those properties?

Mr. Bukoski: Correct, yeah.

Chair Mahoney: Okay. Okay.

Mr. Bukoski: Uh, the process in which, um, was to identify those zoning maps that we used for prior Euclidean zoning, and then we overlay them with the, um -- the current, um, SPA, um, Special Planning Areas, and we took that upon and overlaid it and see where, um, other commercial activities were involved, and then we took that upon ourselves to -- to see, um -- to identify them and put them in this, uh, zoning amendment to correct them.

Ms. Nogami Streufert: And were the -- were the owners, uh, notified of this, or did -- were they aware of what was going on?

Mr. Bukoski: Um, currently?

Ms. Nogami Streufert: Mm-hmm.

Mr. Bukoski: Um, I believe the -- the other owners are not aware of what's going on, but rather, it would be beneficial for them to, um, uphold the -- the general commercial which they previously had in zoning, which -- which I think, as a property owner, is, um -- is very important.

Ms. Nogami Streufert: And this will allow them to do that?

Mr. Bukoski: Correct.

Chair Mahoney: That's the whole point of it, right? So, is there a -- a recommendation from the planner?

Mr. Hull: Well, the recommendation would be just to adopt the proposed amendments to the map and language --

Chair Mahoney: Okay.

Mr. Hull: -- of -- of -- of the South Kaua'i Community Plan.

Mr. Keawe: So, basically approving a zoning amendment?

Mr. Hull: Correct. Yep.

Chair Mahoney: All right. So -- Okay.

Ms. Nogami Streufert: I move to accept the director's report pertaining to this.

Chair Mahoney: Is there a second?

Mr. Keawe: Second.

Chair Mahoney: It's been moved and seconded to accept zoning amendment ZA-2019-9. All in favor, signify by saying aye. Aye. (Unanimous voice vote) Any opposed? (None) Motion carries 5:0.

Mr. Bukoski: Thank you.

Mr. Hull: All right. Motion passes.

CONSENT CALENDAR

Status Reports

Director's Report(s) for Project(s) Scheduled for Agency Hearing.

Mr. Hull: And next, um, agenda item, uh, there are no agenda items for the consent calendar.

EXECUTIVE SESSION

Mr. Hull: You folks have already handled the executive session.

GENERAL BUSINESS MATTERS

Request from West Sunset 32 Phase 1, LLC: Charles Somers as Trustee of the Charles Somers Living trust; and Charles Somers, Individually for Petition for the Revocation of Special Management Area use Permit SMA(U)-2011-1; Class IV Zoning Permit Z-IV-2011-1, and Use Permit U-2011-1 for Michael A. Kaplan (Formerly Hendrikus Group, Inc.) regarding Consideration of Time Extension for the construction of a farm dwelling unit on a parcel and Amendment to modify the design of the single family residence on Tax Map Key: 5-2-012:019 and 5-2-021:041:001, in Kilauea, Hawaii.

Mr. Hull: So I'm moving on to Item I-1, general business request from West Sunset 32 Phase I, LLC, Charles Somers as trustee of the Charles Somers Living Trust and Charles Somers individually for a petition for the revocation of a special management area use permit U-2011-1

Class IV zoning permit Z4-2011-1 and use permit U-2011-1 for Michael A. Kaplan (ph), formerly of the Hendrikus Group, Incorporated, regarding consideration of time extension for the construction of a farm dwelling unit on a parcel and amendment to modify the design of the single family residence on Tax Map Key 5-2-012:019 and 5-2-021:041 and 001 in Kilauea, Kaua'i. We have a director's report pertaining to this matter, and, Jodi, I'll turn it over to you.

Staff Planner Jody Galinato: Uh, good afternoon, Commissioners. Um, I'm going to try to shortcut through as well as I can for you. Um, I appreciate your time. The background, um, pursuant to Chapter 12 of the rules and practice and procedure of the Kaua'i County Planning Commission SMA Rules and Regulations for the County of Kaua'i, Chapter 205, HRS Statutes, Chapter 91, Hawaii Revised Statutes, Chapter 92, Hawaii Revised Statutes. The petitioner is requesting consideration of revocation of the, um, permit, um, described by Ka'aina, um, and it - it's also in Exhibit A. On September 28, 2010, the Hendrikus Group was granted the original SMA permit for the construction of a new single-family residence, the removal and relocation of certain accessory agricultural storage and office structures, development and irrigation well accessory, photovoltaic installation, demolition of structure, and archeological restoration of the historic Awai rock walls and terraces. Subsequently, on April 23, 2019, the project was approved by the planning commission to allow the applicant to modify the design of the farm dwelling, um, and basically they reduced the size of the dwelling. Um, uh, it was a 341-square-foot reduction from 2,694 square feet to 2,353. It was a change in the design. It was a reduction in the lot coverage from 9.9 percent to 8.7 and a reduction in the building height from 21 feet to 19-1/2. Um, the applicant was also requesting a two-year extension of time until April 2021 to construct the residence. The previous owner had been working diligently over the past nine years to complete the work previously approved, and the construction of the farm dwelling was all that's left to be built. Um, I've -- I've attached the approval letter and the conditions from the extension and modification plus the original one. Do you want me to read through the findings and the analysis, Chair?

Chair Mahoney: Um, it would be helpful.

Ms.Galinato: Okay. "In -- in its review and investigation of the petition's stated basis for revocation, the planning department finds the following. On page 3, to demonstrate the petitioner can demonstrate that they will -- they are so direct -- they will -- are so directly and immediately affected by the permit. The petitioner states that the proposed driveway would be considered a structure and an accessory structure for the purposes of calculating land -- land coverage within an easement area encumbered by the petitioner, and they must have an opportunity to review any development in the easement area. Our analysis is pursuant to Kaua'i County code, and at the time the permits were considered, the proposed driveway was not considered a structure or accessory structure, as it was a gravel driveway, and thus the gravel driveway was not counted as land coverage. Additionally, pursuant to the SMA rules, gravel driveways are not considered to be development, thus Special Management Area rules and regulations did not apply to the gravel driveway. In addition, at the time the permit was considered and since the permit was issued on September 28, 2010, the petitioner nor any other party raised any issues or direct and immediate effect caused by the construction of the gravel driveway. Also, the petitioner notes the private grant of easement was for vehicular access and was created well before this permit was considered in 2010. On page 4, the petitioner states that there is a conflict in the dates of the receipt of the completed application and the director's

report. The date for the receipt -- our analysis is the date for the receipt of the completed application was erroneously stated as April 19, 2019, but it was received by the department on March 29, 2019. The director's report was signed on April 16, 2019 and submitted to the Planning Commission on April 23rd. On page 5, the petitioner states that the department did not discuss issues regarding public notice, the lapsing of permits under the SMA rule, or any of the tenets of the county SMA rules or the State Coastal Zone Management Act. In our analysis in general, pursuant to the SMA Rules and Regulations and practices and procedures of the Kaua'i County Planning Commission Chapter 12, the director may make a determination on whether substantial progress was made under the permits and the Commission may grant extensions of time for good cause notwithstanding the state of lapse under SMA rules. In fact, the department routinely supports requests to extend SMA permits based on substantial progress made under the permits. The department notes, for instance, the petitioner himself has requested and received extensions of time and numerous amendments for his Special Management Area permit SMAU-2008-5 issued years ago. On page 6, the petitioner states that the permit has lapsed. Our analysis again notwithstanding any lapse being pursuant to SMA rules, the Director can determine whether substantial progress was made under the permits, and the Commission may grant extensions of time to act upon any SMA permit for good cause shown. The petitioner itself acknowledges that the permit was likely not automatically revoked on September 10, 2012. In addition, SMA rules specify that the due process procedure specified under the Planning Commission rules must be afforded to effectuate or enforce the lapse or the permit be no longer in effect. On page 7, the petitioner states that the permit holder shall file a motion in accordance with the Planning Commission rules. Our analysis: Planning Commission rules 1-12-9 requires the permit holder shall file a motion in accordance with Section 1-6-16 of these rules and serve a copy to all parties to the proceeding in which the condition was imposed. However, the underlying permits did not engage in a contested case hearing, nor were any interveners admitted as a party when considering the permits. Even if the Commission or Clerk of the Commission required the applicant's motion to be filed in accordance with the Planning Commission rules, service upon the petitioner would not have been required. Instead, the petitioner was afforded notice as any other member of the public under HRS Chapter 92. Thus, applications requesting a modification to extend time to complete the actions under an SMA permit was accepted in the form of a letter. This is routine and customary for most SMA extension requests that both the applicant and the petitioner have followed previously. On page 8, the petitioner questions the public notice requirement for an SMA application. Our analysis is a request to modify or amend a permit and/or extension of time is not considered to be a new application and subject to public hearing notices. In addition, because the modifications were less than previously approved, the director did not require an additional public hearing under Planning Commission Rules Chapter 12. Instead, public notice and an opportunity to testify on the extension request was afforded pursuant to the standard requirements under HRS Chapter 92. Specifically, the agenda was posted in accordance with HRS, and an opportunity was given for public testimony at the April 23rd, 2019 Planning Commission hearing. The department notes that the petitioner himself did not have to go through a public hearing notice procedure for his amendments and extension of time request. At least in one instance, petitioner requested an increase in the size and scope of work, and a public hearing notice was not required in that case. On page 9, it states that the objectives and policies of the Coastal Zone Management Area and Special Management Area were not reviewed in this application. Our analysis is the applicant, department, and Planning Commission analyzed the objections -- objectives and policies of the Coastal Zone Management

Area and Special Management Area when it initially considered the application in 2010. Subsequently, the department analyzed the modifications and found that the proposal decreased the size and intensity of the previously approved project. Thus, the department recommended approval, and the Planning Commission approved the extension. And, um, additional evaluation and consideration of the petition for the revocation of the permits the department submits additional evaluation regarding whether there is reasonable cause to believe that there currently is a failure to perform, according to the conditions imposed as follows. Substantial progress: Substantial progress was made under the permits. The original approvals allowed for a single-family residence, accessory agricultural storage and office structures, development of irrigation well, PV, demo structures, archaeological walls, rock walls, terraces.” Um, the applicant, Kaplan, has provided the following permit information as an overall update, and I’ve listed one, two, three, four, five, six, seven, eight, nine permits that the applicant has, um -- has, um, issued to, um, complete this SMA application. In regards to the general plan, the North Shore Development Plan and the CZO, um, we agree that they’re all in compliance with those, and I’ll hold off for my, um, preliminary conclusion and recommendation. I also included, um, Supplemental No. 2, and I gave copies -- the -- of these. Um, Supplemental 2 is the reply, um, to Michael Kaplan, and then Supplemental 3 is a letter from, uh, Yosh Lahote (ph), um, basically in favor of the petitioner, and then today we received a letter from Hawaiian Islands Land Trust in favor of the petitioner’s request.

Mr. Hull: Also state that, um, when you folks are done with the questions for the Department or the Planner that the petitioner is here as well as a representative on behalf of the permit holder.

Chair Mahoney: Is there any questions for the planner?

Ms. Apisa: Not at this time.

Chair Mahoney: Okay. So -- okay. Petitioner?

Mr. Hull: Yeah, if the petition -- petitioner would approach?

Attorney Randy Vitousek: Good afternoon, Mr. Chairman and members of the Commission. I’m Randy Vitousek, and I represent the petitioner, um, which is, um, West Sunset 32 Phase I, LLC. Shall I proceed?

Chair Mahoney: Yes, please.

Mr. Vitousek: Thank you. Um, the petitioner owns a parcel that abuts on and essentially surrounds the Kaplan property. The petitioner owns 162-acre parcel that is essentially the north half of the Kilauea River Valley. Um, this property is subject to a conservation easement that benefits the Hawai’i Island Land Trust, and the purposes of the conservation easement are to protect the conservation values of this subject property. Um, so the Kaplans -- I mean, back -- you know, the Kaplans’ predecessor in title, Hendrikus, got an SMA permit that authorized them, as the planner said, to build a single-family home and to do a number of other improvements on the -- on the subject property. They did some work on the property, but it’s apparent that no work was done to develop the single-family residence over the nine years that the permit has been in effect. Then, on April 23rd, this Commission, uh, heard the Kaplans’ request, however -- however framed, a motion or request, an application, however framed, they applied to extend the time to allow them to build a residence, and they applied to substantially modify the design of

the proposed residence, um, and these -- this was approved by the Commission. Now, neither the applicant, uh, nor the Commission provided public notice -- uh, provided specific notice to the petitioner. The petitioner, again, owns the adjoining property, and the -- so the -- so, without any specific notice to the petitioner, the Commission went ahead and made the decision. Now, the planners talked about what the Commission decided, you know, that there wasn't an additional impact, that it wasn't a major design, that there had been due diligence, but all those decisions were made without notice to the party that could be impacted by any change in the SMA permit. So, it's kind of self-serving for the applicant to say, "There's no additional impact on you, sir, and so I'm not going to even tell you that I'm applying to modify the permit." So, the department's assessment and the Commission's decision did absolutely nothing -- it has still done nothing -- to determine whether the proposed amendments are consistent with the objectives, policies, and guidelines of the Special Management Area. That is a specific requirement of Hawai'i Revised Statutes Chapter 205-8-26. In other words, an SMA permit may not be issued without a determination that the proposed improvements, the proposed development, is consistent with the objectives, guidelines, and policies of the SMA. There's some very specific Hawai'i Supreme Court cases, *Mahuiki* and *Hui Alaloa*, that says that any SMA permit that does not include that finding is not valid. So, when the petitioner learned that the request to amend the SMA permit had been made and had been heard by the Commission, the -- the petitioner filed this petition as a means of getting the Commission to address the failure to give notice. Um, the, you know, Hawai'i Coastal Zone Management Act Chapter 205A is -- creates the Special Management Areas and delegates directly to the Planning Commission the authority to implement the SMA in Kaua'i County. One of the principal goals of the Special Management Area is to promote participation in the permitting and development process in the SMA. Hawai'i Revised Statutes Chapter 205A-29A specifically says -- this is a quote -- "The Planning Commission shall provide for adequate notice to individuals whose property might be adversely affected by the action." That's a -- that's a specific State statute mandating that the Planning Commission give notice to individuals who might be affected. That's different from General Chapter 92 public notice. That's saying, 'give notice to individuals whose property might be affected.' To implement that, your Commission passed, uh, Kaua'i SMA Rule 9D, which specifically requires that at least 20 days before the hearing, the applicant shall provide written notice to all property owners within 300 feet of the property which is the subject of this application. Again, it's -- you know, it's absolutely uncontested that this petitioner abuts on the Kaplan property, it is more -- it is less than 300 feet from the property, and it's also completely uncontested that no written notice was given to the petitioner. Under Hawai'i law, an adjoining property owner has standing to raise issues in, uh -- in land use proceedings. An adjoining property owner will be considered to have a personal and special interest in the proceeding. They will be considered to have an interest which is clearly distinguishable from the general public interest, and they are a party who can be adversely affected by an action of the Commission. Again, that's black letter Hawai'i law. So, the requirement of notice to the petitioner comes from the statute and from your rules. It's specific to SMA permits, and it's specific to this situation. It's not vague. It's not discretionary. It's not subject to interpretation. And this is -- and so, the notice and the opportunity heard is something that's supposed to occur before the decision is made. And so, we're in a situation now where without getting notice, without having an opportunity to come before the Commission and be heard, we're trying to justify attacking a decision that you've already made, and it's hard to do that because it was done without having an opportunity to hear from the parties that may be affected. So, what we're

asking for today is specifically we're asking the Commission to rescind its prior action which approved the extension and approved the change to the residence. We're asking that the matter be reset for hearing and that the applicant be required to comply with the rules and give specific notice to the petitioner and others as required by law. The Commission should then hold a new hearing after proper notice, and all interested parties should have an opportunity to be heard before the decision is made. And, finally, when the Commission makes the decision, it has to make specific findings as to whether the proposed change in the SMA permit is consistent with the policies, guidelines, and procedures of Chapter 205A. Even in the supplemental information they gave you today, they don't make that finding. In other words, there's nowhere in this supplemental information where they say, "We find that a change in this SMA permit is consistent with the guidelines, objectives, and policies of Chapter 205A." And so, this -- this -- this -- this isn't just going to go away. You know, this isn't going to just disappear. This is an issue that will be presented, and it should be in everybody's interest that we take the time now to do a hearing where the proper parties are before the Commission, have an opportunity to be heard, and then the Commission can make a decision on appropriate criteria and document it appropriately, and the chips will fall where they may. But -- thank you. Do you have any questions?

Chair Mahoney: Yes.

Mr. Courson: Counsel, is it your position that, uh, HRS 205-A-29 and then Section 10 of the Commission's rules apply to modifications and not just new assay --

(Crosstalk)

Mr. Vitousek: Yeah, absolutely. Yeah, absolutely, because what they did was they -- they completely changed the design of the residence. So, if the design of the residence was relevant in the original SMA permit, it's relevant when it's amended. And they talk about, well, it's changed in size and -- and footprint, but those aren't the only criteria for the design of a Home in the Special Management Area. For all we know, it could be made out of reflective stainless steel and have rotating lights on top. I'm -- I'm not saying that's a fact, but I'm saying there are other criteria for a home that could have an adverse impact on a neighbor, or on the Special Management Area, or on the conversation easement other than the cue. And so, saying that -- that -- it's kind of self-serving to say, "Well, it's no impact," because the question is, is it an impact on -- on adjoining property owners? Is it an impact on the SMA? It's not up to them to decide whether it's an impact or not.

Mr. Courson: But any modification could potentially raise that question?

Mr. Vitousek: I think any modification could, but certainly a complete redesign of the -- of the Home does justify, uh, a determination of consistency that -- that it remains consistent with the SMA.

Mr. Hull: Uh, if I could ask a question, Chair?

Chair Mahoney: Granted.

Mr. Hull: Um, at this point it's not a contested case, so I'm not a party to the proceedings, but just serving in capacity. If the modification -- because it has been an interpretation of the

department for years, quite honestly, Counsel, that, um, a modification -- the director's given the discretion to determine whether or not the public notice is necessary. That's been done for years. Your client went through this very same process a few years ago in which he modified his proposal to actually expand the footprint of -- of his House, and the very same interpretation was applied to his petition for modification. Why, then, if he was okay at that point of not having to go through the notice process, are you asking this body to adhere to a much more, uh, restrictive interpretation?

Mr. Vitousek: Well, okay, for one, sir, I wasn't involved at -- before, and I -- and I can't speak to why what was done was done, but I can say that -- that what we're talking about is giving the public an opportunity, giving effective people an opportunity to be heard. That's not to say that the -- the director's going to make a different recommendation or that the result's going to be different. The point is, there's a strong value in the Special Management Area statute and rules to allow people who are potentially impacted to be heard before the decision is made, and that's what we're asking for today. We're not -- you know, that's specifically what we're asking for today is that the Notice of Requirement be complied with, that we come back, have an opportunity to be heard on the issue, and then, you know, I think that's the shortest way to get to a resolution of this. Thank you.

Chair Mahoney: Any, uh, questions for the Counsel?

Mr. Vitousek: Thank you very much. I know it's been a long day.

Chair Mahoney: Yes.

Ms. Nogami Streufer: Uh, can I ask a question of --

Chair Mahoney: Yep.

Mr. Vitousek: Oh, I'm sorry.

Chair Mahoney: Yes.

Ms. Nogami Streufert: I -- I'm not sure it pertains to you right now. Um, I'm reading this Hawaiian Islands Land Trust that we just got a few minutes ago, and the last paragraph states that if we were to open this up to, uh -- I'm not sure it's called an intervention, because it -- we're not in a contested case, but if we were -- but --

Ms. Apisa: Public input?

Ms. Nogami Streufert: -- input, public input, it says that that should include the Kilauea Neighborhood Association, Mr. Somers, the Hawaiian Islands Land Trust, and other neighboring owners. Would we -- if we were to do that, or if we were to open this up again, then should all of them have input into this process?

Mr. Hull: If it -- uh, excuse me. The -- the request before you folks is a petition for revocation, um, and ultimately the process for revocation is you can't immediately revoke the permits today. If you are sighting towards a possible revocation, the Commission would essentially vote for an Order to Show Cause, which -- which is served upon the property owner that was granted the permits and the modification extension, and within 30 days, that, uh, property owner has to

demonstrate to you why these permits should not be revoked, and then they come back -- the -- the actual property owner would come back and go through the Order to Show Cause hearings, and then that would potentially be submitted over to a contested case, i.e., a hearings officer, possibly. Um, uh, I think what, uh, Mr. Vitousek is getting at is -- is that they're not necessarily going that far, but this is the -- the avenue in which to get on the record. He's requesting to be able to open it up for a full-blown public hearing which is subject to the possibility of neighboring properties and other organizations with interest having intervention status.

Mr. Vitousek: Madam Commissioner, the -- the Hawaiian Islands Land Trust is the party that holds the conservation easement? Okay. And so -- and so, they are directly affected by, uh, any, uh, development in the area surrounding their conservation.

Ms. Nogami Streufert: Correct, but there are --

Mr. Vitousek: Yeah.

Mr. Vitousek: -- other parties besides Mr. Somers and, um, Hawaiian Islands Land Trust that are listed here --

(Crosstalk)

Vitousek: There -- there -- there may be, yeah. Thank you.

Ms. Nogami Streufer: So, that was the reason for asking.

Mr. Vitousek: Pardon?

Ms. Nogami Streufert: That was the reason for asking the question.

Mr. Vitousek: Thank you.

Mr. Hull: The, um -- Then we have a --

Ms. Apisa: It's a very active Kilauea neighborhood association. I mean, they meet monthly, and they're very active in what goes on in Kilauea.

(Indistinct background dialogue.)

Mr. Hull: Uh, so I -- I would recommend that the Commission also afford the, um, applicant holder's representative -- sorry, the permit holder's representative -- speak to you folks as well.

Chair. Mahoney Okay.

Mr. Vitousek: Thank you. Thank you.

Chair Mahoney: Thank you. Could the representative please come and state your name for the record for the applicant?

Attorney Ms. Laurel Loo: Thank you. Um, good evening. Laurel Loo for the applicant holders. Mr. Kaplan is in the front row along with his wife, Rose, and, uh, this is the architect, George, uh, Santo Giorgio (ph). And Santo and I came before you a couple of months ago for

the amendment request, and this body did see the change in plans from the original proposed house that Mr. Hendrikus proposed, and the smaller, slightly smaller, house that, um, Santo has drawn, so that's the crux of the matter, and our position is that -- well, for one, I'm as frustrated as Mr. Rego, but I have had teenagers, so I'm able to keep in my emotions and have a straight face. Our position is, in 2010, Mr. Somers had every opportunity, uh, as did the Kilauea neighborhood, um, and any other landowners, to have a full going at Mr. Hendrikus' plan. Merely what we are doing now is asking for a slight change in the house that Mr. Hendrikus, uh, presented to the Planning Commission in 2010. And if -- you will see from the memo that we presented, the legislature has granted great deference to agencies, and the Planning Director, for example, to make its own rules and give the Planning Director discretion to make rules and decisions, otherwise every change would have to come before the Planning Commission. If somebody wanted to change their roof from a tile roof to a shingled roof, or their doors from a wooden door to a French door, they'd have to come in front of you under Mr. Somers', uh, position. But we believe that it's not the applicant holder who is making -- who is determining whether public notice, uh, should go out to 85 percent of the neighboring landowners, it's a -- it's a neutral party, the Planning Director, and that's what happened in this case. It wasn't us who made that determination, it was the Director with his discretion under your own rules, which we've been -- well, the Planning Commission has been -- doing for decades, um, along these lines to allow discretion in cases where the Planning Director did not feel there was a substantial difference in the change on the theory that the community has already had the initial SMA application to file their comments and objections, which they did in this case.

Chair Mahoney: Any questions for, uh, the applicant's attorney? Um -- How about for the architect? On -- on -- on the changes made to the house, um, was there anything -- a reduction in density, or was it a -- could you explain that in detail, what the changes were?

Mr. Santo Giorgio: Sure. Sure. Essentially, the -- the location and the footprint, the overall footprint, is similar, although ours is slightly smaller. The previous design, and I think you have copies of it, it was two, um -- two octagonal shapes. It was a two-bedroom, two octagonal shapes, and a porte cochere. Ours is a two square -- square shapes with a porte cochere. So, essentially, they're -- they're very, very similar, um, except again, ours is smaller. The roof on that one was going to be a, um, like a Quonset hut -- not Quonset, but like, um, um -- sorry, the -- the word just escapes my mind, but it's a -- like a -- a yurt, a yurt style, so it'd be like a canvas of white. Ours is going to be a wood shade roof so it'll blend in a little bit more. Um, everything that we've done has been trying to tone down, um, the overall scope, yeah.

Ms. Apisa: I guess I have a question. It's just, nine years is a long time, I mean, to come back and ask for a change. Uh, just what was the reason it was --

Mr. Santo Giorgio: So --

Ms. Apisa: -- nine years in between?

Mr. Santo Giorgio: -- so, that -- this -- the -- the current applicant, Michael Kaplan, uh, purchased the property in October, uh, from Hendrikus, and Hendrikus is a landscaper, and, um, he was working on all of the projects, the barn, the photovoltaic, relocating -- removing illegal structures and then clearing the property. It's, uh, a pretty incredible property, and it was, uh,

really overgrown. So, in that time period, uh, he was doing all of those other projects and ran out of money, frankly.

Ms. Apisa: Oh, so it was a change of ownership that triggered it?

Mr. Santo Giorgio: Correct, yeah.

Ms. Loo: And Commissioner Apisa, when we, um, came to the Commission two months ago with our request, we attached a letter from Mr. Hendrikus in which he iterated the things he had done over the years to improve the property, and a lot of it was clearing growth, because if you see it on Google Maps, it's just a forest. It's hugely overgrown, so a lot of it -- a lot of his time was spent on the archaeology and cleaning the growth.

Mr. Hull: I have one question that I kind of was vetting out on the break, um, Laurel. Is this the first or second House being built on the property?

Ms. Loo: This is the first house on this lot of record, which would mean -- would mean under your own rules, it's exempt from SMA, uh, scrutiny.

Mr. Hull: So -- and -- and so, um, I'm looking at the application that was reviewed, and I'm sorry, I wasn't in an administrative position when this was originally approved. But in looking at it, a lot of it had to do with the accessory structures that have already been constructed, and that's where I made the determination substantial construction had been -- or progress had been made towards the permits, and which is why the two-year window didn't lapse, but I would somewhat -- knowing and -- and just realizing that this is the first house, I would somewhat want to caution the petitioner on behalf of Somers just because of the fact that, um, I'm not totally averse as the Director towards the interpretation Mr. Vitousek is arguing for. Um, an interpretation of substantial, uh, progress just being done, and, you know, the way it was done, I -- it -- historically, that's -- that's the way Directors in the past have made an interpretation, and I've been keeping in line with it. But should I take an interpretation that is very much more confined to any modifications, from 2,000 extra feet to the house to a new propane shed, require a public hearing notice and being able to subject the application or permits to further intervention, I'm not averse to that, and that's a possibility. But I think as we go down the road with this particular petition, as Laurel is pointing out, the SMA, uh, regulatory review exempts the first house. So, you folks could actually follow through with Mr. Vitousek's request for revocation and revoke the permits. If Laurel resubmits the building permit for this house and doesn't come for SMA review, she is totally in her right to do that and we would have to sign off on it. Um, but it could still further lend itself to a scrutinization of further applications, which, like I said, I'm not averse to that either.

Chair Mahoney: So --

Ms. Nogami Streufer: Can I ask a -- a question of this man?

Chair Mahoney: Go ahead.

Ms. Nogami Streufert: Okay. Um, and this is both for the planner and -- and for the, um, applicant. Um, there -- excuse me. There are all these permits that were, uh, approved for demolishing a hut, for building a -- a two-story barn -- I think it's for building, it's not just for

approval of the -- the design -- to add a loft to the barn, to add a solar system. Have those things been done?

Ms. Loo: Yes.

Mr. Santo Giorgio: Yes. They're --

Ms. Nogami Streufert: So, there is a -- there is --

(Crosstalk)

Santo giorgio: They're itemized on -- on the -- the director's report.

Ms. Nogami Streufert: Well, I just have that as a, uh, uh, as permits. I don't have it that says they were done.

Santo Giorgio: Yeah, it says it -- uh, which has been finalized and what is still in the process.

Ms. Nogami Streufert: Um, it just says that the --

Ms. Galinato: On page --

Ms. Apisa: -- uh, mine just says a permit for a two-story barn was finalized on 7/13/15. It doesn't say that it was done or that it was completed.

Ms. Loo: It was. It's there.

Santo Giorgio: Finalized

Ms. Nogami Streufert: So, those -- so, all of those things are there?

Ms. Loo: Been finalized. Correct. Mr. Hendrikus did them, and then the Kaplans just bought it, uh, last -- late last year with the improvements.

Ms. Nogami Streufert: So, there is a two-story barn?

Ms. Loo: Yes.

Mr. Santo Giorgio: Yeah, and when it says "finalized", that means it's actually been finalized and approved by the -- uh, finalized by the building department.

Ms. Nogami Streufert: So, that --

Mr. Santo Giorgio: Yeah, uh --

Ms. Nogami Streufert: Okay, because I couldn't read that as the permit was finalized. Sorry.

Mr. Santo Giorgio: Yeah, I prepared this, uh -- these permit -- the statuses on the permits, and all -- wherever it says "finalized", it was actually finalized by the building department.

Ms. Loo: So, could I make one more comment, one final comment?

Chair Mahoney: Yes.

Ms. Loo: So, I'm Chinese. I want to save you guys money, right, and time. If you go down this path of allowing further public hearings and interventions and notices every time somebody makes a change, you're gonna have to have meetings every week.

Mr. Santo Giorgio: I would just add that this would set a really incredible precedent. That means anybody could come up and -- after the fact and try and petition a permit that's already been established. It would, I believe, create a lot more work for all of us, unnecessary work.

Chair Mahoney: Thank you. Any questions?

Ms. Nogami Streufert: Well, I have to admit, I wasn't here at the April 23rd meeting, so I really don't -- don't know all that transpired at that time, but it's very clear.

Chair Mahoney: This just seems like a -- a quandary of, uh -- is it -- it's just the -- is it just personal animosity between neighbors?

Ms. Loo: I can answer that. It is. Mr. Somers has been trying to buy the property from Mr. Hendrikus and Mr. Kaplan and has been denied many times, so there is personal animosity.

Chair Mahoney: It seems like, "I can do it. You can't do it. They can do it." Um, yeah, we -- we want to make sure we're -- we're doing the right thing, but it seems like, um, that it's -- there seems to be substance lacking somewhere here. Um, and, uh, is there any possible way of the -- the neighbors getting together and -- and working this out without going through all of this?

Mr. Santo Giorgio: If I may speak to that, I have firsthand experience with both of these people. Mr. Somers, uh, was my client. Um, I inherited him from my mentor, Gary Toby, and, um, uh, I reached out to him about -- when I got notice of this petition, I reached out to him. I called him up. I said, "Charles, what is -- this is crazy. Um, there's going to be so much time, resources, people spending -- wasting so much," and he said, "Santo, I have a lot of lawyers that work for me. This is a rounding error." Um, he said -- and then he went into -- he -- he laid into me -- laid into me --

Chair Mahoney: Well, the -- the point being, without getting, is there a workable solution to this?

Santo Giorgio: I tried.

Chair Mahoney: Well, is there a -- what I'm going to finish is, is there still a workable solution to -- to meet with the owners, the two parties, without going through this litigious route that -- you know, it's like, they're neighbors. I know sometimes neighbors don't get along and -- and whatever, but in the grand scheme of things, can any, um, level heads meet?

Ms. Loo: Well, we would be happy to share with Mr. Somers or his attorney any of our plans, drawings, answer any questions --

Chair Mahoney: And --

Ms. Loo: -- he has about the change.

Chair Mahoney: -- and if -- if -- if everything was compatible in the design with, uh -- with, uh, Mr. Somers, is he objecting to that he didn't get the notice? Is he objecting to he -- he -- he doesn't know the design, or would he -- could he be satisfied with the -- the new design, or --? You know, it just seems like --

Ms. Loo: (Inaudible - 01:02:03).

Chair Mahoney: -- there -- there should be a -- a workable solution to this.

Ms. Nogami Streufert: Can we hear from the other side?

Chair Mahoney: Yeah.

Ms. Nogami Streufert: I'd like to hear more from the other side.

Chair Mahoney: Could -- could, uh, the attorney please come up for Mr. Somers?

Mr. Vitousek: Yeah, thank you.

Chair Mahoney: And we appreciate, you know, your comments, and -- and, uh, we're not trying to -- what we're -- it's -- it's just kind of -- it seems like from -- from our department, and it's -- it just seems like one does one thing, just -- just from reading this, one does one thing, it's okay. The other one does it, it's not okay. So, I want to get you to do what I want, you know. And, you -- you know, if you -- the -- the -- the law's the law, and we understand that, too, but it's like, uh, you weren't aware of the design. The design is, according to the architect, basically the same thing as it was before, just less, and -- and -- but my point, and I know it's been a really long day, and we've had testimony continually all day long, and it's like now it's almost like you got one kid here and one kid here. Get them both together, straighten it out, and be done with it.

Mr. Vitousek: Yeah, Mr. Chairman, I -- I'm -- I was here, um -- I was here presenting the law.

Chair Mahoney: Yeah, I understand.

Mr. Vitousek: I was -- I wasn't here talking about personalities --

Chair Mahoney: I understand. I understand that.

Mr. Vitousek: -- or saying -- saying that I called up my client and --

Chair Mahoney: I appreciate that.

Mr. Vitousek: -- so -- and so, you know, that's -- that's not on the record. That's just people talking.

Chair Mahoney: Duly noted. Duly noted. they're going to make statements like that, Mr. Somers has an opportunity to respond to it.

Chair Mahoney: Okay.

Mr. Vitousek: And we're -- you know, and -- and you don't get to just hear one party --

Chair Mahoney: Oh, I understand totally.

Mr. Vitousek: -- throwing garbage at another party. I appear to talk about law. Mr. Hull, if I may, you talked about how they could withdraw and go ahead as a single-family residence, but, remember, the argument here is they've done everything else other than the single-family residence, and so now they can do a single-family residence without an SMA permit, but that's not the law. I carried this all the way from the Big Island, and your law says that development does not include construction of a single-family residence that is not part of a larger development, and this is clearly part of a larger development, because what they're arguing is we did all the rest of the development, and now we're just going to do the home. So, that's a difficult precedent, you know, because this was approved as a multifactorial project through an SMA permit, and so it was a larger project, and it remains a larger project, and the single-family residence is a part of a larger project. So --

Chair Mahoney: Okay.

Mr. Vitousek: -- if I may, I'm just trying to -- you know --

Chair Mahoney: No.

Mr. Vitousek: -- we're just trying to do this on the law.

Chair Mahoney: Yeah, I understand that.

Mr. Vitousek: We just want an opportunity to be heard in a structured situation --

Chair Mahoney: Okay.

Vitousek: -- and with some, um -- on the record. Thank you. Thank you.

Chair Mahoney: I appreciate that. Thank you.

Mr. Vitousek: Yeah, thank you.

Chair Mahoney: Okay, so --

Ms. Nogami Streufert: Could I ask a question -- could I ask a question before you go?

Chair Mahoney: Sorry --

Mr. Vitousek: Oh, I'm sorry.

Ms. Nogami Streufert: I'm sorry.

Chair Mahoney: -- one more Commissioner has a --

Mr. Vitousek: Yes, ma'am?

Ms. Nogami Streufert: Are your objections more about the procedure, or are you -- or about the -- the, uh -- the design of the house, or what exactly are --

Mr. Vitousek: Well, but, ma'am, you know, we -- uh, when you get notice, you know, when they give notice like they're supposed to, they give you the application, they give you the design, they give you what the changes are, and then you can evaluate it as to whether or not you feel it

has an adverse impact on you as a neighbor or on the -- or on the SMA, and that's the opportunity that we did not have because we weren't given notice.

Ms. Nogami Streufert: So, are you saying -- are you saying that you -- you're -- you really don't know whether you approve or not, you're just -- you just want to see the plans before, or you just want to see the plans? Is that what you're saying?

Mr. Vitousek: Um, you know, the -- what -- what I'm saying is -- what I'm saying is -- is very specifically that the law says we're entitled to see the plans beforehand.

Ms. Nogami Streufert: I -- I got that. I -- I really do have that.

Mr. Vitousek: Yeah. And -- and so -- and so, you know, if it -- if it -- if we didn't like the design of the House, that would be something to object to. If we didn't want the House at all, that would be something we could object to. Nobody gets to tell an interested property owner what they can be concerned about and what they can't be concerned about. They get to come before the Commission and make their presentation about what their concerns are, and then the Commission can decide whether they rise to the level where it should be -- you know, where you should take some different action relative to the permit. And -- and so, you don't get -- you don't get to say in advance, "Oh, are you really upset with this?" or "Do you really want something different?"

Ms. Nogami Streufert: No, I understand.

Mr. Vitousek: Yeah, okay.

Ms. Nogami Streufert: But you -- but the -- now you know what the plans are.

Mr. Vitousek: Um, sort of. I heard him say that it's two square -- square things instead of round ones --

Ms. Nogami Streufert: Right.

Mr. Vitousek: -- but I don't know, you know, what the overall design is, I -- I -- I just don't.

Ms. Nogami Streufert: With the same footprint, and it's just square or rectangular versus yurt style, uh, hexagonal.

Mr. Vitousek: I -- I don't.

Ms. Nogami Streufert: Octagonal.

Mr. Vitousek: Yeah, I don't know. I don't -- I don't imagine that -- I imagine he gave a presentation to you that made it appear that it was not a lot of change. I don't doubt that. That's his interest. But that's not his call, you see. It's -- it's up to the community to evaluate whether the design or whether the house itself will cause an adverse impact on this very important and fragile environment in the Special Management Area, and it's up for the Commission to hear both sides and make a decision on an orderly process. That's -- that's -- that's what we're here for.

Mr. Hull: If I could interject, Commissioner. Mr. Vitousek, with all the research that you've done and prep, I just have to honestly ask that with all the preparation, you're also telling me that your client and you have not actually reviewed the plans which were a public document --

Mr. Vitousek: I --

Mr. Hull: -- made available over a month ago?

Mr. Vitousek: -- I don't know what my client has reviewed or not reviewed.

Mr. Hull: Have you reviewed the plans?

Mr. Vitousek: I have not reviewed them. Are you done? Thank you.

Mr. Hull: So -- so I think ultimately the Commission has a couple options available for action. Uh, the Department is recommending denial of the petition to revoke the permits. You can adopt that recommendation. You can also, um, defer the item for possibly allowing the property owner and the petitioner to perhaps come to some type of amenable agreement. Or, uh, third, um, you could issue an order to show cause, which essentially is going down the road of revocation but giving the, uh, uh, permit holder the notice that -- that within 30 days, they have to get back to you folks as to why the permit should not be revoked. Those are essentially the three options before you folks.

Ms. Apisa: I -- I -- I find it interesting, this Hawaiian Island Land Trust, you know, what their position is. It just kind of, I guess, raises question marks. I don't know.

Mr. Hull: Yeah, and -- and that would be along the lines, I think, if you just want more information, uh, the department can reach out to HILT to see what their position is further --

Ms. Apisa: Mm-hmm?

Mr. Hull: -- um, and that would just be -- if -- if -- if the Commission is leaning towards that of just getting more information, the -- the Department would say the appropriate motion would be to defer action until, um, the department can -- can get in touch with Hawaiian Island Land Trust.

Ms. Apisa: And -- and KNA. There's that.

Mr. Hull: Oh, KNA, um, did review the application.

Ms. Apisa: Oh, okay.

Mr. Hull: Yeah. And during the -- put -- uh, application to modify -- um, excuse me -- I want to correct myself. Laurel, is -- is that correct -- that KNA did review the petition to modify?

Ms. Loo: No, the --

Mr. Hull: I apologize, then.

Ms. Loo: -- the initial --

(Crosstalk)

Mr. Hull: The initial site? They did? So, yeah, KNA could be another one that we could reach out to.

Chair Mahoney: Well, Commissioners?

Mr. Ho: A -- a question of going out, kind of -- if we -- if we go down the path of, uh -- if we defer this, then can we speak with you and the attorney for clarification on what we just heard today?

Mr. Hull: Yeah. Yeah.

Mr. Ho: Nick, is that what we -- we could do with you?

Ms. Nogami Streufert: Do you want an executive session?

Mr. Courson: Yeah, if -- if you folks want to speak to me as a group, we can either do an unanticipated executive session today, or we can defer it and schedule an executive session at a future date. Um, otherwise you'd have to speak to me individually.

Mr. Ho: Thank you.

Chair Mahoney: Okay. So, we have some options, and so, there's an option to defer, there's, uh, get more information, there's, uh --

Ms. Nogami Streufert: At this point, because we are only four, we all have to -- it has to be a unanimous decision. Is that correct?

Chair Mahoney: Yes.

Ms. Nogami Streufert: I move that we go into executive session, an unanticipated executive session.

Chair Mahoney: Is there a second?

Ms. Apisa: Second.

Chair Mahoney: Moved and seconded to go into an executive session. All in favor, signify by saying aye. Aye. (Unanimous voice vote) Any opposed? (None) Motion carries 4:0.

Chair Mahoney: All right. We'll go into an executive session.

Ms. Nogami Streufer: For 15 minutes?

Chair Mahoney: At least 15 minutes. Okay, so we're going to have to evacuate the room.

The Commission recessed this portion of the meeting at 5:03 p.m.

The Commission reconvened this portion of the meeting at 5:35 p.m.

Chair Mahoney: I call the meeting back to order. Okay. So we left at uh, I.1. Do you have any other --

Mr. Hull: The Department has no further comments.

Chair Mahoney: Okay. Okay.

Mr. Hull: The Department has no further comments.

Chair Mahoney: Okay. So Commissioners, uh, we were uh, to decide what to do on revocation of special management area Use Permit SMA(U)-2011-1 Class IV, Zoning Permit Z-IV-2011-1 and a Permit U-2011-1 for Michael A. Kaplan, a request for revocation. Is there a motion on the floor?

Mr. Ho: Mr. Chair, a motion to deny Mr. Summer's petition for revocation of Permits SMA(U)-2011-1 Class IV, 2011-1 and Use Permit U2011-1.

Ms. Nogami Streufert: Second.

Chair Mahoney: It's been moved and seconded. Any discussion? Hearing none, all in favor signify --

Mr. Courson: Is there -- did, did you folks want to put on record a reason why?

Chair Mahoney: Yes. Is there a --

Mr. Ho: Agree with the analysis of the Planning Department.

Chair Mahoney: Okay. So back to it moved and seconded. Any further discussion? Hearing none, all in favor signify by saying, aye. (Unanimous voice vote). Opposed? (None). Motion carries. 4:0.

Chair Mahoney: Revocation is not approved. What are we on next?

Petition to Appeal Director's Rejection of Moloaa Farms LLC's Subdivision Application for TMK: (4) 4-9-009-001 (5/18/19) by Timothy H. Irons, Esq., Attorney for Petitioner, Moloaa Farms LLC.

Mr. Courson: Commission moving on to Item I.2, petition to appeal a director's rejection of Moloa'a Farms, LLC subdivision appeal for TMK 4-9-009-001, uh, dated May 17th, 19 by Timothy H. Irons, Esquire, attorney for petitioner Moloa'a Farms, LLC. Uh, Item A, memorandum 6/19/19 to the Planning Commission pertaining to this matter.

Mr. Hull: Uh, I don't now if the petitioner's representative is in the audience. It might be appropriate to hear from the petitioner first. Okay.

Chair Mahoney: Is there a representative for the petitioner?

Attorney Laurel Loo: Uh, I represent Moloa'a Irrigation Cooperative, and based on an email from Mr. Irons that he couldn't be here. I'm sorry.

Mr. Hull: That was subdivision.

Ms. Loo: Oh that was subdivision. I'm sorry. Okay. Well, I know that they wrote asking for deferral on -- okay.

Chair Mahoney: That was -- okay. Is there any representative?

Mr. Hull: Well, if, if the representative of Mr. Lindner isn't here, um, the Department wrote a memorandum to the petition. Essentially the applicant was -- has been a try -- attempting to apply for a subdivision application for 765 acres, somewhere, 45 acres. Seven hundred -- approximately 7 and some odd acres. Um, the property was -- is, is within the State Land Use Agriculture District and in the County Zoning Agriculture District. And uh, the um -- sorry. The uh, application had been rejected by the Department numerous times because that property has been previously subdivided. And as you all are well aware, the County of Kaua'i has a one-time subdivision AG rule. Now, when it was initially subdivided, it actually got a variance permit waiving it from that one-time subdivision agricultural rule. Uh, but in the conditions of approval, uh, it explicitly states that it can -- the property can be re -- re-subdivided with the full 700 and some odd acres between lots 1 and 2 coming together as a, as an application and applying the 77 density units that it's entitled to. The petitioner has been attempting to come in with just his one lot and not the second lot, uh, for subdivision. And so because of that condition, we've been rejecting it. Um, it, it's a requirement of that condition. I mean, they can come in to amend that variance and original subdivision application, or they can apply for a variance. But a cold, hard -- uh, uh, straightforward, narrow subdivision application, the Department just can't accept it. It's almost akin to kind of, you know, I don't mean to use a hyperbole, but it is akin to somebody coming in with like a nuclear power plant and asking to do it with a Class I Zoning Permit. We just can't accept that application. Are there processes that we can accept that application? Yes, and the applicant has to apply for those processes. But under just a uh, specific subdivision application to subdivide that property, it's not a, it's not, it's not permissible. It's not legal. Um, so they do have the right under the um, rules of the Commission to appeal the Director's determination that we can't accept the application, but as I remember it states -- it's a very cut and dried situation of um, really we're recommending denial of the petition to appeal and um, that the applicant submit through the appropriate process to apply to subdivide, subdivide that, that, that -- the two properties.

Chair Mahoney: Okay. Any questions for the Director?

Ms. Apisa: Is this the one we had the testimony on?

Mr. Hull: No, so there are, there are two --

Ms. Apisa: That was a Moloa'a.

Mr. Hull: Yeah. There's cases on your agenda. I think it's probably Ms. Loo actually got up there. The first one was Mr. Lindner was attempting to intervene on a uh, irrigation -- excuse me. Water tank um, in the Moloa'a Hui, that the Moloa'a co-op, co-op has auth -- auth -- authority to apply for the permit. So it's attempting to intervene on that. This is actually a separate case where he's attempting to subdivide his own individual property. Um, that he's appealing our decision to reject the application.

Chair Mahoney: Okay. Um, any further questions from the Director? And there is nobody here from the applicant. Um, and the Director has explained that they are unable to accept this. Is so there's a, a motion would be in order.

Ms. Nogami Streufert: Is, is there anyone here?

Chair Mahoney: No. There isn't.

Ms. Nogami Streufert: Okay. Mm-hmm.

Chair Mahoney: Last call? Anybody here from -- for the, the applicant? Seeing none, the Chair will accept the motion and recommend rejection by the Department.

Mr. Ho: I move that the, uh, we -- the motion would be to accept the Planning Director's letter of denial.

Ms. Apisa: Accept or exempt?

Mr. Ho: Accept.

Ms. Apisa: Accept, accept.

Mr. Ho: A-C-C-E-P-T.

Ms. Apisa: That's not what I heard the first time. I was like, what?

Chair Mahoney: You're rejecting the app --

Mr. Ho: My mouth's really dry right now.

Chair Mahoney: Okay. Is that, is that the proper language you want to hear on the motion, is deny?

Mr. Ho: No.

Chair Mahoney: Deny the petition?

Mr. Courson: Right. Rather than just like accept the, the Director's letter, I, I think an actual decision on the merits is called for. So if -- in essence, if you're accepting his letter, I think what you're trying to say is, we reject this appeal.

Chair Mahoney: Yeah.

Mr. Ho: So, so my motion would be to accept or deny?

Chair Mahoney: Reject.

Mr. Ho: To accept the uh --

Mr. Hull: To deny the appeal or to reject the appeal. If, if you're accepting the Director's --

Mr. Ho: Letter.

Mr. Hull: -- letter, then in essence you're denying rejecting, somehow reacting negatively to the - - however you want to word it.

Mr. Ho: One or two.

Chair Mahoney: Okay.

Mr. Ho: Okay. I withdraw my first motion.

Chair Mahoney: Okay.

Mr. Ho: The motion should be to deny Moloa'a subdivision.

Chair Mahoney: Petition to appeal.

Mr. Ho: Moloa'a Farms, LLC.

Chair Mahoney: Okay. Is that clear? Is there a second?

Ms. Nogami Streufert: We're denying the applicant's petition to appeal. Is that correct?

Chair Mahoney: Correct.

Ms. Nogami Streufert: Okay. Second.

Chair Mahoney: Okay. It's been moved and seconded. Any further discussion? Hearing none, all in favor signify by saying, aye. (Unanimous voice vote). Opposed? (None). Motion carried. 4:0. Thank you.

GENERAL BUSINESS MATTERS (Cont)

In the matter of Petition to Appeal Decision of Planning director Relating to the Forfeiture of TVNCU #4235 (Hale Hoku) for Failure to Timely Renew related to Property situated inn Hanalei, Hawaii, Identified by Kaua'i TMK: (4) 5-8-008:045, containing 15,197, s.f. =Elizabeth and Stephen Rigotti.

- a. Hearing Officer's Report and Recommendation of Contested Case RE CC-2018-3, TVNCU #4235, Tax Map Key: (4) 5-8-008:045, Elizabeth and STEgphen Rigotti.
- b. Petitioner's Exception to Hearing Officer's Report and Recommendation of Contested Case; Request for Oral Argument; Certifciate of Service.
- c. Respondent Planning Department of the County of Kaua'i support of Hearing Officer's Report and Recommendations; Certificate of Service.

Mr. Courson: Uh, Chair, we are now on Item I.3, uh in the matter petition to appeal decision of Planning Director relating to the forfeiture of TVNCU number 4235, Hale Hoku for failure to timely renew related to property situated in Hanalei, Kaua'i, Hawaii identified by Kaua'i TMK.5-8008045 containing 15,197 square feet, Elizabeth and uh, Stephen Rigotti. Uh, A) Hearings Officer's report and recommendation of contested case regarding CC-2018-3 TVNCU number 4235, tax map key 5-8-008:045, Elizabeth and Stephen Rigotti. B) Petitioner's exceptions to Hearings Officer's report and recommendation of contested case request for oral argument, certificate of service, and C) Respondent Planning Department of the County of Kaua'i support of Hearing Officer's report and recommendation certificate of service.

Chair Mahoney: Okay. Um, so begin with the applicant.

Mr. Courson: Yeah.

Chair Mahoney: Uh, the attorney from the applicant. State your name and please --

Mr. Greg Kugel: Yes, Mr. Chair. Thank you. Good afternoon. Uh, Planning Commission members. Greg Kugel on behalf of the uh, uh, petitioners in the appeal um, uh, Beth and Stephen Rigotti, Betsy and Stephen Rigotti. Uh, and we did file exceptions. Uh, and we do object to the adoption of the Hearings Officer, uh, recommendation. Uh, and then more importantly, we are requesting uh, the opportunity for an oral argument, which uh, which I believe is statutory under HRS 91-11.

Chair Mahoney: Okay. And can, can we hear from the --

Attorney Ms. Maryanne Sasaki: Maryann Sasaki for the County of Kaua'i.

Chair Mahoney: Okay.

Ms. Sasaki: And um, this is a very simple case. Uh, the Rigotti's were late in uh --

Chair Mahoney: Do uh --

Ms. Sasaki: -- renewing. The Rigotti's were late in renewing their TVR license. And they were sent a forfeiture letter by the Planning Department. So it's a very, very simple case. I, I don't know that oral argument -- it would be worth your -- worth to the time. Um, and that's really all I have to say.

Chair Mahoney: Okay. So --

Mr. Kugel: Mr. Chair?

Chair Mahoney: Yes.

Mr. Kugel: Uh, and again, I don't -- your normal process, um, as I understand it would be if you're going to do an oral argument, it's scheduled for another date. Um, and I didn't intend uh, to argue the merits. I don't think it's a simple -- the first witness you heard today at the public hearing, Jane Abramo, testified on this, um, agenda item. Uh, this was the renewal that was um, hindered because of the floods. The due date was April 17. It was in on April 18. Ms. Abramo testified this morning um, before we got into the salt pan uh, testimony about this one. And um, I, I would certainly uh, be happy to explain the facts to the Commission. I think it might be more appropriate at a contested case. This is a one off. You're never going to get one of these again. Uh, you're never going to get a storm like that again, and, and that was in the middle of the application and the renewal.

Chair Mahoney: Okay.

Ms. Sasaki: Mr. Chairman?

Chair Mahoney: Yes.

Ms. Sasaki: I would just uh, underscore that while this occurred in somewhat after the storm, a, a number of months after the storm, the storm had absolutely no impact upon this renewal. The -- Ms. Abramo at the hearing herself said it was buried under a pile of papers. She simply forgot about it. When Mr. Laureta notified her that it was late, she ran down and was able to try

to file. So the storm did not hinder her in any way. Um, I -- it, it's -- I think it's a retrofitting of an, an argument. Uh, you know, it -- they, they realized it was a storm and hey, maybe we can make this argument, but it really has -- the two have nothing to do with each other.

Ms. Apisa: Um, question. What was the renewal date, deadline?

Ms. Sasaki: I think -- I -- you know, I don't have, I don't have the document in front of me, but I think it was April 1st.

Mr. Kugel: No. It was April 17th, um, and it was turned in by noon on April 18th. The storm occurred uh, the night of April 13th, 14th, 15th. Uh, the bridge between Ms. Abramo's office and her house in Princeville was closed for most of that time. And there was a lot of testimony um, and some of it's in the Hearing Officer's report that she was -- and she told you this morning as well. She was engaged in trying to evacuate uh, guests and uh, residents out of uh, the storm ravaged areas for weeks following the flood. Uh, and you know, the sug - -- and, and the suggestion that she was not therefore engaged in emergency relief services, uh, the Hearing's Officer said well, only an employee of the county can be engaged in emergency relief. And that's, that's just ridiculous. The uh, the TVR ordinance requires that you have a 24/7 available person to assist uh, guests in exactly this situation. She was dealing with 75 guests who were staying on the north shore and attempting to um, have them evacuated and attend their needs. There was even a medical emergency. Um, and, and all of that was -- I mean, literally days after the flood and the uh, the consequences of the flood.

Mr. Courson: Chair, if I could, if I could jump in.

Chair Mahoney: Yes, please.

Mr. Courson: So Commissioners, if, if you're not careful of the questions you're asked, you're going to end up having an oral argument before you on the, on the fly. So that the question at hand is really whether or not to -- you've got the Hearing Officer's recommendations. Both parties have filed uh, additional comments on them. And the question at hand is whether or not to uh, have additional oral arguments before you decide what to do with that Hearing's Officer's recommendation. And Counsel, just so I'm clear, you quote 91-11 and say you think it's statutory that you have oral arguments. Are you saying the part that says, and an opportunity has been afforded to each party adversely affected the file exceptions and present argument to the officials who are to render the decision?

Mr. Kugel: Yes.

Chair Mahoney: Okay. Well -- So our option, you want to hear --

Mr. Courson: Yeah. The, the Planning Commission rules uh, 1-6-19D say that uh, if a party desires to argue orally before the Commission, a written request with reasons therefore shall accompany the exceptions file. The Commission may grant the request. And then Counsel is quoting uh, the Hawaiian Administrative Procedure Act to say that he believes he has a statutory right to present oral arguments to the Commission.

Chair Mahoney: Okay. Well --

Ms. Nogami Streufert: So at this point, are we uh, looking at whether we are going to hear oral arguments, or are we here to either affirm or deny the cease and desist letter?

Chair Mahoney: The hearing --

Mr. Courson: Right. Right now, the former. You wouldn't get to the decision on whether you're going to affirm or, or, or modify the Hearing's Officers before you decide whether you're going to hear oral argument from the parties.

Ms. Nogami Streufert: Okay. So this is to hear the uh, oral arguments or not.

Mr. Courson: Or not.

Ms. Nogami Streufert: Okay.

Chair Mahoney: And we went through the, the Hearing's Officer -- already went through the case.

Mr. Courson: Right.

Chair Mahoney: The case. So any comments from the Commissioners? Uh --

Ms. Apisa: I guess a, a legal question 'cause the county counsel passed this law that it's very, very stringent. Do we have the purview to make variations?

Mr. Courson: I don't believe so. You --

Ms. Apisa: Okay.

Chair Mahoney: Well, so we can either sus - -- sustain the Hearing Officer's -- listen to arguments or --

Mr. Courson: Yeah. The, the, the first thing at hand is are you willing to hear oral arguments from the parties?

Chair Mahoney: Yeah. Okay. So that's, that's number one. Hearing oral arguments. I think it - - anyone have any comment on that? It's gone through the, the -- you know, we assigned it to the Hearing Officer. And he came back with the decision, or she did. Whomever it was. So anybody want to hear oral arguments?

Ms. Apisa: Tough, another tough decision.

Chair Mahoney: I know. It's like, well, here -- it's a decision. It's already gone through --

Ms. Apisa: Mm-hmm. Yeah.

Chair Mahoney: The Hearing's Officer has listened to the case and may -- and uh --

Ms. Nogami Streufert: I move that the uh, Planning Commission not hear any oral arguments.

Chair Mahoney: Okay.

Mr. Ho: Second.

Chair Mahoney: Okay. It's been moved and seconded not to hear oral arguments. Any discussion? Hearing none, all in favor of the motion, signify by saying, aye. (Unanimous voice vote). Opposed? (None). The motion carried. 4:0. There will be no oral argument. Okay. So next, our responsibility is --

Mr. Courson: So next, you would be deciding what you're going to do with the Hearings Officer's report and recommendation. The petitioner filed exceptions. The respondent asked you to affirm it, so. Uh, as in other cases, you --

Chair Mahoney: Right.

Mr. Courson: You could entirely go with what the Hearing's Officer said. You could do something entirely different.

Chair Mahoney: Commissioners? We have the choice to affirm, modify.

Mr. Ho: Are you, are you ready?

Chair Mahoney: Yes.

Mr. Ho: Would this be -- move to uh, accept the Hearings Officer's recommendation.

Ms. Apisa: Second.

Chair Mahoney: Okay. It's been moved and seconded to hear the -- affirm the Hearing Officer's recommendation. Any discussion? Hearing none, all in favor, signify by saying, aye. (Unanimous voice vote). The motion carried. 4:0 The, the Hearing Officer's decision is affirmed.

Planning Director Kaaina S. Hull's Petition to revoke Applicant *Micael Testa's* Special Permit SP- 2011-15 for failure to comply with conditions of a transient vacation rental approval by the Planning Commission and Issue on Order to Show Cause and Set Hearing Memorandum in Support of Petition; Declaration of Kaaina S. Hull; Notice of Meeting; Certificate of Service, TMK: (4) 5-1-005047 (3), Kilauea, Kaua'i.

a. Letter (6/10/19) from Mike testa to Kaaina Hull re Special Permit SP-2011-15.

Mr. Hull: Uh, next on the agenda is uh, Agenda Item I, General Business, I.4. Planning Director Ka'aina Hull's petition to revoke applicant Michael Testa's Special Permit as SP-2011-15 for failure to comply with conditions of a transient vacation rental approval by the Planning Commission and, and issue an order to show cause and set hearing. Memorandum in support of petition, declaration of Ka'aina Hull's notice of meeting. Certificate of service TMK 5-1-005:047, Kilauea, Kaua'i. You also have a letter from the uh, permit holder. Um, technically it's not a um, contested case at this point, but um, Mr. Laureta has the report and I believe Mr. Kugel, you're representing, uh, Testa in this case?

Mr. Kugel: Uh, yes. I was just retained um, on Friday to represent Mr. Testa, so.

Mr. Hull: So I'll turn it over to Mr. Laureta first for the report, and then any other further follow-up for questions, um, and then on to Mr. Kugel.

Mr. Mike Laureta: Okay. Does the Commission would like a Cliff version of this report? Cliff notes?

Chair Mahoney: Well, just concise notes will be nice.

Mr. Laureta: Concise. Okay. This uh, path was chosen in order to show cause --

Chair Mahoney: Hold it. No. Sorry. We've got to recess this meeting. We just lost quorum.

One of the Commissioners left. She will be right back.

Ms. Nogami Streufert: Take -- can we take a 5 minute break?

Chair Mahoney: No.

Ms. Nogami Streufert: Just --

Chair Mahoney: Okay. We have a quorum, so we can resume. Thank you.

Mr. Laureta: Okay, Commissioners. This order to show cause process was necessary because it was discovered that this transient vacation rental approved by the Planning Commission for a special permit was in violation of conditions of approval. Basically, um, a guesthouse was converted to a residence by including a kitchen, and they weren't advertising it as such. Um, so they had two transient vacation rentals running instead of just one. The guesthouse was supposed to operate as an extra bedroom, and it was specific that you couldn't advertise it separately. Once it was discovered, only because this was a special permit condition approved by the Planning Commission, the order to show cause was issued. Fast forward, um, once Mr. Testa was advised of this shortcoming --

Mr. Hull: Mike, I'm going to interrupt here right there.

Mr. Laureta: Stop. Okay.

Mr. Hull: Yeah. The um -- so ultimately, the, the -- in a nutshell, the -- as Mr. Laureta pointed out, is the operator was found to be violating a condition of approval of the special permit. Uh, upon verification of that, we issued a request to you folks to issue an order to show cause, which is the initiation of a revocation proceedings for a violation of a permit. If you folks chose to issue that order to show cause, it would essentially be incumbent upon the operator via his legal attorney now to within 30 days get back to us as to why the um, permit should not be revoked. Uh, and it also allows quite honestly um, further time for the Department to potentially work with the applicant to come into compliance.

Ms. Nogami Streufert: All right. So what we're doing -- so potential actions today are to do what? What are our potentials?

Mr. Hull: Uh, the -- there's -- again, there's three potential actions on this one. One, which the Department is recommending. Issue the order to show cause. Uh, two, deferral for more information. Uh, and three, um, deny the request to issue an order to show cause.

Chair Mahoney: Commissioners? Uh --

Mr. Hull: If you have, if you have any further questions, but I'll also point that uh, the operator does have representation here to --

Chair Mahoney: Yeah. Can we hear from Attorney Kugel, please?

Mr. Kugel: Thank, thank you. And I will be uh, extremely brief, Chair. Uh, as I said, I was just retained. Um, our position at this point of the three options that the Director outlined for you that you have, would be that you would uh, simply deny the request to issue an OSC because I don't think that uh, the petition you have before you uh, contains sufficient facts or information, which is required under, under your rules to give you the standard is reasonable cause to believe that there's been a violation. Uh, uh, so I would advocate that you would deny that request. Uh, but uh, I, I did have some discussions with the Director and uh, there are two other avenues on the table for you as well. If you, if you choose to either defer to give more time for information, or issue the order in which case, uh, we will still have the opportunity to uh, to work with the Department uh, before this would come back to you.

Chair Mahoney: Commissioner Ho?

Mr. Ho: I, I uh holy -- by showing cause, that means they have to uh, uh come before us -- cause you're going to order the cease and desist letter?

Mr. Hull: Uh, well the, the -- because it's a commission permit, ultimately it's you folks that will have to determine whether or not to revoke those permits. Um, but the Department is in, in finding that they are in violation of the permit, but uh, it's ultimately up to this body whether or not to, to initiate the process of um, revocation. And, and to be quite honest, I, I do think there's room for discussion with Mr. Kugel because it's a violation of a condition. I think there's room for discussions on being able to bring this uh, operation into compliance, quite honestly.

Mr. Ho: So you're recommending deferral? To show cause?

Mr. Hull: Ultimately, the Department is recommending to -- our, our, our primary request is, is uh, to issue an order to show cause.

Chair Mahoney: Commissioners?

Ms. Apisa: I'm, I'm okay with that, so.

Chair Mahoney: Okay. It's uh --

Ms. Apisa: Um, I'll make a motion that we --

Chair Mahoney: Is consent here? Everybody understand? Okay. A motion?

Ms. Apisa: Um, I make a motion that um, this applicant, Michael Testa's Special Permit SP-2011-15, that, that the applicant show cause.

Chair Mahoney: Issue an ordinance to show cause? Okay.

Mr. Ho: Second.

Chair Mahoney: Second? Moved and seconded. Any further discussion? Hearing none, all in favor signify by saying, aye. (Unanimous voice vote). Opposed? (None). The motion carried. 4:0. Thank you.

Mr. Hull: Uh, thank you, Chair.

Mr. Kugel: Thank you.

Chair Mahoney: Thank you, Mr. Kugel.

Planning Director Kaaina S. Hull's Petition to revoke Applicant *Bret K. and Ellen M. Knopf*, Trustees for the Bret K. Knopf Revocable Trust's Use Permit U-2015-22 and Class IV Zoning Permit Z-IV-2015-23 for failure to comply with conditions of a homestay approval by the Planning Commission, and Issue an Order to Show Cause and Set Hearing; Memorandum in Support of Petition; Declaration of Kaaina S. Hull; Notice of Meeting; Certificate of Service, TMK: (4) 2-8-024:020, Weliweli, Kaua'i.

Mr. Hull: Uh, moving onto Agenda Item I.5, Planning Director Ka'aina Hull's petition to revoke applicant Bret K. and Ellie M. Knopf. Uh, trustee for Bret K. a nonrevocable trust use Permit U-2015-22, and Class IV Zoning Permit Z-IV-2015-23 for failure to comply with conditions of a homestay approval by the Planning Commission and request to issue an order to show cause TMK 2-8-024:020, Wiliwili Kaua'i. I'm going to jump in here and, and just get to the meat and potatoes here for um, the Department's side. Ultimately, this is very similar to the last petition, or request. Uh, the applicant doesn't have a TVR license as the previous um, agenda item, but in this agenda item, uh, they have a use permit to operate a homestay. Um, they were specifically required to uh, only have two bedrooms and no essentially additional dwelling units, i.e., kitchens be instituted in those bedrooms. And the Department's enforcement of illegal vacation rentals and illegal homestays, this came on our radar. Um, and found that it had -- did have uh, a kitchen, uh, in one of the bedrooms that is in clear violation of the conditions of approval of those Zoning Permits, and so again in this scenario, we're requesting that the Commission issue an order to show cause, um, and that would compel the operator to then come back before you folks within 30 days to demonstrate why, uh, their permit should not be revoked. It also does afford the opportunity for the Department to work with the homeowner to again bring these -- bring the unit into compliance. Um, and in the other settlement, settlement necessities. And I believe I'm looking at -- the, the property owner may be in the audience. Okay. Yeah. So if there's any questions before uh, she speaks for the Department, uh, myself, Mr. Laureta or Maryann are available.

Chair Mahoney: Okay. Okay. Before we hear from the applicant, any questions from the Director or the -- or Mike? Okay. Could you state your name for the record, please?

Ms. Ellie Knopf: It's Ellie Knopf.

Chair Mahoney: Ellie Knopf. Okay. And you um -- is there anything you, you would like to say?

Ms. Knopf: Yes, there is. Um, well, yes. I do advertise a convenience kitchen. It's the same convenience kitchen I've advertised since I got my homestay permit in 2015. Probably in about - - I live in Wiliwili tract. It's kind of a large home. We raised four children there. Um, as they all moved off to Washington and Oregon, um, probably back in about 2013, I was looking for how to permit some kind of homestay. And I was having a real hard time And I got a friend, Louie Abrams, um, who's no longer with us. He came over and he said, well, Ellie. There's a stove in the upstairs apartment. Or when we purchased this home --

Chair Mahoney: Okay.

Ms. Knopf: -- it was advertised as a three bedroom, two bath, two bedroom, two bath rental unit. And I guess Terry Rosenbaum that used to own it, her sister lived upstairs. They had a stove up there. And then when we bought it in 2001, the stove stayed there. Our, our daughters had the room upstairs where the stove was. Of course, they didn't use the stove because we have a kitchen downstairs. Well, about 2013, Louie look -- you know, I'm trying to get some support from someone. And Louie says, Ellie. You can't have the stove up there. I said, well, we don't use it. He said, it doesn't matter. Take it out. So probably about 2013 the stove went to Habitat. And then about 2015 with the help of Jonathan Chun, um, we were granted our homestay permit. Well, this is where it gets kind of complicated. And I know it's, it's kind of hard to follow. But um, I've been doing everything right with my homestay permit. I give so much value to our guests. I meet with each guest. I sit with them for probably at least an hour. I was up at 5:30 this morning running one to Sea Sport because he didn't rent a car and I just -- I take a lot of pride in the spirit that I --

Chair Mahoney: Okay.

Ms. Knopf: -- have operating my homestay. In this case, I -- this has been a big learning curve for me. And I was at fault. The convenience kitchen I found out, no stove. I always thought that you couldn't have a stove or a hotplate. Never knew that we weren't allowed a microwave. And then I thought I was being creative by giving our guests an electric skillet, which is no longer there. I've rectified both of those. I've got pictures where the -- the stove outlet, by the way, has been removed. So there's no way a stove could even be there, even though there hasn't been a stove there for years. Um, anyway, I have pictures showing that I've rectified that. I've also taken out the microwave and the electric skillet except for right now, the guests that booked this back about six months ago, were expecting a microwave and electric skillet. So I put them back in. But what's interesting is, all of this started with a property a block up from me. The owners live in San Jose, California. And they found out about me through Milly, that lived on this property up the street. I don't know if you guys want to --

Chair Mahoney: Can we, you know, you know, can we kind of just uh --

Ms. Knopf: Well, the reason why that's important is because --

Chair Mahoney: Get back to --

Ms. Knopf: He, he turned me in, saying that I was comingling my homestay with the long-term property up the street. Which I was not. Mauna Kea --

Mr. Hull: Okay.

Ms. Knopf: -- was hired --

Chair Mahoney: You might, um --

Mr. Hull: I, I, think -- and, and to the point --

Chair Mahoney: -- not want to at any point like testimony.

Ms. Knopf: I know it's a crazy story.

Mr. Hull: Yeah. To, to your point, Ms. Knopf, and, and to so essentially what the Department is recommending for both Ms. Knopf and for the Commission is that we are essentially saying that we have found it to be in violation of the, of the permits. And requesting an issue to an order to show cause so that among other things, Ms. Knopf can put it in writing and come back to this Commission as to exactly why revocation may not be appropriate.

Chair Mahoney: Yeah.

Mr. Hull: Uh, the Department does find initiating this process is, um, but it's just the initiation of the process.

Chair Mahoney: Okay.

Mr. Hull: And, and, and I guess I -- it does seem even with the last one, there does seem uh, uh, to be a fairly clear willingness in both situations to include of wanting to bring it into compliance. And our enforcement office, as I'm having the discussions at council last week and I'll be having it very long tomorrow, we are not in the punitive business of punishing landowners. We are in the business essentially of bringing them into conformance. And so um, it -- starting the order to show cause process also affords us the opportunity to work with the applicant further, uh, still, to bring it into compliance. Okay.

Ms. Knopf: I honestly didn't know that I couldn't have a microwave in the units.

Chair Mahoney: Okay. That's --

Ms. Knopf: But I'm not here to argue that case.

Chair Mahoney: Okay. That's great. Well, do you, do you understand what the Director has said? Yeah.

Ms. Knopf: Um, kind of.

Chair Mahoney: And then you can pre -- well --

Mr. Courson: So let me take a stab at this. Um, the Department thinks that you did something wrong. And so they're asking the Commission to say preliminarily, we think that something was done wrong. You'll then have a chance -- this, this story that you were telling the Commission, you will have that chance to tell that story, not only to the Commission, but you may be able to work it out with the Department before you even get that far. So your, your day is not done. You'll still have a chance. Does that make more sense?

Ms. Knopf: It, it makes a lot of sense. What do I do in the meantime?

Ms. Kugel: The enforcement people, assuming the Commission issues the order to show cause, the enforcement folks will be reaching out to you.

Ms. Knopf: Okay.

Ms. Apisa: See, in the meantime, just follow the law.

Ms. Knopf: I sure will.

Chair Mahoney: Okay. Well, thank you --

Ms. Knopf: Thank you.

Chair Mahoney: -- for your testimony in that part.

Ms. Nogami Streufert: Is it the convenience, or is it the issue, the two bedrooms rented out separately?

Ms. Apisa: The hot, the hotplate. The microwave.

Mr. Hull: Once you have a kitchen in a unit, it, it becomes a separate dwelling unit, i.e., a vacation rental. So it no longer is a homestay you've got. Arguably, a homestay and a TVR are being operated.

Ms. Apisa: It was, it was the microwave and the uh, skillet that created the problem.

Chair Mahoney: Okay. All right. Well let's uh, let's move along on this issue here. So --

Ms. Apisa: Okay. Uh, I'm, I'm ready to make the motion. Are we ready?

Chair Mahoney: Yeah. That would be fine.

Ms. Apisa: I make a motion that uh, uh, an ordinance be issued for -- to show cause.

Mr. Courson: An order to show cause?

Ms. Apisa: An order -- or order to show cause. How, how would I word that?

Mr. Courson: No. You got it.

Ms. Apisa: Okay. Okay.

Mr. Courson: Okay?

Ms. Apisa: Yeah. I move that uh, we, we issue an order to show cause in the case of Bret K. and Ellen M. Knopf, um, Zoning Permit Z-IV-2015-23.

Chair Mahoney: Okay.

Mr. Ho: Second.

Chair Mahoney: It's been moved and seconded. Any further discussion? Hearing none, all in favor signify by saying, aye. (Unanimous voice vote). Opposed? (None). The motion carried. 4:0. Thank you.

Request t Amend Class IV Zoning Permit Z-IV-2008-12, Project Development Use Permit PDU-2008-11, and Use Permit U-2008-10 to allow for fourteen (14) multi-family residential units situated in Koloa town, further identified as Tax Mpa Key: 2-8-008:001, and containing a total area of a5.381 acres = Koloa Village, LLC.

Mr. Hull: Uh, thank you, Commission. Next Agenda Item is General Business I.6, request to remain Class IV Zoning Permit Z-IV-2008-12, Project Development Use Permit PDU-2008-11 and Use Permit U-2008-10, to allow for 14 multiple family residential units situated in Koloa Town, further identified as Tax Rate 28-008:001 and containing a total area of 5.381 acres. Koloa Village, LLC is the applicant, and Chance is our staff for the Director's Report. Chance, if you can summarize for the Commissioners.

Mr. Bukoski: Certainly.

Mr. Hull: Uh, the, the application before them.

Staff Planner Chance Bukoski: It's been a long day. Um, action required by the Planning Commission, consideration of the applicant's request to amend the existing permits of Project Development Use Permit, Class IV Zoning Permit, and Use Permit to allow 14 multifamily units. The project description and use, um, the subject permits involve the development of two story, of a two story, 34 unit family, a multifamily residential condominium project. Off street parking structure and a commercial complex containing approximately 45,000 square feet of commercial retail and office space within the commercial and residential districts. Um, I have also included an Exhibit A, the, the Planning Commission's approval letter, um, dated June 10th, 2008. Um, presently, the applicant is requesting to convert the proposed office space on the second floor of the building to 14 multifamily units to accommodate more housing for businesses around the adjacent area. These 14 units would be considered phase one of the residential component of the previously approved 34 units. The evaluation of the project, I'll briefly go through the um, criteria of the use permit, and also um, also the housing demand, uh, that Kaua'i suffers. Um, the applicant's request to amend the existing permit to include 14 multifamily units. The following should be considered. Um, compatibility for the use permit. The proposed development is designed to integrate, integrate it with the surrounding commercial and residential uses within the Koloa Town mixed use district. The project site is adjacent to commercial and a residual project on all three sides. The proposed development is consistent with the general plan and also, the Kaua'i General Plan updated socioeconomic analysis for forecasts for 2014 noted that the county had a housing deficit of 1,400 units, and a demand that is projected to increase approximately 9,000 by 2035. According to the Kaua'i General Plan, updated, forecasting in 2014 noted that an average price for the single family house on Kaua'i exceeds \$7,000.00. And then lastly, the County of Kaua'i, much like the rest of the state, is in the midst of a housing crisis. The Department has observed that an increase in housing demand that do not correspond to the matching increase in supply, ultimately results in higher housing costs, which can inevitably price many locals out of the housing market. And Commissioners, that concludes my staff report. Uh, I hold off on my recommendation. Thank you.

Chair Mahoney: Any questions for the Planner? Hearing none, Representative -- oh. You have a question?

Ms. Nogami Streufert: Uh, good morning. At one point, it says that these 14 unit, units would be considered Phase 1 of the residential component of the previously approved 34 units. But in the preliminary evaluation, it says, amend the existing permits to include an additional 14 units.

Mr. Bukoski: Yeah. Uh, that was a typo on my part. So it's --

Ms. Nogami Streufert: So which one is it?

Mr. Bukoski: Uh, it's 14 units in phase one for the 34 units.

Ms. Nogami Streufert: Okay. So it's not --

Mr. Bukoski: Yeah. So that was a typo on my part. I apologize.

Chair Mahoney: Thank you for the clarification. Could you state your name for the record, even though we all know you?

Attorney Ian Jung: Good evening, uh, Commissioners. Ian Jung on behalf of the applicant, Koloa Village, LLC. Along with me here is Mike Serpa, who is one of the principles in the uh, in the project. And I understand you folks have had a long day, so we'll try and keep our uh, our comments short. Uh, ironically, we are here for an amendment to a permit after that long discussion, I'm sure. We're all interested in what that means. Uh, just to set the record on this, you will -- we find that an amendment under Chapter 12 is allowable in the first right by virtue of the Planning Director discretion. And then the Commission obviously has its own decision to make on whether or not to amend the permit, um, through what we refer to as the morning session item. Uh, although we're in the evening, we are requesting the morning session item. And in this particular request to kind of hit your question, the project is set up into two phases. There's a commercial context and then a residential context. Uh, what we're asking for is in the commercial context to take some of the square footage that was going to be allocated to commercial use and convert that to residential use. And they're going to be studio apartments, which range in threshold of size between 300 and 400 square feet. So relatively small. We call them micro-units. Um, and I'll leave it to Mr. Serpa to explain uh, his rationale of going there. But this would be sort of the first phase to tie in that first phase commercial with a mix of residential, which follows what the South Kaua'i Community Plan had envisioned to allow for these mixed use residential on top of commercial uses in that particular transect zone. So that's the basis of the request, what we're asking for. Um, we are happy to answer any questions if you have any. Uh, we, we do have a big blowup of a site map if you would like to see it. Uh, so, Mike?

Chair Mahoney: Thank you, very clear.

Mr. Mike Serpa: Hi. Mike Serpa. And, and I, I do have a big plan sized map I can, you know, put it up there if you'd like to see it. But you know, briefly, 'cause I know you've been here all day. And I, I've been here for a couple hours, and I, I'm falling apart. So I, I, I can't imagine your -- what your day's been like. But, but, but -- what's that?

Chair Mahoney: Buck up.

Mr. Serpa: Yeah. Well just you know, briefly, uh, as Ian said, we have one side of the project is residential. The other side of the project is, is retail commercial. On the retail commercial side, we have one building. And where this idea came from was as we were leasing space and meeting with, uh, mostly restaurant tours made these comments, and I always want to learn about potential tenant's businesses to understand their business and what they need to be successful in their businesses. And the restauranteurs all said their biggest challenge was places to live for their servers and their chefs, basically. They just didn't have places to live. Um, so uh, we have this one building where we could put 14 studio apartments, small, uh, little spaces. So pretty affordable for servers. Uh, they're small spaces. And so we're taking 14 units from the already approved residential side and moving it over here to -- instead of office space, which uh, nobody is super excited about, more office space. Uh, but when I do mention this, um, all the restauranteurs and everybody seems to be really interested in this. So I, I think it's, you know, from a social standpoint, it serves better. From a business standpoint, from a self-serving standpoint, it leases better than office space. So it seems to be a good move, and we, we have the approvals, we think, to do it. So that's, that's the jest of it.

Chair Mahoney: I think it sounds like a very good move. It's, it's what's needed desperately, desperately.

Ms. Nogami Streufert: These units are coming from somewhere else, that part of the -- your part of the original 34 units or --

Mr. Serpa: Yeah. They're already approved on the residential side, so we want to take 14 over to there.

Ms. Nogami Streufert: So what happens to that space where the 14 should have been?

Mr. Serpa: Well, we have -- they're broken up into several different buildings. And I'm working on the designs on that space, too, in, in, in a, in a similar format. Because when I bought the project, it was all approved and permitted. And on that residential side, they had duplexes. And the duplexes were 1,800 to 2,000 feet. And as I worked through it, I, I have to say, you know, you'd have to sell those uh, as Chance mentioned. You -- in, in his comments, you'd have to sell those for \$700,000 or \$800,000. And so basically, you're talking about pretty much mainland buyers, second homes, long term rentals, things like that. So I'm looking hard at that, too, to maybe take those and make them smaller. Uh, and you know, you can bring them into market for half of those numbers. So I am working on that, but in higher demand is these 14 studio apartments.

Ms. Nogami Streufert: So where, where the space where the 14 would have been?

Mr. Serpa: Yes.

Ms. Nogami Streufert: You're now going to be adding more units because they will be smaller units. Is that correct?

Mr. Serpa: Well, we're working on designs and ideas for that, and that would be another -- we would come back to you and talk to you about that. Um, but right now, we are -- we, we are all

done essentially with the commercial uh -- all the um, infrastructure and everything. We're ready to build the buildings vertical. But I want to, I want to be able to do these uh, studio apartments if we can do them, and this is a way to facilitate that.

Ms. Nogami Streufert: Okay.

Mr. Jung: I think, Commissioner, what your, your question is, is directing is, what's going to happen with the residential space on the second phase. Okay? So the -- with the South Kaua'i Community Plan, it actually frees up for more density based on what originally was allowed as a part of the overall project in 2008 when they got the initial approval. Uh, what we can do if the market goes right, and I did check the permit condition in terms of the timeline, and we have 'till 2020 to do construction. Uh, if we go forward and look at utilizing more density based on what's allowed now in the South Kaua'i Community Plan, then we'll have to come back and ask for an amendment to that permit to ask for additional dwelling units to fill in as sort of the in-fill for what the additional need may be on that portion. And at that point, that's when the housing ordinance comes into play when you go above because --

Ms. Nogami Streufert: Exactly.

Mr. Jung: -- this, this particular development was approved before the housing ordinance so it's grandfathered under the housing ordinance. But if we ask for additional more based on what was originally approved, then we have to deal with --

Ms. Nogami Streufert: The total space that you have now.

Mr. Jung: Correct. Then we'll have to deal with the housing ordinance thereafter.

Ms. Nogami Streufert: Okay.

Mr. Hull: All right. Thanks. And, and, this, I can speak also to when the Department met initially with the applicant, with, with Mr., Mr. Serpa. And he was explaining what he wanted to do. And it -- coming primarily from his discussions with the restaurant potential tenants, and one of the biggest things that they needed was in discussions we have quite continuously here, the response from his potential tenants was more than anything, we need housing for our waitstaff, our chefs. Um, you know, and, and his recognizing that need and saying we can -- he can provide for that onsite. Um, it's the type of application, quite honestly, the Department dreams of seeing. Um, so um, in that proposal, we were very supportive. And then almost to somewhat tie it back to the discussion we had on the ZA a little earlier, I was under the impression that automatically, we can do this, Mike. The transect allows it. And when we pulled open the transect and we were doing a little research with Leina'ala's, you know, issue, we realized the transect didn't allow it. And we were kind of -- well, what's going on with that? And that's because the commercial district to this day requires a use permit for mixed use. Which is strange. It's one of the potential bills that we allow before you folks to free up that process. But the, the um, transect right now that you folks recently approved wouldn't, would now allow it, uh, should the Council adopt what you folks recently approved. But the transect also was a bit of a barrier to entry on it, both the commercial -- general commercial is only that it initially had. And that the transect four that we overlaid it with. So um, we, we thought Koloa Town was already ready for it, but they after -- ultimately, they have to come back to you folks to get your approval to lay those studio units above the potential businesses on the first floor.

Ms. Nogami Streufert: But in the residential area, I, I don't want to be -- belabor this. But in the residual area, uh, residential buildings, then. We have now the space that was supposed to be for these 14 units that are now going to be open space that can be used for something else. So if they make that -- if you made that into more efficiency apartments, so now rather than 14, you're going to have uh, 28 or whatever it would be. Because they're now --

Ms. Apisa: Instead of 34 total.

Ms. Nogami Streufert: So the total for each one of these buildings would then be more than the 34 total that you were approved for. Does that -- does the plan allow for that density?

Mr. Hull: It does. And, and what Mr. Jung was kind of getting at, too, is essentially, one of the, the um, regulatory requirements Mr. Serpa is going to have then meet is the housing ordinance and an affordable housing component to whatever number additionally he proposes for the site. I don't think he's ready to propose it yet, but I can, I can -- we, we anticipate an application in, in the future concerning that.

Chair Mahoney: Okay. Why don't we deal with the application at hand?

Ms. Apisa: Um, ready for a motion?

Ms. Nogami Streufert: Yes.

Chair Mahoney: Is there uh, a recommendation from the Planner, or are we through, Chance?

Mr. Bukoski: Yeah. Um --

Mr. Hull: I'll, I'll just interject for Chance to keep the meeting moving.

Mr. Bukoski: Okay.

Mr. Hull: Uh, the Department stands by the recommended conditions. We have no changes. You folks have had that in your packet, so I'll just save -- we stand by the recommendation.

Ms. Nogami Streufert: Uh, the TVR restriction?

Mr. Hull: Uh, I uh --

Mr. Bukoski: There is a TVR restriction in the conditions.

Mr. Hull: Oh. There already is in the existing conditions and approval?

Mr. Bukoski: Yeah.

Mr. Hull: Okay. There already is that in the existing condition. But I was having a side conversation with Commissioner Streufert that under the TVR ordinance, uh, TVRs are expressly prohibited outside of the visitor destination area. This site is well outside the visitor destination area, and any TVR operation on this site would be immediately subject to enforcement procedures.

Chair Mahoney: Go ahead.

Mr. Ho: Does the TVR also cover hotel rooms in operation?

Mr. Hull: No. Um, TVRs are single family or multifamily dwelling units with kitchens that are rented out. If you want to do a hotel or motel, it has to go through a use, use permit. And hotels and motels are permissible in commercial districts.

Mr. Ho: Like this one?

Mr. Hull: Like this one.

Chair Mahoney: Why don't we get back to some of the best news of the day.

Ms. Apisa: Okay. Um, I'm ready to make a motion.

Chair Mahoney: Okay.

Ms. Apisa: I move that we um, approve the request to amend Class IV, Class IV Zoning Permit Z-IV-2018-12, Project Development Use Permit PDU-2008-11, Use Permit U-2008-10, to allow uh -- to convert some of the commercial to residential to allow for 14 multifamily residential units uh, in Koloa Town.

Ms. Nogami Streufert: Second.

Chair Mahoney: Okay. It's been moved and seconded. Any further discussion? Hearing none, all in favor signify by saying, aye. (Unanimous voice vote). Opposed? (None). Motion carried. 4:0. Thank you very much.

Mr. Jung: Thank you. Good night.

Ms. Apisa: Congratulations.

Chair Mahoney: Nice presentation.

COMMITTEE REPORTS

Subdivision

Mr. Hull: Moving on, the next agenda item is Committee Reports, uh, K-1 Subdivision Action Matters listed in the Subdivision Committee Agenda.

Ms. Apisa: Yeah. We have, we have them here.

Ms. Nogami Streufert: Here you go. You have it over there.

Mr. Ho: Excuse me.

Ms. Apisa: That's all right. He's got it.

Mr. Ho: Today's Subdivision Meeting, we had uh, one, two, three, four, five items before us. Uh, Grove Farm, Kulana Condominium, County of Kaua'i, State of Hawaii. All approvals were granted. The last four were uh, uh, extension requests. So all granted.

Chair Mahoney: Okay. Is uh, there a motion to accept --

Ms. Nogami Streufert: I move the Subdivision -- I move that we accept the Subdivision Committee Report.

Ms. Apisa: Second.

Chair Mahoney: Moved and seconded. Any further discussion? Hearing none, all in favor signify by saying, aye. (Unanimous voice vote). Opposed? (None). Motion carried. 4:0
Thank you.

UNFINISHED BUSINESS (For Action)

Mr. Hull: Uh, we have no agenda items for L, Unfinished Business.

NEW BUISNESS

Mr. Hull: so moving on to New Business for Action, uh, the Commission took action on uh, Smoky Mountain Helicopters.

NEW AGENCY HEARING

Special Management Area use Permit SMA(U)-2019-5 to construct a single family residence on a parcel situated along the mauka side and at the terminus Moanakai Road in Kapaa, Immediately adjacent t Baby Beach, Further identified as 1139 Moanakau Road, Tax Map Key: 4-5-002:002, and containing a total land area of 12,095 s.f.= Joseph M. Horak.

So moving on to 2B, uh, Special Management Area Use Permit SMA(U)-2019-5 to construct a single family residence on a parcel situated along the mauka side in the terminus of Moanakai Road in Kapaa immediately adjacent to Baby Beach. Further identified as tax map key 4-5-002:002 and containing a total land area of 19,095 square feet. The applicant is Joseph Horak and we have Jody as our Planner. Uh, Jody, would you be willing to briefly summarize the petition before the Commission?

Staff Planner Jody Galinato: I can. Chair, members of the Commission, I can be very brief.

Chair Mahoney: Thank you.

Ms. Galinato: Um, being consistent with the Department's policies, I can say that previously, there was an SMA Use Permit approved on this, but because no construction took place, the applicant had to file a new SMA Use Permit. And what they're trying to do is, um, construct a two-story residential dwelling with office workshop containing 2,228 square feet and a grass driveway. Um, the three bedroom, two bath residence will be raised to provide parking underneath, and the office workshop will be on the first floor. The office workshop is for office and storage space and is not intended for living space. Um, bathroom and sink and toilet will be

included in the office. The existing one, one story residence shall re -- remain one story. Um, the additional findings um, nothing uh, can say um, it's not in the visitor destination area. Therefore, no short-term transient vacation rentals will be permitted. Um, the existing bedroom - or three bedroom, two -- three baths. Sorry. Uh, it's 1,212 square feet. Um, it's built in 1928. Although historic by age, it's not on any historic re -- um, registers. It is in the Kapaa Wailua Development Plan and the Special Planning Area A. So design standards specify exterior color schemes. It is located within 500, 500 feet of the shoreline area and the applicant did submit a shoreline setback determination. Um, reading the SMA and the CZO, General Plan, um, it's all in compliance with those uh, standards. Uh, regarding native Hawaiian traditional cultural rights, they did reach out, and I've uh, addressed that in my um, in my report. And uh, basically, it complies with everything that's outlined in the report. And the SMA, um, was assessed and uh, I -- I'll just hold off on my conclusions. If you have any other questions on what I skipped over, feel free to ask.

Chair Mahoney: No. I think you were very concise. Any questions for the Planner?

Ms. Galinato: There is a supplemental one with some concerns from the neighboring property owner that I -- I'm sure that the applicant can address.

Chair Mahoney: Okay. Is there a representative for the applicant? State your name for the record, please.

Attorney Ms. Laurel Loo: Good evening. Laurel Loo for the applicant. Joe Horak was here most of the day and he stepped out to take a call. He's a contractor, so he's had a, a client calling. Um, we appreciate Jody's work on this. And appreciate the conditions. Have no objections to any of the conditions. As far as the neighbor who wrote the letter, we're well aware of the easement, and we have situated the house so it's not within that easement. And it's evident on the plot plan, uh, where that is. And of course, we'll use best practices in any construction. Mr. Horak's plan when he builds his houses, he lives in the front house and he already has families, or local families who he has promised that he will allow them to rent there.

Chair Mahoney: Okay. Any questions for the applicant's representative? No? Okay. Is there any member of the public that would like to testify on this agenda item? Well, let's wait a few hours. Thank you. None, none seen. Thank you very much. I appreciate it.

Ms. Galinato: Staff was -- would be recommending approval with the 13 conditions outlined.

Chair Mahoney: Okay. Everyone have a chance to review the conditions and -- ?

Ms. Apisa: I move to uh, uh approve SMA Use Permit 2019-5 to construct a single family residence on the parcel in Kapaa. Tax, uh, tax map key 4-5-002, code 002.

Ms. Nogami Struefert: Second.

Chair Mahoney: Okay. Been moved and seconded. Any further discussion? Hearing none, all in favor signify by saying, aye. (Unanimous voice vote). Opposed? None. The motion carried. 4:0. Thank you very much.

Ms. Loo: Thank you.

Chair Mahoney: Thank you, Jody, for all your hard work on everything.

Mr. Hull: Uh, moving on, now to announcements. Uh, topics for future meetings. Just for your, uh, edification, the future meetings we will be having will be concerning -- you have a commercial liquor dispensary use permit on agricultural land coming before you folks. You also have a series of bills initiated by Council Member Evsland and Council Member Chock to incentivize add -- additional rental units. It would be a fee waivers and potentially tapping some housing monies to use for additional fees, costs. Um, and then you have -- and I have to apologize because I thought at the last Commission Meeting that Coco Palms update was due for this meeting. Coco Palm's update is -- for the condition of approval is required to be submitted by June 30th. We are in discussions with their attorney representing the Coco Palm's folks. Um, that uh, update is being -- well, we do anticipate submitted to the Department by June 30th, and therefore would be on the upcoming July um, Commission agenda. Those are the three main things we're looking at.

Chair Mahoney: Okay.

Mr. Hull: And other than that, the following regular scheduled Planning Commission Meeting will be held at 9:00 a.m. or shortly thereafter at the Lihue Civic Center in Moikeha Building. Meeting Room 2A, 2B, 444 Rice Street, Lihue, Hawaii, 96766. On Tuesday, July 23rd, 2019.

Ms. Nogami Streufert: When -- do you have any estimate of the uh -- when we could expect the Smoky Mountain Helicopter?

Mr. Hull: Uh, it's going to be some time, quite honestly, because uh, as was pointed out in Jody's report, the um, requirement for environmental review, whether that be an environmental assessment or an environmental impact statement, is, is still necessary. And uh, it would be the Department's position, but we do have to work it out with the other parties as to having that document in the hand before any hearing is held, quite honestly.

Chair Mahoney: Okay. I think that's it. Any motion for adjournment?

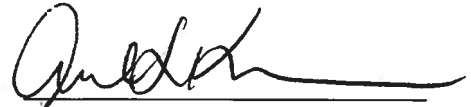
Mr. Ho: Oh, I move to adjourn.

Ms. Nogami Steufert: Second.

Chair Mahoney: It's been moved and seconded to adjourn. All in favor signify by saying, aye. (Unanimous voice vote). 4:0.

Chair Mahoney adjourned the meeting 6:38 p.m.

Respectfully submitted by:



Arleen Kuwamura,
Commission Support Clerk

() Approved as circulated (add date of meeting approval)

() Approved as amended. See minutes of _____ meeting.