

KAUA'I PLANNING COMMISSION
REGULAR MEETING
February 24, 2026

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

The following Commissioners were present:

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

Excused or Absent

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

Discussion of the meeting, in effect, ensued:

CALL TO ORDER

Chair Gerald Ako: Good morning. Today is Tuesday, February 24, 2026, and I'd like to call to order the Planning Commission meeting. And as we start off, I'd just like to say, Kung Hei Fat Choy, and I think it kind of rings a bell in my brain because when I was always growing up it was always Kung Hei Fat Choy, and it was Chinese New Year. Our son just moved to California, and he's working at a restaurant there and he says it's going to be a busy weekend because it's Lunar New Year, so somewhere from one generation to the next, I missed the boat teaching him about Kung Hei Fat Choy. With that, if we just start off the agenda by...at the beginning we have the swearing in of a new Planning Commissioner, but he is not here today, he'll join us probably in March. So, with that, if we can have a roll call vote, Mr. Clerk.

ROLL CALL

Planning Department Director Ka'aina Hull: Roll call, Chair. Commissioner Cox?

Commissioner Helen Cox: Here.

Mr. Hull: Commissioner DeGracia?

Commissioner Francis DeGracia: Here.

Mr. Hull: Commissioner Ornellas?

Commissioner Jerry Ornellas: Here.

Mr. Hull: Commissioner Otsuka?

Commissioner Lori Otsuka: Here.

Mr. Hull: Commissioner Streufert?

Commissioner Glenda Nogami Streufert: Here.

Mr. Hull: Chair Ako?

Chair Gerald Ako: Here.

Mr. Hull: You have a quorum, Mr. Chair. 6:0.

APPROVAL OF AGENDA

Mr. Hull: Next is the Approval of the Agenda. The department would recommend as a somewhat standard to have Agenda Item L.1. proceed the G. items so that the review of business happens directly preceding its respective agency hearing.

Chair Ako: Okay.

Deputy County Attorney Laura Barzilai: I believe we have another change too.

Chair Ako: Yes. So, with that, I would also like to suggest that if we can move Item K.1. after F.1. in the agenda.

Ms. Streufert: I move to approve the amended agenda.

Ms. Cox: Second.

Chair Ako: Okay. We've got a motion that's been seconded. All those in favor of the change say aye. Aye (unanimous voice vote). All those opposed. Okay, the agenda has been amended. 6:0.

MINUTES OF THE MEETING(S) OF THE PLANNING COMMISSION

Mr. Hull: Next, we're on to Minutes of the Meeting. We have the minutes for December 9th, 2025.

Chair Ako: You have the minutes in front of you. If there are any corrections. If not, we can have a motion to approve.

Mr. DeGracia: I move to approve the minutes for December 9th, 2025.

Ms. Otsuka: Second.

Chair Ako: Okay, I've got a motion and a second. Any questions? Any changes? If not, all those in favor to approve the minutes of December 9th, 2025, say aye. Aye (unanimous voice vote). All those opposed? The minutes have been approved. 6:0.

RECEIPT OF ITEMS FOR THE RECORD (None)

Mr. Hull: No additional Receipt of Items for the Record.

COMMITTEE REPORTS

Mr. Hull: Going on to Committee Reports, so I'll turn to the Subdivision Committee Chair for the Subdivision Report.

Subdivision Committee Chair Ms. Streufert: The Subcommittee met this morning and we started at 8:32. We had two applications before us for Final Subdivision Map Approval. Hōkūala Resort Subdivision 1 and Hōkūala Resort Subdivision 1A, both were approved three to nothing. And then we adjourned at 8:43.

Chair Ako: Alright, commissioner, thank you. Any questions on the Subdivision Report? If not, we can entertain a motion to accept.

Ms. Otsuka: Motion to accept.

Ms. Cox: Second.

Chair Ako: Okay. We've got a motion and a second. No other questions. All those in favor say aye. Aye (unanimous voice vote). Those opposed. The Committee Reports of the Subdivision Committee has been accepted. 6:0.

Mr. Hull: Next, in discussion with the Chair, the commission is in receipt of a number of testimonies that were received after publication of the agenda. So, they're just going to take a 10-minute recess to review the testimony that was received after the posting of the agenda, at which point, with the agenda having been amended, it'll go directly into...

Ms. Barzilai: K.1.

Mr. Hull: Item K.1., which is Unfinished Business, Class IV Zoning Permit, Z-IV-2026-9, and Project Development Use Permit, PDU-2026-7, for the SK Investors application in Kōloa, Kaua'i. As I understand it, we'll be moving directly into the Petition for Intervention. So, during the 10-minute recess, we'll be setting up for the parties to be situated at the table for the Petition for Intervention to be reviewed, but we'll take a 10-minute recess at this time.

The Commission went into recess at 9:05 a.m.
The Commission reconvened from recess at 9:18 a.m.

Chair Ako: Okay. I'd like to call the meeting back to order. We are now on Item K.1. I'm sorry. Yeah, we're on K.1., Item K.1.

UNFINISHED BUSINESS (For Action)

CLASS IV ZONING PERMIT (Z-IV-2026-9) and PROJECT DEVELOPMENT USE PERMIT (PDU- 2026-7) to allow construction of a multi-family housing project and associated site improvements on a parcel situated along the makai side of the Weliweili Road/Waikomo Road intersection in Koloa, further identified as Tax Map Key: (4) 2-8-011:001 and containing a total area of 9.436 acres = SK INVESTORS LLC. [Director's Report Received, 12/23/2025; Hearing Closed, Deferred, 1/13/2026].

- a. Director's Report Pertaining to this Matter.
- b. Transmittal of Public Testimony to Planning Commission.
- c. Transmittal of Agency Comments to Planning Commission.
- d. Petitioners Friends of Maha'ulepū and Save Koloa's Petition to Intervene and, Alternatively for Denial of Applications; Declaration of Elizabeth Okinaka; Declaration of Bridget Hammerquist; Declaration of Llewelyn (Billy) Kaohelaui'i; Declaration of Gordon Labedz, M.D.; Declaration of Peg Ebata; Declaration of Laureen Naumu-Balocon; Declaration of Greg Iten; Exhibits "01"-"02"; Certificate of Service.
- e. Transmittal of Supplement No. 1 to Application; Revised Exhibit "E" to Planning Commission.
- f. Supplement #1 to the Director's Report Pertaining to this Matter.

Chair Ako: Okay, before we start, let me read this into the record. First, we have received the Petition to Intervene, so before we take general public testimony on this matter, we'll address the procedural issues regarding a Petition to Intervene, filed by Friends of Māhā'ulepū and Save Kōloa. The agency hearing on this matter is closed and for now it will remain closed while a procedural issue is decided. As I understand it, SK Investors asserts that this petition is untimely under Rule 4 of the Commission Rules. Petitioners assert an explanation as to why the petition, if it is untimely, should be accepted in a case due to good cause or excusable neglect.

Ms. Barzilai: Chair, excuse me. I believe that Commissioner DeGracia has a statement at this time.

Chair Ako: Commissioner.

Mr. DeGracia: Okay. Chair, commissioners, I'd like to declare a conflict with this agenda item. My direct employer has submitted testimony in strong support. And therefore, I will recuse, any action and therefore also abstain from participation on this agenda item.

(Commissioner DeGracia recused himself at 9:21 a.m.)

Chair Ako: Okay, commissioner. Thank you.

Ms. Barzilai: Thank you, Chair.

Chair Ako: Okay. So, let's see. So, first we will rule upon the timeliness of the issue. So, the commission first decides whether to accept the petition as procedurally sufficient. And the rule says accept, (inaudible) not granting substance, such as when standing is found, if there is a procedural defect, it cannot be accepted, but is rejected and not denied on substantive grounds. So, first, we'll hear from the parties and their attorneys, starting with the petitioner, followed by the applicant and the Planning Department. Each party will have ten minutes to present and two minutes rebuttal. So, after the presentation is done, commissioners, we may ask questions at that time, after their presentation.

Ms. Barzilai: So, if we could please have come up, the petitioners and also the applicant with their attorneys. We also have the department here.

Mr. Ian Jung: Good morning, Chair, members of the commission. Ian Jung, on behalf of the applicant and respondent to the petition, SK Investors, and I can assure the commission we did not plan this shirt.

Chair Ako: The team spirit, team spirit, love it.

Ms. Barzilai: So, Chair, right now we're on the procedural issue of timeliness, and we wanted to hear argument from the petitioners. I'm timing for ten minutes.

Chair Ako: We can go get the petitioners first.

Mr. Lance Collins: All right. Aloha. Good morning, commissioners. My name is Lance Collins. Together with Bianca Isaki. We represent Save Kōloa and Friends of Māhā'ulepū. I don't want to repeat everything that was stated in the petition. I will try to focus mostly on the arguments that were made in response to the petition with respect to this procedural matter. I think the most important thing is that the scope of the application has changed substantively. Notice was not, was not proper for the original application. When we noted those issues in our petition, the applicant has now attempted to change the application substantively to try to avoid the fact that notice was not proper, but it still remains that notice was not proper regardless of what changed. And the reason why that is so, is because if the applicant can unilaterally change the scope of the application, then that means that if you folks were to deny this petition, they could unilaterally again change the application without having to go through notice. So, the notice is something that is required for the application to give this commission jurisdiction over the application itself. And if notice is defective, then the first hearing that's required by the rule has not occurred. And so on that basis, this Petition to Intervene is timely. I should also note and draw your attention to rule 1-1-1 of the Commission's Rules that says that the rules should be construed so that the matters before this commission are done in a systematic and democratic way, having defective notice, changing the scope of the petition as the scope of the application, and then. Referring to the parts of the application that are not consistent with proper notice to be a future phase, is contrary to a systematic and democratic review of the application, and so the rule should be construed in such a way to afford the public a full opportunity to present all of the information necessary for this commission to make the best decision that it can. Alternatively, if the commission decides that notice was proper and that the last hearing was the first hearing, as

we've stated in our petition, excusable neglect has occurred. And that derives from basically what our multiple revisions that have been attempted by the applicant regarding the scope. And it also underscores the value of the petitioners in this proceeding, because the issues that were raised in the petition were not addressed by the Department, at least in the original recommendation, and that based on the declarations explaining the interactions between the officers and members of these organizations and the applicant, that these constant revisions should excuse any neglect on the part of the petitioners to file a Petition to Intervene, and that fundamentally, the determination of what is excusable neglect has to be looked at against the standard, which in *Chen v. Mah*, was that it is the policy of the state that adjudications should be decided on its merits and not on technical matters, to avoid having to determine matters on the merits. I also want to point out that the applicant, in their response, said that the timing issue is jurisdictional. We disagree with that. This petition has jurisdiction, this commission has jurisdiction over this matter because the applicant has filed an application. So, the issue of whether or not the commission will determine to hear the petition or to grant the petition is not, is not affected by the timing of the filing, because the rules specifically allow this commission to grant intervention even when it is not timely. So, the issue of timeliness is not, the issue of timeliness is not a jurisdictional issue in this matter. This commission gets its jurisdiction because an application has been filed. With respect to changes in the application that are material. Lot 180 N is the area. I didn't specify this, but it is in the, in the papers. 180 N is the lot that was omitted from the original application in terms of stating the scope of the application, and also who to give notice to, several of the petitioners, members and officers, as stated in the declarations are... Yvette Chung, for example, is within 300 feet of that lot, but I should say that the commission's requirement in the, sorry, the code's requirement of requiring notice within 300 feet is not bound to the outer limits of nearby landowners that have a constitutionally recognized concrete interest in the proceedings. So, the notice is one issue, but the issue of who has a concrete interest in this proceeding extends beyond that to other members and officers of the petitioners. And I think one important point that maybe was missed in the opposition that I would like to call your attention to, is that when there was a fire, that a fire hose had to be brought to connect to a fire hydrant that ran through Lot 180 N, and so the issue in the petition regarding the adequate addressing of fire hazards is something that even if Lot 180 N is permitted to be removed from the application without re-noticing the application to nearby property owners and the public through the newspaper, that that is something that still would have to be addressed, regardless of whether it's characterized as a future phase or whatever the applicant attempts to do to try to avoid the issues that were raised in the petition. So, with that, I will yield whatever time we have remaining and are happy to answer any questions at the appropriate time. Thank you.

Chair Ako: Thank you. Mr. Jung.

Mr. Jung: Okay. Good morning, Chair and Members of the commission, Ian Jung, again on behalf of SK Investors. With me is Mike Serpa, the applicant, principal. Rule 1-4-2 is mandatory and jurisdiction. It sets the framework of timeliness. The timeliness issue here is very clear. On January 13th, 2025, we had no Petition to Intervene. Often the commission will see petitions filed four days late, three days late, but 35 days late is inexcusable. The issue of good cause and excusable neglect, as with any good rule, there's always exceptions to the rule. So, the petitioner is now trying harp on this exemption to the rule of whether or not they are in good cause or excusable neglect, to find that the circumstances of the Planning Commission can evaluate should lend to their side. But let's look at the issue of notice, the issue of notice is very important

with these types of agency hearings. Let's start with, well, there's four issues of notice I'd like to identify for the commission. Number one, issue number one, direct notice on July 2nd, 2025, as a part of our Cultural Impact Analysis or the Ka Pa'akai Analysis, Cultural Surveys Hawai'i blasted an email letter inclusive of the plans to 36 individuals in the Native Hawaiian community, as well as those who are here on Kaua'i. That's notice number one. Notice number two, on December 12th, 2025, as a gesture of good faith and to bring up awareness of projects, Mr. Serpa met with not just the petitioner, Friends of Māhā'ulepū president, but also the co petitioner, Save Kōloa, Co-President, Miss Elizabeth Okinaka. That meeting occurred. There's an email to say the meeting happened, which is a part of our exhibit package. So, that's notice number two. Notice number three, the Garden Island newspaper, which luckily we recycle our newspapers and I saved it. On December 12th, constructive notice was established. Project Development Use Permits and Class IV Use Permits or Class IV Zoning Permits, require notice to be put in a newspaper of general circulation to bring awareness of the project. That was satisfied on December 12th, 2025. That's notice number three. Notice number four, as an obligation, again, by virtue of code through the Class IV Zoning Permit and the Project Development Permit, there was a requirement to send to 85% of the adjacent owners of the particular property. The mailing of the project, hearing of notice, and a description of the project. Our office provided an affidavit of such notice to the Planning Commission, which I included as an exhibit, certifying that with certified receipts from the mailing that happened, that the adjacent owners were notified. That's notice number four. Awareness of the project was in the community. I was fielding calls in response to my notices from immediate neighbors. The project awareness was happening on social media. You know, some of the misinformation that was put out had to be corrected, but there was notice. So, now a filing 35 days late, is no grounds for excusable neglect. One other issue I'd like to raise is in the petition, not necessarily on a procedural matter, but they claim our application is illegal. That is inaccurate and unfair. What happens with this type of zoning, it's form-based code. The form-based code has superseded the conventional zoning of Euclidean density per acre. So, what we had to assert is the process for which how we get to a Project Development Use Permit. The form-based code is a new model of zoning. And that model of zoning eliminates the density per acre approach. The South Kaua'i Community Plan adopted in 2015, I feel like I'm going to get interrupted here.

Ms. Barzilai: A little leeway, Ian, but right now the petition hasn't been accepted. So, to get into the substance is I don't think it's appropriate at this time. We're talking about the procedural defect or not.

Mr. Jung: Okay. I'll respect that. So, back to the issue of excusable neglect. There was awareness of this project. Information was delivered to the adjacent neighbors. Notice was provided for the Garden Island. And did we submit a supplement? Absolutely. When we realized our Exhibit E did not include Lot 180 N, as well as our Ka Pa'akai, we did the right thing and removed it from the application. We removed it from the Planning Commission's consideration, which now essentially creates the area for which we're asking for a project as moot because we're not asking for consideration. We've removed the 16 units or the four buildings from this Planning Commission's consideration. Ironically, Miss Yvette Chung's lot, which they pulled, the Lot 180 N is a land court lot that creates a spur lot for access for some of the other properties. There was a spur that they tapped onto her lot, which was deep settled within some of those kuleana lots that were established well within that Kōloa corridor. So, it was unfair to use that particular lot because it was such a spurred lot that created a depth. We measured out the distance from her lot

as 400 to 500 based on our Exhibit 7 in our memorandum of opposition. So, with that, commissioners, I'll leave you with the fact that 35 days late is mandatory, it's jurisdictional. Whether or not they can defeat the exemption of good cause and excusable neglect, they were clearly aware of the project. Meetings were held, conversations were had, notice was published, and notice was delivered. So, with that, we'll end there.

Chair Ako: Thank you. Planning Department.

Deputy County Attorney Chris Donahoe: Good morning, Chair, rest of the commission, Deputy County Attorney Chris Donahoe, on behalf of the Planning Department. Under Rule 1.4-1B, person or entity seeking intervention may be, may be admitted upon timely written application for intervention in conformity with the other rules which include 1.4-2B, in which states, the written petition. And I want to state some of the actual wording of these rules and definitions, just for the record. So, the public's clear. And so, it's very clear where the department is coming from with its position. That the written petition shall be filed with the commission no less than seven days prior to the first public hearing for which notice to the public has been published. So, here the Department is satisfied that notice of the agency hearing on January 13th, 2026, was provided on or about December 12th, 2025, by publication, and there was also the mailing out to the property owners within the 300 feet from the nearest point of the tax map involved in the application and that was on about December 12th, 2025, and that was notice of the first public hearing, which was January 13th, 2026. So therefore, under 1.4-2B, any Petition for Intervention shall be filed, shall be filed before January 13th, 2026, and it's not disputed by the parties seeking intervention as well as the applicant, that there were no Petitions for Intervention prior to February 7th or prior to January 13th, 2026. It wasn't until February 17th, 2026, 35 days later. So, it is untimely prior to that first hearing on January 13th, 2026. However, there are two exceptions under 1.4-2C, which petitions will not be accepted except for a) good cause, and b) excusable neglect, which definitionally under 1.4-2C.1, good cause is a sufficient reason beyond the control of the petitioner, including acts of God. 1.4-2C.2, defines excusable neglect and that's due to extenuating circumstances within the control of the petitioner. And there were some arguments made regarding excusable neglect, but none of them seem, and none of the statements laid out in the Petition for Intervention explain how excusable neglect that was in the control of the petitioner, it's all there was the supplemental application, there's problems with the application, but it, so the Petition for Intervention was untimely because it should have been filed seven days prior to January 13th, 2026, it was not. In reviewing the Petition for Intervention, it's the department's position that there has not been good cause or excusable neglect established as defined under 1.4-2C to support the Planning Commission's acceptance or consideration of the untimely Petition for Intervention. Therefore, it should not be accepted or considered by this commission. That's all. Thank you and I'm welcome to take any questions.

Chair Ako: Thank you. Now we have two minutes to rebut statements from both parties.

Mr. Collins: All right. Thank you very much, Mr. Chair. I think what's most important in considering excusable neglect and also this goes to the good cause analysis is, again, this is, it's, not they are not technical requirements. The rules specifically say that they should be construed for systematic and democratic consideration of the matters before the commission. So, the real issue of excusable neglect, and this comes from *Chen v. Mah*, is what is the prejudice to the applicant about allowing a petition to intervene? Well, you know, of course this will probably

make the review more thorough, but that's not prejudice to the petitioner. So, what is the prejudice to the petitioner? There is no...I mean, to the applicant. There is no prejudice. And so, that should be considered when evaluating whether or not there's good cause or excusable neglect. We also can test that this purported email blast that was supposedly done as part of the Ka Pa'akai Analysis, which in our petition, we challenge Mr. Kaohelaui'i, who is the, sorry, lauli'i, who is the po'o for the area of the Aha Moku never received any notice whatsoever. That's, so if they're going to say that somehow that supports this technical barrier to participating in intervention, we can test that fact, that factual matter, and that's something that's appropriate for a contested case. Also, our organizations also contest what was said at the December 12th meeting with Mr. Serpa. There was no discussion of this project. It was more of a philosophical envisioning the future of Kōloa Town discussion. And this project wasn't referenced or mentioned at all in the fact that it actually was in the newspaper that day. The notice for the hearing in January, it wasn't referenced at all by the applicant in those discussions, and that would be something else that we would, if it needs to be addressed, would be addressed during a contested case proceeding. So, we can test that. Also with respect to the form-based code issues that were mentioned by my colleague, even applying the form-based codes, the plan does not comply with the form-based codes with respect to the setback issues, and it also does not permit attached housing unless it's a government project, and this is not a government project. So, even with the form-based codes, the proposal still does not comply with the law and that's additional reason for why there is good cause to consider this petition if the commission determines that it was untimely filed. Thank you very much.

Chair Ako: Thank you. Mr. Jung, would you like your two minutes?

Mr. Jung: No, I think we're fine, Chair. Thank you.

Chair Ako: Okay. How about the department? Two minutes, or...

Mr. Donahoe: Just briefly. It doesn't appear that notice under the rules requires that part of the looking at whether there was notice or not, whether there was an informal or formal meeting and what was discussed at that. I don't think, trump's the actual notice that was provided in this matter. So that's all. Thank you.

Chair Ako: Okay. Thank you very much. Commissioners, do we have questions? Okay. Let me...

Ms. Cox: I'd like to request an executive session.

Ms. Streufert: Second.

Ms. Barzilai: Sounds like a motion has been made, Chair.

Chair Ako: Yep, there's a motion and we have a second on that to enter executive session. Any questions, comments?

Ms. Barzilai: I'll take a roll call.

Chair Ako: Okay. If not...

Ms. Barzilai: Vice Chair Cox?

Ms. Cox: Aye.

Ms. Barzilai: Motion to enter executive session. That's where we are right now. Commissioner...

Commission Support Clerk Lisa Oyama: Laura.

Ms. Barzilai: Sorry, Lisa. Commissioner Ornellas?

Mr. Ornellas: Aye.

Ms. Barzilai: Commissioner Otsuka?

Ms. Otsuka: Aye.

Ms. Barzilai: Commissioner Streufert?

Ms. Streufert: Aye.

Ms. Barzilai: Chair Ako?

Chair Ako: Aye.

Ms. Barzilai: Motion carries. 6:0. Please read the notice. Notice to the public, we'll be entering executive session. After the notice is read, we expect to be at least half an hour. Thank you very much. You'll have to step out, but you'll be welcome to come back in. You can read the notice into the record, please, Chair. Lisa, can you hear me? Can I read? Okay. I can wait until, I can wait until the room empties. It's fine.

EXECUTIVE SESSION

Ms. Barzilai: Lisa, I'm reading the notice.

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

CLASS IV ZONING PERMIT (Z-IV-2026-9) and PROJECT DEVELOPMENT USE PERMIT (PDU- 2026-7) to allow construction of a multi-family housing project and associated site improvements on a parcel situated along the makai side of the Weliweili Road/Waikomo Road intersection in Koloa, further identified as Tax Map Key: (4) 2-8-011:001 and containing a total area of 9.436 acres = **SK INVESTORS LLC. [Director's Report Received, 12/23/2025; Hearing Closed, Deferred, 1/13/2026].**

Ms. Barzilai: We will now go into executive session. Thank you for your patience.

The Commission entered into Executive Session at 9:48 a.m.
The Commission reconvened from Executive Session at 10:52 a.m.

Chair Ako: We shall reconvene our commission again. You know, I really apologize for taking the time out, but you know, for us here, what we really wanted to make sure is that we understand what we need to consider, so that we can at least get it right in whatever decision and whichever way we go, so, again, thank you for being so patient. So with that, if we can have the petitioners and the applicants representatives come back up. So, again, we're back to the portion of just trying to make a determination about whether the Petition to Intervene is accepted or not. Basically, I think we're looking at the issue of timeliness on this here. So, we'd like to have some questions that we'd like to ask the department, as well as the applicant and the petitioners. So, with that, we'll open the floor to commissioners. Who wants to go first? Me. Okay. Let's see. If I understand this correct, from the petitioners point of view, your argument is based upon the fact that the public notice that came out for the January 13th meeting was improper due to the significant changes within the application itself. Is that correct?

Mr. Collins: That the...that the...

Chair Ako: As well as other things (inaudible).

Mr. Collins: That the notice was defective because it didn't properly notice everybody who was in the application.

Chair Ako: Right. Were you aware of that January 13th meeting?

Mr. Collins: I'm sorry. You're asking...

Chair Ako: If you were aware.

Mr. Collins: Were my clients aware? Were the organizations aware...the

Chair Ako: Your client's.

Mr. Collins: Yes.

Chair Ako: They were aware of it?

Mr. Collins: Yes.

Chair Ako: And so, what, if I'm hearing it right, you're saying that if the public notice is improper, then the January 13th meeting never happened. Is that correct?

Mr. Collins: The January 13th meeting happened, but its legal significance in terms of being the first hearing is negated. So, they're not denying that there was a January 13th hearing, but that its legal significance is the first hearing doesn't count because the notice was proper. In the same way for example, you know, sometimes courts will do notice by publication, if there's a defect in that notice, then it has to be redone. And even though the court does have a hearing, it doesn't count, it doesn't have a legal significance that it would otherwise.

Chair Ako: So, whatever was presented at January 13th meeting, we erased all of that? Is that...

Mr. Collins: I'm sorry to say that again.

Chair Ako: Everything that happened on the January 13th meeting regarding to this application, because of the improper notice or the defective notice, we erase everything that happened.

Mr. Collins: Well, I think...

Chair Ako: Or no?

Mr. Collins: No, I think it depends on...so, if proper notice is given, then it depends on whether or not there are particular issues. I don't think it erases what happens. But you know, you basically, the areas of the record that need to be more fully developed, there's a basically a reopening to give the commission the opportunity to have a complete record. So, I don't think it necessarily erases anything, but it obviously can't, you can't make technical arguments that, well, you weren't at the January thing, so, I mean, you can't do that, but it doesn't erase the fact that it happened and that it is information that's now in the record. But giving everybody the opportunity, notice, an opportunity to respond to it, I think that that would not then also require that it be erased.

Chair Ako: Other than the fact that the notice might have been defective. Is there other reasons in terms of why it was not, the petition was not filed seven days prior to the January 13th meeting?

Mr. Collins: Yeah. Well, I mean, I think one of the other issues is that the application has been changed. Now, whether that's effective or not, I guess is a question if there's a contested case. But I think that's the other issue, is that actually the application that the commission heard on January 13th isn't the application that the applicant is currently prosecuting.

Chair Ako: Right, right. Okay.

Mr. Collins: So, that's the other issue that we raised.

Chair Ako: Can I assume also then that the petition was not filed within the seven days, because the fact that the public notice was defective.

Mr. Collins: In part, definitely, there were several members of the, several members of these organizations that are nearby property owners. And one of them, of course, our position, is should have received notice and did not. And, you know, as I said before, I don't think the 300 foot mark is a constitutional mark of where somebody doesn't, no longer has a concrete interest, but definitely your folks, the code requires the 300 feet, so, for that person, they definitely under your, under the rules did not get the notice that they were required.

Chair Ako: Okay. Got it. Thank you. Let me move over to the department then in this case. I think what I'm hearing is the fact that we have a defective public notice for the January 13th meeting. One of the reasons being is that I guess certain people were not contacted, as well as the fact that there is a change in the substance of the application. Do you believe that that requires to have a new public notice?

Mr. Donahoe: Deputy County Attorney Chris Donahoe. I'll answer the second one first regarding the supplemental, the supplemental application that was submitted, it was after the January 13th meeting, and it actually, it was based on, it actually reduces the size of the project that takes out the portion that was being in controversy, being complained about. So, it actually reduces it by reducing, I believe, four fourplexes down to 148 instead of 164. So, I don't think another public notice because it's not increasing the size, it's actually reducing the size of the project. Answering the first question, we believe public, notice by publication was effective and it was valid. One of the officers, I believe, Miss Hammerquist knew of the meeting as early as December 12th or even after there was notice by publication. So, there was ample time. It's not that everybody that was served or had notice had to file a Petition for Intervention. That petition could have been filed by any member of those, the people that receive notice. Miss Hammerquist, even after receiving notice of the meeting or after receiving, seeing it in the publication. So, that should have been filed by one of those members by, within seven days of the initial first hearing, which was, and also the agenda came out for that as well prior to that meeting. So, there was, you know, again, an opportunity, I think, I think and this is more of the applicant's point, but looking at the 35 days, I think there would have been a more grounds for it had, oh, we got notice at the, at the, on the agenda, we filed it as fast as we could. This is 35 days after having ample, you know, that was 35 days after the first hearing. But that's a whole nother month after there was, the notice went out. So, I think there was, there was ample time. There's there was proper notice in this case. And, and therefore the, it was untimely. Oh, and I believe the Director also wanted to...

Mr. Hull: And just to add, you know, on the substantial change being made and whether or not constitutes the need to re notice if, if there is a substantial change in whereby, you know, an increase in the footprint and increase in density or even arguably moving of a proposed structure or use from a standard operating protocol could absolutely warrant a re-notice of a project. Where the proposal is just straight up removing the footprints of a portion of a project standardly would not interpret that as a substantial change. It's an overall removal of a proposal, not a, not a an increase or a change to it, it's just removing it. So, standard operation is, you know, that that would not warrant a separate notice.

Chair Ako: So, I'm hearing, I guess from the department that the notice is proper as published.

Mr. Donahoe: Yes.

Chair Ako: Regardless of all the changes.

Mr. Donahoe: Yes it is, Chair.

Chair Ako: Now maybe a question for the applicants. There are certain members, I guess, that have been mentioned that have not received notices of this. I'm going to...what comes to my mind is 300 feet, 85%, I know the intent is to notify as many people and have all, everybody informed. How many people were, did you reach the, did you reach those numbers? I guess my question is, or...

Mr. Jung: I'll outline the process for the commission that, that I, that I use. So, on the, the qPublic or the Kaua'i Property Tax.com the, the generated data of real property locations and distances are provided for by the county website. On that county website there is a tool you can identify

ownership within 300 feet of those boundaries of the properties. And that's the tool we use to generate the notices that are put in in our affidavit. Those particular notices I just sent them to all. So, in this case I sent them to 66 individuals. We got some returned and I've kept those, but we do have and we attached that as our exhibit, the postmarks of the sent out on December 16th, notified or certified mail slips. So, we sent it out not just 85%, but all of them for that parcel one, the subject parcel we're looking at now. The reduction of the property is not defective notice it just, it doesn't change the scope of the project, it just reduces the scope of the project by eliminating from your consideration those four fourplexes.

Chair Ako: All right. But I think what I'm hearing is certain people did not receive a notice, therefore this process is defective. So, and I understand too that it's like 85% need to be, at least 85% need to be. Did you hit that number?

Mr. Jung: I hit all 66.

Chair Ako: Oh, it's to get out is at least 85%.

Mr. Jung: Right. Of the parcel one.

Chair Ako: Yeah. Another name comes up. I'm sorry, what's his name is Billy. Billy. That did not receive a notice. Is he within the 300 feet radius?

Mr. Jung: No. If I can answer that question? What that reference was, so, our cultural consultant, Cultural Surveys Hawai'i, they do their initial blast for feedback on potential adverse impacts the project may have on traditional and customary practices. As you know, this project is surrounded by residential use, and it hasn't appeared based on the evidence we've seen that there's any practicing Native Hawaiian custom or customary traditional practices on that property. It's residential property. The notice that went out to Mr. Kaohelaui'i was our consultant, Cultural Surveys Hawai'i reaching out for feedback on what practices, if any, occur on the property.

Chair Ako: So, he was not part of your 66 and he did not have to be part of that 66.

Mr. Jung: Correct.

Chair Ako: Okay. Follow up, commissioners?

Ms. Streufert: One of the issues, obviously, is the 35 days of delay in filing. Is there an excusable reason for that that you would like to present?

Mr. Collins: Well, I think the first point that I'm not, I don't, I'm not trying to reiterate, but I partly in responding to what the Director has stated. I know that this is being characterized the change in the applications being characterized as non-substantive, but the number of parking stalls is increased, and how many of those are anticipated to be on public roadways is increasing. And you know where traffic and parking are issues that were raised in the petition. That is a substantive issue. So, it's not just, it's not just based on the acreage of the application, but also the actual substance of the changes in the application. And, you know, it's like almost a 10%, almost a 10% difference in terms of the parking and the fact that there's more parking on, on the public street. So, I just wanted to say, you know, first of all, that's obviously not something that could

have been anticipated because it didn't get submitted by the applicant until a week or two ago. And so, I, you know, I think this goes back to the issue that I stated before the executive session, is that the rules, the reason why the rules allow for intervention, basically at any time up until you make a decision and then the difference is, is that there has to be good cause or excusable neglect if it's less than seven days before the first hearing, is because these kinds of changes implicate people's interests. And to be honest, you know, the members of these organizations, well, first of all, yes, the members of these organizations, you know, didn't fully understand what was going on. And I don't want that to sound like a, you know, inexcusable neglect issue, but, you know, just as one example that was raised by the applicant, they met with the applicant on the day that the public notice was put in the newspaper, but he didn't mention this project, that he didn't say, oh, I'm, I'm putting, I'm putting this application in, and so, you know, part of the issue here is that, you know, they've had to do all of this additional work to figure out, like, you know, what exactly is going on here. And then to realize that this project is actually being proposed. So, you know, in terms of counting the days, I do feel that that, you know, based on the purposes of this process, is it's an argument that doesn't address the fact that there's no prejudice to the applicant, especially where he's changing his application just days before this hearing, which is a month after the last hearing. So, I don't know that I'm, I'm, I don't know if I'm satisfactorily addressing your question, but I do think if you look at the totality of the circumstances, that if you do find that there was neglect in, in filing the petition by a certain time, that it's excusable under the under the totality of the circumstances.

Ms. Streufert: Thank you. I was just trying to figure out what the, what the excusable neglect was.

Ms. Barzilai: (Inaudible).

Chair Ako: Please.

Mr. Donahoe: Thank you. Thank you, Chair. If I could just bring up one more fact in looking, because I'm reviewing the definition of excusable neglect, and part of that definition under 1.4-2 C2 says, carelessness, ignorance of the rules and deliberate or willful conduct do not constitute excusable neglect. My understanding is Miss Hammerquist last week emailed the Director, and the Director can confirm this and basically said, if you don't kill the...recommend killing this project, I'm going to file a Petition for Intervention. So, is that deliberate or willful conduct? I don't think that if the commission considers it so, I'm just bringing that up as a consideration as to whether that, that's not excusable neglect, that's an attempt to...so...Thank you.

Chair Ako: Mr. Collins, I think I just got to address the elephant in the room. Yeah. I mean, we're looking at 35 days after the deadline that the petition was submitted. And I think that's the hump we're trying to get over. Help us get over that. How do we get over that hump? That 35 days passed and then a petition was not filed.

Mr. Collins: Sure. So, first I just want to state that, you know, I'm not exactly sure what email my colleague is referring to, but I can tell you that a week before this hearing, the petition to intervene was already filed. And some of the declarations were, you know, signed a few days before it was filed. So, I'm not exactly sure what that is. I have seen some correspondence between Miss Hammerquist and the Director and I'm not sure what my colleague's referring to,

so I just want to put that in the record. So, I want to go back to my opening statement because I think this is very important. There has been a ground change in the jurisprudence regarding notice and participation in public processes before the Hawai'i Supreme Court. They don't look at these issues of, you know, is it five days? Is it ten days? Is it 15 days? The only time that that matters is if it's jurisdictional, and whether or not the petition is timely filed is not a jurisdictional issue for this commission. So, if it is not jurisdictional, then the factors that they look at are what are the policies? What are the public policies that are that basically inform the process that's being done? And is there a way without prejudicing any existing parties? Is there a way to ensure that the matter is heard on the merits, as opposed to a technical dismissal, that that is how the appellate courts look at these issues. The applicant can't describe any prejudice that would occur by granting this petition and whether it was filed 35 days or ten days or eight days before is, in our view, is not a material consideration to determine whether or not there is good cause, because the rules themselves say that they are, that the policy of these rules are to have a systematic and democratic way of decision making and determining the matters before you. And if you construe it in that way, intervention should be freely granted to the extent that it will provide you folks with a complete record as possible, and that trying to count days that something is late, in my view, is not a material factor in considering whether there's good cause or excusable neglect, and particularly because in response to the Petition to Intervene, the applicant made a whole bunch of changes, even though, of course, we still contend that there's things that are unlawful with regard to the form-based zoning and other matters, that that demonstrates that, in fact, the petitioners are actually providing a good to this, to this commission by bringing out all of the necessary issues that ought to be addressed. So, you know, our argument is that the material factors that should be considered are whether or not the petition will aid the commission in a complete record, whether there's prejudice to the applicant, because that's the whole purpose of having this commission consider the applicant in the first place, is to consider all of the issues. And there are folks that have concrete interests, constitutional, constitutionally recognized, concrete interests, you know, and they would like you to hear the full record so that, you know, if you approve this, that you approve it in the right way, that addresses all of their concrete interests and that of the community.

Chair Ako: Okay. Commissioner.

Ms. Streufert: Let me just get something straight. If...whether it's approved or disapproved or rejected, we can still hear the merits of this application after this. This is not about the merits of the case right now. That's a substantive part of it. And, or I guess I would like to have some clarification from the county attorney, as well as from any of the other attorneys. Is that correct or am I wrong?

Ms. Barzilai: I think, commissioner, it means the application, not the (inaudible)...

Ms. Streufert: I'm sorry, the application.

Ms. Barzilai: ...to intervene. The application itself...

Ms. Oyama: Laura.

Mr. Donahoe: Just to clarify, you mean that the application for the proposed development?

Ms. Streufert: Correct.

Mr. Donahoe: Yes. That would still...

Ms. Streufert: So, we can still hear all the concerns and everything else that, and we would consider that in any conditions that we would apply for any approval or disapproval. Correct? This is not the...this is about the timeliness of it, the procedural aspect of it, and whether we can reject, we should reject or accept the...

Mr. Jung: I'm not sure...commissioner, I'm not sure if that question is directed at me, but if I may, I can take a stab at answering that. So, the process will continue, whether they're a party or not, a party. The commission will still get to evaluate the application. The commission will still get to hear from the general public and what concerns are, and the commission will still have the ability to propose conditions to mitigate the impact of the project.

Ms. Streufert: Thank you.

Mr. Jung: The only question is whether or not they should be a physical party to then defer this to a long and arduous contested case hearing.

Ms. Streufert: I appreciate that, that explanation. You said it much better than my question could have ever asked it.

Chair Ako: Other questions?

Mr. Collins: Mr. Chair, can I have an opportunity to respond to that question?

Chair Ako: Please.

Mr. Collins: All right. You know, I, I would say that, you know, allowing members of the public, three minutes to provide oral testimony is not a substitute to an adversarial process where people with contending interests have the opportunity to examine each other's witnesses and to present evidence in a manner that's more orderly and conducive to what would somewhat be an adverse, somewhat adversarial process. And I think that there are cases that have indicated that the fact that a contested case would increase the, you know, any kind of intervention will always cause some kind of delay, and that it goes back to whether or not, you know, that there's prejudice to any side. And because there is no entitlement to the commission actually approving anything, in our view, there's no prejudice by having a complete record. And so, we do think that that's good, cause, we do think that that's good cause that would allow for, if you folks believe that it was filed untimely, that it would be a good, good cause to grant the petition.

Chair Ako: Yeah...

Ms. Barzilai: Chair, I would just suggest that Mr. Collins, argument presumes that the commission would find standing if you do accept the petition, and we're not even there yet, we're still on a procedural issue right now. So, there would be other hurdles to overcome before those items would be considered.

Chair Ako: So, I think we get what you're saying. Yeah, we get what you say, but just that we're not there yet.

Mr. Collins: Sure.

Chair Ako: We're not there. We're still stuck on the part of the rules, the first part of the rules to say whether we accept the petition or not.

Mr. Collins: Sure, sure. But you folks have to presume standing because otherwise you would have considered the standing issue first, right. So, if you're considering the timeliness issue, you have to presume that there's standing, because...

Chair Ako: No, no.

Mr. Collins: ...otherwise there would be no reason to presume...

Chair Ako: I think first whether we actually going to take it and then figure out whether there's standing.

Ms. Barzilai: Mr. Collins, we're not in an agency hearing right now. The agency hearing remains closed, and this has actually gone on for longer than anticipated because the procedural defect or not has to be determined first. The rules indicate...

Mr. Collins: Yeah, I understand that, yeah.

Ms. Barzilai: ...the rules indicate the petition as accepted, and I don't think the commission has yet accepted the petition as if it were still on the counter.

Chair Ako: Because should we accept it, then I think we address whether there's standing or not. Yeah.

Ms. Barzilai: The agency hearing was closed.

Chair Ako: Yeah.

Ms. Barzilai: At the last hearing. So, it would require a motion of this commission to open the agency hearing.

Chair Ako: Okay. Commissioners? Commissioner Cox.

Ms. Cox: I guess I'm struggling with the...it seems to me that we do have rules, in fact, that define timeliness and also that there are two exceptions, including good cause and excusable neglect. But the way good cause and excusable neglect are defined, and we could read them again if we want, seem to differ than the way that phrase is being used by the petitioners. So, it seems like, as a commissioner, I feel like I have to follow the rules that we have been given as commissioners.

Chair Ako: Okay. Any other questions? If not, are you ready for a motion? Unless we have any other questions? So, I think at this point, if we have no further questions, one, I think we can go

into executive session again. Commissioners can proceed to move to reject the petition as untimely, or three, commissioners can proceed to move to accept the petition as timely and sufficient as to form. One of the three.

Ms. Streufert: Okay, I'll move to reject the petition as untimely, which fails for procedural defect.

Mr. Ornellas: Second.

Chair Ako: We have a motion and we have a second on this. Any further comments or discussions?

Ms. Cox: Yes. I would just like to remind the commissioners, as well as the public, that that does not mean that we will not discuss the issues that have been raised, both by the public and by ourselves in reading the actual application.

Ms. Barzilai: Any other discussion, Chair? Motion on the floor is to reject the Petition to Intervene as untimely under Rule 1.42. Roll call.

Chair Ako: Okay, if we can have a roll call.

Ms. Barzilai: Vice Chair Cox?

Ms. Cox: Aye.

Ms. Barzilai: Commissioner Ornellas?

Mr. Ornellas: Aye.

Ms. Barzilai: Commissioner Otsuka?

Ms. Otsuka: Aye.

Ms. Barzilai: Commissioner Streufert?

Ms. Streufert: Aye.

Ms. Barzilai: Chair Ako?

Chair Ako: Aye.

Ms. Barzilai: Motion carries. 5:0. We will now go into the substantive consideration of the application, starting with public testimony.

Chair Ako: Thank you very much.

Ms. Barzilai: The attorneys are welcome to stay to give testimony if you choose.

Mr. Collins: Thank you.

Chair Ako: We will take a five-minute recess just to reset again. Thank you.

The Commission went into recess at 11:22 a.m.
The Commission reconvened from recess at 11:29 a.m.

Chair Ako: We shall reconvene the meeting.

Ms. Barzilai: Chair, we're at the stage of testimony, so...

Chair Ako: If I can interrupt you a little bit. We'll take public testimony now, and, but we will break at no later than 1:00 for lunch. Okay? Hopefully we're at that, we should be done by then anyway, hopefully.

Ms. Barzilai: So, we have some sign up lists and we're going to go through those lists. And then anybody else who wants to testify or would like an additional three minutes to testify, is welcome to do so. We're starting with Avery Youn. Please state your name for the record. You have three minutes to testify.

Mr. Avery Youn: I didn't realize I was (inaudible). Good morning, commissioners. My name is Avery Youn.

Ms. Barzilai: Turn on your mic.

Chair Ako: Thank you.

Mr. Youn: Good morning, commissioners. My name is Avery Youn, and I'm here to testify on this issue because it has island wide impacts. Because form-based code for Kōloa was initially supposed to be a pilot project, but it's being applied to the entire island. Kōloa, Kalāheo, Waimea, Kekaha, Līhu'e, and now they considering it for Kapa'a also. So, that's why I'm here to...your decision today may be precedent setting. Okay, this I submitted written testimony, but I have here a summary and hopefully I can get through this within three minutes. Excuse me if I go a few seconds over. This decision you make today may affect other towns on this island because of the form-based code being applied to all the other communities, and I wanted to make sure that if the precedent you're setting, whereby you can allow higher densities with lesser parking requirements and roadway improvement exemptions, it might put a strain on existing infrastructure in other communities and probably lifestyles. And what this application is basically asking you to do is put in a T4 development in a T3 zone, transect zone. And technically this is supposed to be a zoning amendment, not something you do through a Project Development Use Permit. So, if you make a decision like this, you're allowing a higher density application to be built in a lower density transect zone. And if you read the South Kaua'i Community Plan, when they speak about T3 in Kōloa, they were always speaking about medium to lower density, and this (inaudible). When you triple the density from R6 to R16, that's no longer medium or lower density, that's high density. So, my testimony today talks about the form-based code and the zoning ordinance, how it's related. And I think that you should defer action on this project until it's amended. And these issues are properly addressed. The first one is density, whereby the community plan concludes that Kōloa should be medium density. However, there is no definition for what is lower, middle or higher income density, higher density. And there's no density deviation criteria in the transect zone either. So, when you deviate from

density, which basically starts with the underlying zoning at R6, you're deviating to R16. That's a major deviation, and I couldn't find anywhere in a form-based code where you're allowed to do that. It's strictly open ended. According to the application, there is no criteria for increase in density, so it shouldn't be like that. There should be some criteria recognized in the form-based code, whereby give you the opportunity or the Director to use discretion on increasing density, but there isn't any. So, I'm not, that's why there's no justification in the report or in the planning report or in the application as to justification for increased density, because there's no criteria in the form-based code that I could find. And maybe if you can find it, maybe you can let me know where it is. Also, this form-based code for Kōloa was adopted as a special planning area in a zoning ordinance. If you go back to the special planning area, you will find it's...that it does have...

Chair Ako: Mr. Youn, your three minutes are up. If you can just...

Mr. Youn: Excuse me?

Chair Ako: Your three minutes are up already, so...

Mr. Youn: Can I just finish this section on this?

Chair Ako: Very quickly. Very quickly.

Mr. Youn: Okay. You will find it in the special planning area in Kapa'a there is underlying density, which is, it's the underlying zoning for special planning area A it's R 20 which is general commercial special area planning B it's R10, which is neighborhood commercial but for Kōloa, there's nothing like that. So, if you're going to deviate from density, there should be criteria that you can use to justify increase in density.

Chair Ako: Thank you very much.

Mr. Youn: I hope that you read what I wrote because this is just a summary. Thank you.

Chair Ako: Thank you.

Ms. Barzilai: Next, is Bridget Hammerquist.

Chair Ako: Good morning.

Ms. Bridget Hammerquist: Good morning, commissioners. My name is Bridget Hammerquist, and I've heard it used a couple times this morning in error, major error. Never wrote an email threatening to kill a project or saying anything of the type. In fact, after the community meeting in Kōloa, I gave Mr. Serpa the courtesy of a call, and I said we felt there were so many changes with the new plan that he was talking about at the meeting, because he told us that night, how he intended to change it in some measures that we would be needing to file a Petition to Intervene, because people who live in the area do not have notice. There was to be access off Waikomo, and there is an issue now as to where that access is. The Director's original approval letter only mentioned access off Hapa, and Weliweli, it still doesn't mention access off Waikomo. We don't know what a blacked out future phase means. It's segmenting the project. There's a lot that's

happened, but I gave him a courtesy call and I said, why not withdraw the current plan and let's meet as a community and try to find something that works, because so many of the neighbors off Puni Road are upset. With respect to the meeting he had at my house, I feel especially used. That was on December 12th. He called me personally and said, I'd like to come and speak with you about the future of Kōloa Town and maybe some new development. He didn't detail the development, other than to spend a lot of time on his current 60-unit, which is not occupied yet behind Kōloa Village and Creekside, where he hoped to have some housing for elderly people that they could walk to town. We were not told of 164-unit project that was then in the works. We were not told there was public notice being printed in the paper and I'm legally blind. I'm sorry I don't read public notices, but there was a real defect in the notice, and I feel really used that. And everyone who came to my home that day, by the way, I asked him, why don't I bring some other people from town like Jeri Di Pietro, who's president of the Community Association, Liz Okinaka, Save Kōloa, Carol McCarthy, they all came. They all heard him. Each of them will tell you, we were not notified of this plan in any way, shape or form. And I resent the lie, and I think it should be seriously considered because it speaks to the integrity of the developer. With respect to what he's building, form-based code is controlling now since it was adopted by law. And if you read form-based code, and I'm sure the planning director can provide planners who can help understand, but the form-based code actually sets, prescribes what distance the houses should be from each other, how much their yard should be, single family homes, duplexes, it does not allow for multiplexes. And Mr. Youn is right when he said you can't modify the form-based code because there's nothing in it that gives the commission the authority to do so. That is the law that applies to Kōloa Town and the transect zone VE3, which is where this is, is a village edge, is supposed to soften the town core impact on the ag lands beyond.

Chair Ako: Okay, your three minutes...

Ms. Hammerquist: ...it's not intended to have a big barrier in it, and I want to make a record of the fact that there's never been any communication of the type that was attributed to me today, and I resent it. I was at a surgeon's office January 13, and as an individual, I honestly did not know about the meeting that day, and I apologize.

Chair Ako: Okay. Thank you very much.

Ms. Hammerquist: You're welcome. Thank you for hearing me.

Ms. Barzilai: Chair indicated that he will allow another three minutes after all of the testimony is done, if there'll be people who want to speak more. Next is Lauren Valente. Please state your name for the record. You have three minutes.

Chair Ako: Hello Lauren.

Ms. Lauren Valente: Hi. My name is Lauren Valente, and I want to start by thanking you all so much for your time this morning. It's very much appreciated that you would hear us. I'm a Kaua'i business owner and now, thanks to Mr. Serpa, I'm also a Kaua'i homeowner. For a long time I was just a renter and an employee, but because of the opportunity to purchase in the Kauhale condo project, I am a homeowner and I'm an employer. I'm proud to be able to create jobs on island and serve my South Shore community. I know Mr. Serpa feels the exact same way. I'm

only able to do that, be a business owner because of the confidence and the permanency that homeownership has given me. Developing Kōloa Town in the way that Mr. Serpa has proposed, it really means so much to so many of us. You know, gap housing means a chance at real equity for members of the community stuck in the cycle of renting, like my husband and I were. It means less land being sold off to luxury vacation rentals and residences, you know, and for me, it means new life as a Kōloa business owner. And I know a lot of business owners feel the same way I do. But that's not all I represent. I also represent a wide network of pedestrians, runners, walkers, cyclists who are so eager for Kōloa to become more accessible and a whole lot safer, thanks to this project. The sidewalks and bike lanes that are being put in all around Po'ipū has us all so excited. And along with the work Mr. Serpa is doing in Kōloa, will mean less memorials along the bypass. More people choosing to leave their vehicles at home when they could just walk to Kōloa Village to get groceries, get dinner and, you know, parking has been getting brought up, you know, parking along the main roads, for me, you know, as a walker, as a runner, that's the safest I'll ever be when there's parking in between me and the guy who just blew the stop sign because he was texting. And if you don't feel bad for me, feel bad for the little kid riding his bike on those back roads, you know, so for me, you know, instead of worrying where to put all the cars, I think it would be better if we simply didn't need as many. So, I urge you guys to support and approve this project, you know, to not approve affordable housing, more affordable housing for those of us stuck in the middle, it's a dangerous precedent to set for me to not approve of better pedestrian infrastructure is a wasteful mindset. The people in my community, you know, we trust Mr. Serpa because he genuinely cares about Kōloa and about Kaua'i. Our town is already better for his efforts and I, along with many, are so eager for that future that we're building together. So once again, thank you so much. I'm headed to work now, so if anybody standing outside wants my seat, it's going to be open.

Chair Ako: Thank you.

Ms. Barzilai: Thank you. We had a couple of complaints that were not speaking loudly enough. So, if anybody needs us to speak up, just let me know, please. Thank you. Next is John Patt.

Mr. John Patt: Can you hear me?

Chair Ako: Loud and clear.

Mr. Patt: I'm a little 21st century challenged, so please put up with me. My name is John Patt. I am a Kaua'i resident since 1984. Not quite the same as being local, but then if you just arrived in 2012, you're not local either. We've... Kōloa residents since 2000. Currently homeowner. My wife and I retired from a small business in Kōloa. We worked there for 20 years. It was an exclusively Kaua'i made store and Kōloa has done us very well. I oppose the granting of these permits of both of them. Given the, given the location of the project and the status of the existing road, a traffic impact study must be completed. The road serving a proposed project are narrow and tightly bound by existing commercial and residential uses, leaving only a narrow or nonexistent shoulder. Weliweli Road, makai of Waikomo Road, has a pavement width of just over 18 feet. I personally measured this with another person here. Likewise, the pavement is the same for Waikomo Road, west of Weliweli Road and narrows to just over 15 feet at the Waikomo Stream Bridge with concrete abutments, making it impossible to pass on either side. These pavement restrictions would slow egress from the project in an emergency, while likely

precluding access to the area for emergency vehicles. Even under normal conditions the addition of approximately 300 vehicles and picture this, you take 300 vehicles stacked end to end, that's a mile long, just without moving, just placed end to end. That would create safety hazards, including those for school children, and a dramatic increase in use would compromise the integrity of the pavement. Accordingly, a traffic impact study must be completed and made public as part of the consideration of this application. Thank you.

Chair Ako: Thank you.

Ms. Barzilai: Carole McCarthy.

Ms. Carole McCarthy: Carole McCarthy.

Chair Ako: Morning.

Ms. McCarthy: Resident of Kōloa. In his 20 years of real estate salesman as a real estate salesman Mike Serpa held positions of leadership with track housing, building empire Pulte and its subsidiary Centex both have a long history of being sued and losing cases for structural defects by homeowners and the EPA for violations to clean to the Clean Water Act. Pulte design. Centex, Mike's latest, most current affiliation to quell protesting environmentalists and community leaders by partnering with organizations that serve seniors, special needs, and social and low-income segments of the community. Using buzzwords like affordable housing, despite their proven lack of construction ethics, they won over Land Commissioner's approval and continue building their developments in mayhem. Mike is now using the buzzword gap housing, gap housing, which sounds great in concept but is useless really that what the Lauren aside, she is renting from him and she is, she does not have a large family. But anyway, to Kaua'i's most underserved market young working-class families, the lowest price for this development will get them one bedroom in a multiplex for...he's now saying it's 520,000, he said, and he's also said 600,000. I've heard a higher price. Hearing our protests he has dropped it from that 600,000 to the 520,000, and the not knowing of what he's going to say next is what's really bad and why we, the petition came out when it did. These multiplex units are a bargain for Kaua'i's older luxury homeowners and mainlander retirees seeking to purchase a second property for an investment they can buy and flip, or to own as a vacation rental. Kaua'i has an abundance of housing for these buyers. Predatory developers from the mainland have turned their exploitative sights on small island counties like Kaua'i, because it is increasingly difficult to get development approval on the mainland, they seek out communities with trusting leaders in aloha population who won't protest government officials that they can as a ethics commissioner told me, pay to play and land commissioners who are pushovers for these smooth talkers. The commission will break existing county ordinances for density and environmental laws if they allow this development to be built. These ordinances were put in place to protect us and our land. This parcel of land sits on Kōloa's historic hapa land. It is fragile. It's fragile ecology and environment are in danger, as are the homes that surround this property. Historic families near this property are experiencing water already. Water runoff from the project that's already being worked on. In 2009, a state archeological study of the area advised that building on it will endanger the environment and the change, and change the culture of Kōloa. This land sits on geologically fragile lava caves, which have served as nature's natural water drainage system...

Chair Ako: Three minutes, Ms. McCarthy.

Ms. McCarthy: ...conveying water from the mountains to the sea for millennia. Blasting for structures of any kind can disrupt our God given water flow system and cause serious flooding. The roads to this property do not mean mandated regulations for safe evacuation in case of emergency. People would be trapped on those roads. Kaua'i county...

Chair Ako: Can you wrap up, please?

Ms. McCarthy: ...Okay. Infrastructure...

Ms. Barzilai: Ms. McCarthy...

Ms. McCarthy: Can I...

Ms. Barzilai: ...you're welcome to come back again if you would like to.

Ms. McCarthy: Kaua'i infrastructure is overburdened. Our small island cannot sustain the rapid volume of vehicles on our roads, and the increase of sewage and the use of our scarce supply of fresh water, rapid influx of high density, down...

Chair Ako: Ms. McCarthy, thank you very much.

Ms. McCarthy: ...density housing...

Chair Ako: We got it.

Ms. McCarthy: ...is down to 140.

Chair Ako: Thank you for coming.

Ms. McCarthy: Yeah. You want me to stop?

Chair Ako: Thank you very much.

Ms. Barzilai: Thank you so much. But we have to accommodate...

Ms. McCarthy: May I have your permission...

Ms. Barzilai: ...probably another 30 or 40 people.

Ms. McCarthy: ...to leave the copy of what remains of my testimony?

Ms. Barzilai: You're welcome to come back up for another three minutes, if you'd like. And we can leave it right there at the table if you would like, so that everyone can see it.

Ms. McCarthy: There?

Ms. Barzilai: Sure.

Chair Ako: Thank you.

Ms. McCarthy: All right. Thank you.

Ms. Barzilai: Thank you, David Jay Ledee. Sorry about that, L-E-D-E-E.

Mr. David Ledee: Good morning.

Chair Ako: Morning.

Mr. Ledee: My name is David Jay Ledee. People know me as Chef Jay, actually known as. Full disclosure, I do rent a studio from Mr. Serpa, and I am actually renting a space in his mall under Mura Izakaya. For me as a new business owner, we've been open about six months, we take our pride in servicing the locals. I have ten employees right now and every single person is a local person, either from, I think all my employees, excluding myself and my partner, are from Kaua'i. Four people right now that walk to work and is very convenient. This project will allow my workers to actually afford something, because every single one of them is either living with their parents or to tell you the truth, every single one of them are living with their parents, and this would give a good opportunity to them to own something in paradise, which is, in my opinion, very unobtainable right now, because the cheapest thing you can buy is probably about \$850,000. It will be a big impact to the community, bringing a lot of people, a lot of cars, but as a business owner, it will bring me business. But it's bringing business to locals that I have a payroll for, and that to me is my biggest thing, is to help people of the community and give them opportunity, which up until this point I have been able to do, so a lot of people will be upset that I do support this project, but for me, in the long run, I think it will be a good thing for the community. That's all I have to say. Thank you.

Chair Ako: Thank you.

Ms. Barzilai: Kane Turalde. Or Cane, sorry. Mr. Turalde? Is Mr. Turalde outside? Okay, we'll come back to him. Jason Dameron. Jason? Jason Dameron? Rebecca Jebanathan, Rebecca?

Unknown Male in audience: They're both. They're both right there.

Ms. Barzilai: Guys coming in? Okay. We'll just keep going until somebody comes. Greg Eaton?

Unknown Woman in audience #1: They're having a hard time hearing outside.

Unknown Woman in audience #2: This is Jason.

Ms. Barzilai: There's a report that the audio is difficult outside if somebody wants to address that. Are you Rebecca?

Ms. Rebecca: I'm Rebecca.

Unknown Male: She's Rebecca.

Ms. Barzilai: Oh, hi, Jason. Jason Dameron?

Mr. Jason Dameron: Yes.

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

Mr. Dameron: Thank you. Good morning. My name is Jason Dameron. I'm here today in support of this project. My wife and I were married at Saint Raphael Church, just around the corner from this project. This last meeting that we had, town hall or whatever it was called in Kōloa Town, that room that we were in was where my daughters celebrated their first birthday, both of them. We live, you know, five, ten minutes walking from there and that's where we live. Let's see, so, speaking of high density, you know, we already live in high density houses. It's single-family houses with multiple generations in these houses. So, you know, this is an opportunity for us to have a house, you know, for our children pass it down to our children and that's, you know, kind of what I'm here for. You know, the community, Kōloa community is not, it's not houses or buildings, right, it's the people that are there, the people that are from there and, you know, we all know house prices are going up. People are having to move away. And I'm really looking at this as an opportunity to keep my children home, should they choose to do so. You know, there's talk about like traffic and, you know, it's inconvenient, but it's much, much more inconvenient that our kids have to move away. And I really hope you guys consider that, you know, we're, we often see, you know, save, you know, protect the monk seals, they're endangered, you know, protect the turtles, they're endangered. Well, our children and our families are endangered, they're critically endangered here. And I think that that's something that's not being addressed. And I think that that's an important something important to consider. Thank you.

Chair Ako: Thank you.

Ms. Barzilai: Thank you. Did Mr. Turalde come in the room? Rebecca Jebananthan.

Ms. Jebananthan: Hi.

Chair Ako: Morning.

Ms. Jebananthan: I am Rebecca, and I'm nervous, so I'm reading off my phone. So, I live here in Lihu'e in a two-bedroom, two bath condo with my 14-year-old son and ten-year-old daughter. And that's not enough room. I am here in support of the proposed South Kōloa Town project. From what I can see, a large part of those who oppose this project is made up of people who are retired, have made their money and have come here to retire in what is a vacation destination to them. That's a very different place than myself and many like me are in. We are right in the middle of everything. We're in the middle of life, raising our children, making a living. Our income level is right in the middle and it's a really hard place to be, especially on this island. On top of all that, we're in a major housing crisis and it's hard, it's hard to do it all, and it is a very difficult pill to swallow when people who are so disconnected from this part of life, this income level, just hearing them say they don't want us to have the opportunity to own like they get to own. Is it fair that we are expected to rent for our whole lives? Just hide us away so that we're not an inconvenience to the people who want to live in their permanent vacation bubble and quaint Kōloa, I don't think that that's fair. There are some of us who are living real life, taking our kids to school, soccer practice, trying to get to work and build a family. I think for some

people they mentioned living in a house with land where your children can play in a backyard, and unfortunately, that's just not a reality for many of us. I actually make a pretty good living for myself and my two children, and I've crunched every number there is, and currently that's not an option for me. There are also some people who have been passed houses down through the generations, and that's amazing. And that's really lucky for them. But it is not a luxury that many of us have. A lot have moved off island in order to give themselves that opportunity, but that's not an option for me. I do believe that something will get built on that piece of land, and I'm asking that you all make a decision that supports helping people like me. At the community meeting, somebody mentioned, I think somebody that was in the opposition mentioned it would be better just to build 40 or so houses instead of this project. And my heart really sank because even though I don't do this for a living, I can tell immediately that this sort of housing will never be for me. While I do hear all the reasons not to do this, including parking and traffic, I truly hope that housing families on Kaua'i is realized as the most important matter at hand, really, above all else. So that's all I have.

Chair Ako: Thank you.

Ms. Jebanathan: Thank you.

Ms. Barzilai: Greg Eaton? Roy Shioi? Oh, hi, Greg.

Mr. Greg Iten: I'm Greg Iten, and I'm a retired architect with 50 years' experience, and I don't want to comment on any of the procedures that have gone on earlier. I think they've been addressed, and I just wanted to comment on the density and the design for this parcel there. The South Shore Community Plan indicates that it's a neighborhood and neighborhood edge, and a transition from town to agriculture. And I believe that the design of this is basically a wall between the town of Kōloa and the agriculture open spaces there. The other thing that is very bothersome is that 180 N was deleted now from the project, and it does not provide any cul-de-sac or any turnaround for emergency vehicles and or and or exit to Waikomo Road. So, I don't know what's going to happen if there's a fire or some emergency and emergency vehicles get in there, they'll be stuck there, somehow they're going to have to get out. But it is a real problem in the design and the density is very bothersome. Thank you very much. Lastly, I wanted to just say that I feel that this is certainly an urban design, not even a suburban and certainly not a rural design at all. Thank you.

Ms. Barzilai: Thank you. Roy Shioi.

Mr. Roy Shioi: Hi. My name is Roy Shioi. I'm the president of Shioi Construction. Regarding last week's community meeting, I heard some pretty frivolous comments. Comments such as not in Kōloa. Move it to Princeville, Lihu'e, even Moloka'i. You know, that's just not feasible. There were comments about down less density R-6 zoning, 49 houses, less density. Again at what cost? Developers stated the cost would be over 2, 2.5 million. Who can afford that? Not locals. It's more for the wealthy. Comments suggesting that the developer is only doing this for profit, and condemned all people and businesses that were there to support the project for money. I wanted to ask these people, what developer or business you know, that doesn't need to make a profit to survive. These are just a few examples, I'm sure you will hear many of them again today, but to me, some people are just naysayers. One track mind everything is no, no, no or because they got

an email blast saying, hey, there's a crisis in Kōloa, come help us stop this. You know, without, you know, they didn't even want to hear about the presentation or the good things that this project brings. Without progress and development, none of us would be here today. We would all be on Moloka'i. I know it's frivolous, right? You know, these people don't understand that it has to pencil out. Our company has been here for 63 years, and we've built many projects across the island, and we have over 100 employees. Part of our motto is, we build for the community, and I, we, I believe, we believe that this development does also. This developer does his homework, and he builds with the community in mind. He did, he researches buildings built back in the early 1900s in Kōloa and mimics the design and the historic look that blends in with the community, evidenced by the shops at Kōloa Town and villages across the street. It is not for the rich like Po'ipū or Kukui'ula, but for local people. It provides much needed gap, housing 500 to \$750,000. The focus has been on affordable or workforce housing, but equally important and not enough is gap housing. People such as teachers, police, nurses, even doctors who can't qualify for affordable workforce housing. There is nothing affordable for them to buy. Just last week we had we had a dentist approach us to build one, two-story, eight unit house, so he can bring his dentists to Kaua'i because they won't come, because they can't afford living.

Chair Ako: Three minutes, Mr. Shioi.

Mr. Shioi: Okay. Lastly, the project will financially support Kōloa. You know, our employees, hundreds of other jobs for suppliers and subcontractors and local businesses. Lastly, every project has its issues and requirements have to be met and worked out. No project will be perfect and satisfy everyone, but I believe this project will be done well with balance, with the community in mind and provide the type of housing that is badly needed on Kaua'i.

Chair Ako: Thank you.

Mr. Shioi: Thank you.

Ms. Barzilai: Arna Parr or Ana Parr?

Ms. Arna Parr: Hello everyone.

Chair Ako: Morning.

Ms. Parr: Thank you so much for allowing me to speak. I'm kind of nervous.

Ms. Barzilai: If you could please state your name, Ms. Parr.

Ms. Parr: Arna Parr. A brief history is, my husband and I came here in 1973, moved to Kaua'i. We've raised a family here and I don't think I could follow that gentleman. He said everything I wanted to say. All of you have families here. You all have seen friends and family move away simply because they do not have affordable housing to buy. I'm in favor of this project because it's something that young people can start out in. And if any of you have any doubts of the quality of this, you should all go and look at it. The shopping center, it looks like old Kōloa Town. It looks like a western, like Waimea. I just can't tell you how much I support this project. I think you should all go take a look at it. Go to the shopping center. And I think the commission should listen to the people who are here working, making a living here. You know, the people

that do come here and retire, they're not having to be part of the community. You know, the ones that don't want to keep it quaint and as is. And that's all I have to say, really. I'm going to give someone else more time.

Chair Ako: Thank you.

Ms. Parr: Thank you.

Ms. Barzilai: Leah...

Ms. Oyama: Laura, your microphone.

Ms. Barzilai: Sorry, Ms. Lisa. Leah, sorry I can't read your last name.

Ms. Leah Brown: Brown.

Ms. Barzilai: Leah Brown.

Ms. Brown: Good morning. My name is Leah Brown. I have lived here for 40 years in the Kalāheo area. This is really personal to me in the sense that I have five grown sons who are raising families now. They were all born and raised here, and they're back on the island, and it is a topic that we discuss a lot about what the future looks like for us and them raising, growing families and being hard workers in the trades. We are a middle-class family and we work really hard, and I see this as only positive as it is a foot in the door. It is a place to start for them and their growing families. Really, I don't have a whole lot to say other than I'm for this and it does benefit people. If it's not a condo or a small area they want to live in, it is a starting point to grow from there and it does give opportunity. So many things that I wanted to say have already been said, so I concur with those. And last but not least, I work with and for Mike Serpa and he is a good man with good intent. And I wouldn't say that if I didn't believe that strongly. So. I'm in support of this fully. Thank you.

Chair Ako: Thank you very much.

Ms. Barzilai: Diana Anderson. Hi, Ms. Anderson, please state your name for the record. You have three minutes to give public testimony.

Ms. Diana Anderson: Thank you. My name is Diana Anderson. I live in Kōloa, and I do want to thank the commission, commissioners for all their tireless work on stuff like this. I really appreciate it, and I appreciate all the people who showed up for their community today. And I don't think we have a question in our mind of whether or not we need good housing on Kaua'i. That is not up for question or debate. Do we need housing? Do we not need housing? No, we need housing. What I would like to talk about today is the approval process is in place to ensure that we have good design, that we meet the needs of the current infrastructure as well as the demands the project's going to put on that infrastructure, and that we have a long-term vision for the area. So, you know, yes, we need housing and yes, a lot of people need housing, but we need to be thinking about...and when I talked to Mr. Serpa and I asked him a question, I said, I have been, I'm a commercial real estate broker on the mainland and have been for 20 years, and I have been a part of many developments, both residential, commercial and some multifamily. I have a

CCIM designation. I have been in commercial for a long time. I've been at these meetings in the mainland. Having the right plan is so important and people might support this plan, but it doesn't have a lot of what it needs. It was not well thought out that, I, you know, we can talk about the fact all day long that some people have one car, but it took me 15 minutes to park here today and I had to park where my car is in a metered parking. There was no parking. We're going to add, I live in Kōloa, there's going to be no parking. And Mr. Serpa assures us every one of those units will have one car. I don't agree with that. I think that we need to address the parking for this project. We need to address green space. He doesn't have a plan for green space. And their answer when I asked him about it at the neighborhood meeting was, well, nobody wants to pay the HOA dues. Okay. How much HOA dues does it cost to mow grass and have a picnic table? There's no green space plan. There's not enough parking. There's no traffic study. Those roads are small, and the infrastructure is going to add some sidewalks in one area. Yay! We are going to have some sidewalks in one section of that area, but there is a lot of infrastructure that is not being considered here. I think the plan needs revisited. Emergency vehicle turnaround. Yes, that needs to be done. There's a right way to do the plan and a right way to provide housing, and we need to come together and think about it. Let's see. Let's have the neighbors talk about it. What would be the right plan for this land? And that's really what I want to see happen is a better plan. Thank you.

Chair Ako: Thank you.

Ms. Barzilai: Sam Pratt. Is Mr. Pratt here? The audio is, the audio is not operating outside. Is that a fact?

Unknown Woman in audience: It's a lag.

Ms. Barzilai: Sorry. Okay, I'll talk slower. Hi Mr. Pratt. Please state your name for the record. You have three minutes. Yes, please.

Mr. Sam Pratt: Sam Pratt, for the record. I'm a sixth generation, kama'āina resident of Lihu'e. I don't normally come to these processes very often, but I felt it was important to come today, mostly because I support the need for more housing on this island. And in particular, when I hear that there's going to be gap housing, that's just something that's not being done right now. There's a lot of affordable projects coming up, different investor groups, the county, there's obviously market housing, which is kind of over the market if you ask me. And finally, someone's come forward to say, I'd like to put together a gap housing idea. So, I'm here to support that. Housing that could be for educators, health care, first responders, nonprofit employees, government employees, business employees, people that all live here. They finally have a chance that maybe they can afford a home, a residence on Kaua'i. Some of our people have had to leave Kaua'i, move to the mainland or elsewhere just to find housing, and hopefully they'll be able to someday consider moving back because there's housing such as this being developed. Hopefully others will consider doing the same kind of development. I realize this project is challenging, it's complicated, it's over my pay grade. I don't understand all the issues, but I'm sure between the Planning Department, you commissioners, the developer and others, there should be a set of conditions that would be agreeable and would allow the project to go forward so that there could be housing like this available on Kaua'i. I have no connection to the developer. I'm not an investor. I'm not going to buy a unit there. I'm just here as a community member that runs a

family business. It's on maybe too many community boards and we need housing like this on our island. I'll finish by thanking you, commissioners, because you're here as volunteers, you serve the community. Whatever decision you arrive on, I applaud your process that you follow. Thank you very much.

Chair Ako: Thank you, Mr. Pratt.

Ms. Barzilai: Cheryl Almeida. Elizabeth Okinaka.

Ms. Elizabeth Okinaka: Would it be okay if I hand out papers?

Ms. Barzilai: Somebody can pick them up from you, Elizabeth. But you have to give a copy for the public to see as well.

Ms. Okinaka: Okay. I have multiple copies in there.

Chair Ako: Good afternoon.

Ms. Okinaka: Aloha. Can I get a chance for them to read that before my three minutes starts? Just real briefly, I highlighted some areas. So, aloha everybody. My name is Elizabeth Okinaka. You are reading an email from Mike Serpa. I was there at the meeting in December. We were never fully notified of this project. He mentioned it very briefly. There was never any mention that he had put out public notice. There was never any mention that he was already seeking permits for this project. You can see in this email that he states that he did not tell me. I was open to working with him, talking to him. I was talking to him about the archeological process, the Ka Pa'akai Analysis, and he lied at that table. He told me it was underway. Who do you think I should hire? Will you walk the property with me? None of that ever happened. He had already done his Ka Pa'akai Analysis and was not upfront with any of us at that meeting. We have other witnesses who were there that day, so I would like you guys to take time to read that email. He says the project cannot move forward without it. Everybody that's here today saying that this is affordable housing, first and foremost, there's no guarantee that any of these properties will sell affordable. If you pull up the current listing, they're selling for \$700,000. Everybody in this room is older and retired, who is talking about possibly buying a unit here. My generation is not able to afford these, and my generation would not be interested in buying a property like this. We have homes on Kaua'i that have been able to have been purchased and processed and passed down through generations. This is not a long-term solution. You guys are putting a band aid on a leak that is pouring out water. We have a housing crisis. Serpa might have the right idea of this project, but this is not the right location. Historic Old Kōloa Town is the site of the very first sugar plantation in all of Hawai'i. Do we want to keep that rural charm? Mike also has another project that he's proposing next to this. So, everybody needs to be aware that this is not it. There's future phases. The original application did not include a property that he was actually seeking permits on. Of course, he had to fix that original permit application, it was invalid. And here if you look at the supplemental report to the planning directors, it's suggesting approval based on the fact that he is now willing to lower the number of units. He's not lowering them. It's a future phase. It will still be the same density, the same amount of cars. First and foremost, there are not conditions met with this project, deny, there is no valid Ka Pa'akai Analysis. To our Planning Commission, our Planning Department, please start to hold these developer to higher standards.

If a developer can contact a company like Cultural Surveys Hawai'i and say that they're going to hire them to do a Ka Pa'akai Analysis, I would like to ensure that these are actually being done. You cannot say that you reached out to, I think, 36 community members. If you guys actually go through the list of the people in there, half of them don't even live on Kaua'i, let alone Kōloa. We have neighbors who live in this area, multi-generationally, Mike could very easily go to these neighbors and talk to them. We have a lava tube on that property. SHPD has never cleared that property. We actually had an archeological company, Cultural Surveys Hawai'i out there last week. Heavy machinery, trenching, digging up the ground with no SHPD approval.

Chair Ako: Three minutes, Ms. Okinaka.

Ms. Okinaka: So, I'd like to come up and speak again. But I would like to also state for the record that I do not believe his community meeting condition was met. I was present at the neighborhood center. We were proposed his original project plan. We were never notified that those plans had now changed. So, I think he should have to hold another community meeting, be up front and stop rushing this process. And there is no guarantee that this will be affordable housing. Everybody in support here today is profiting off this man. Weigh the opinions of people like us who are actually here...

Chair Ako: Thank you.

Ms. Okinaka: ...as a part of our...

Chair Ako: You can come back again.

Ms. Okinaka: ...community. Children will get hit by cars on that road.

Ms. Barzilai: Bruce Sakamai. Sorry, Bruce.

Chair Ako: Sakimae.

Ms. Barzilai: Sakimae. Bruce on his way in?

Multiple People: Yes, he is.

Mr. Bruce Sakimae: My name is Bruce Sakimae. I live in Kōloa all my life. I got some reservations with this project, but I think I get, I feel like there's probably can be more good than bad. First of all, what I'd like to say is this, if there can be a restriction or something put on this project stating that whoever buys one of the four in that building, they gotta live in there for ten years. They cannot rent, they cannot sell, and if they buy them, they need, their name gotta be on the deed. Their grandfather, their grandmother, their father, their mother, their uncle, their aunty, they buy it for them, whoever lives in there, their name got to be on the deed. Okay, as I said that, I heard the presentation, and the presentation what they had was, the one bedroom is 800 square feet, my dad, 52 years ago, no money, he built a house 20 by 36, was three bedrooms, one bath, 20 by 36 is 720 square feet, one bedroom is 800 square feet. Second, the second one they building, the two bedroom is 1,200 square feet. Today people build houses, is between 12 and 1,500 square feet. You go to Puakea, you gotta buy the land for 500,000. The amount you gotta pay per square footage, the land and the house going come out to 1.2 million. At least people get

the opportunity to buy this, providing it's 500 and \$600,000. I pass there every day. I look at the building that is built, and I know construction to a point, Shioi or whoever had designed that, it's a hell of a building. There's no two by four studs. Everything in there is two by six. Everything is six by six post. There's no two by four, there's no 4x4. It's just built good. They caulk everything. They do everything. To me this house, this building here will last easy, 100 years, easy, and still yet going to be good because the way it's built. Now, even if you buy one house, you still got to change the roof on your own. You still gotta paint the house. You still gotta pay property tax. So, I know going to get one HOA, but at least, like I said, if you can keep that thing that I said that that whoever by the name gotta be on the deed, right, there's going to be a hell of a lot of guys that going buy. And no have to be only from Kōloa, who ever no more something and can come over there and after ten years, if they can sell that, I'm glad that these guys never speculate and they made money and they can move on. Sure, I get some reservations. You going say traffic. I live right over there, right across. I'm going to be affected, but you know what, I get one house. I feel sorry for people no more nothing. In fact to tell you the truth, I just was thinking about this. I was thinking of mortgaging my house and helping my son buy that house. But my problem is this, I gotta put his name on the deed. Now, if he like screw me, I screwed.

Chair Ako: Well with that Mr. Sakimae, thank you very much, man. We get it.

Ms. Barzilai: Terrie Hayes. Terrie Hayes, if you guys can relate to outside, Darren asked, that's the best way that it's going to work. I'll tell you guys and you guys call it out. Terry Hayes. Here she is.

Chair Ako: Good afternoon.

Ms. Terrie Hayes: Aloha, commissioners. Terrie Hayes, for the record. Kōloa resident. Educator, 23 years. Been before this commission actually on a similar... This project, I'm opposed to it because there's no infrastructure. Never has been. There are no storm drains here. When I questioned one of Serpas associates about it, he said, oh, it's detention, retention, the basin that he's going to build. You know, if you've been on the South Shore or if you live on O'ahu, we have issues with rain and drainage. This project, we had an interesting meeting at the Water Department, I want to make sure I include here, why the infrastructure is not put in prior to a project is beyond the Water Department's, to fathom it. And I know that Ka'aina Hull knows about it because he's on the board. I got to see her picture on the wall when I was there. So, I've got some trouble with what's happening here. It's the cart before the horse. This project, may God bless Serpa. It doesn't belong there. This is not a city town center. He calls it infill. I would call it encircling. What Greg said about building a wall, these, these buildings are huge. I know we need housing. I'm an advocate for that. I totally understand it, but this is not the place to put that project. That's the problem. I don't know that there's anything proper for here because it's on blue rock. Before the commission 18 years ago, we discussed when the Knudsen's owned the whole thing. Before the commission could make a decision, and I believe Avery Youn was, if I'm correct me if I'm wrong, Avery, but I think he was the Planning Commissioner back then, Knudsen withdrew his application. There should have been a decision back then. It's inappropriate to put this type of development on black rock, where your only solution to laying pipe or storm whatever you think you're going to build, is blasting. I personally carried blast material from the project to UH, and it's highly toxic. If that's their only solution, I asked the Water Department, so what would you do? Would you put the pipe on top of the blue rock? And

you know what he said, neither. Now, somebody ought to speak to the Water Department. Getting water to a project like Pinkston doesn't have currently, I might add, is a huge problem. They've got this huge development going on in Kōloa already and it's not completed. It appears to be at a dead standstill because they don't have water. They have ag water. And the man that was there actually said to me, well, what's the difference? I said, well one, you shouldn't drink. This project in Kōloa that's...

Ms. Barzilai: Three minutes, Chair.

Ms. Hayes: ...currently been built, that's 60 and I know I'm close to it, six units...

Chair Ako: Three minutes, Ms. Hayes.

Ms. Hayes: ...it is. It has not been filled in yet this infill. So, there's, aren't even the people aren't there yet. I appreciate that people feel good about it, but we haven't had a chance to try it out. Right now. You can't get to the post office. There's one gas station in Kōloa...

Ms. Barzilai: 3:20, Chair.

Ms. Hayes: ...yet. I have all these cars. Where are they going to go for gas? They're going to be driving through the tree tunnel.

Chair Ako: Got it, Ms. Hayes.

Ms. Hayes: They're going to be complicating our lives. And I'm going to come back because I'm not finished, because that project shouldn't go in before you make a decision.

Ms. Barzilai: If you'd like to come back.

Ms. Hayes: Wait. Try wait. Thank you.

Chair Ako: Before we move on, commissioners, we're pretty good yet or we need a break?

Ms. Barzilai: Is a recess necessary?

Chair Ako: You need a break? Okay, let's break for about ten minutes till 1:40.

The Commission went into recess at 12:27 p.m.
The Commission reconvened from recess at 12:41 p.m.

Chair Ako: Do we have members in the public that would like to testify that have not signed up on the list? One, do we have outside? One. Okay, so we've got we've got two. How many that we have here would like to testify for a second time? Four, five, six. Okay. Oh, hang on one second, one second, one second. Why don't we break it at 1?

Ms. Barzilai: About 1 o'clock.

Chair Ako: Okay. So, knowing that we'll break it 1 for lunch and we'll come back at 1:30? Yeah, and we'll come back at 1:40. Yeah. So, we'll break it 1. We'll come back at 1:30, and then we'll continue the public testimony again. Okay. With that, Mr. Billy?

Mr. Billy Kaohelaui'i: Okay.

Chair Ako: You're on.

Mr. Kaohelaui'i: Aloha, my name is Billy Kaohelaui'i. I am the moku for Weliweli ahupua'a. Next to me is Kāne'iolouma, and next to Kāne'iolouma is Mano O Kalanipo. I represent the culture. Coming back to this project in Kōloa, I against that. Too many people in Kōloa, I mean, this guy built all these apartments behind the town. It's pretty small for 400,000 or 600,000, whatever you're asking for. I mean, the people live here. How are they going to afford all that? I don't think all these projects is for the people that live here. And there's a lot of things against this project. How you going to build on the rocks? You cannot blast. That is arsenic. When you blow up and you get the dust, it's poison. Cannot be that. So, there's a lot of things that must be issued, plus all his lands was supposed to be the people for Kaua'i, not for everybody come over here, buy out us, and then there's no place for go. Now, if they buy our...where's the people going over here, live over here. We need more for the people on Kaua'i, not for the people that get a lot of money and going make more money. And like a lot of developers, no pass, they sell it to another richer guy. Now how is it going to work for us living here? They overrunning us, too much people in Po'ipū Park. I cannot believe it. They walking on a road, no sidewalks, no nothing. I love that because Po'ipū is aloha, you know, people come for see Po'ipū. It's a beautiful place, but it's overcrowded and most of the development is down there. It's too crowded already, Po'ipū, the beaches is too crowded. I'm grumbling with the people, they right next to the turtles. The turtles come from all over the place. They need to rest. That's why they come here. They go rest over there and then they get these tourists with all these people. The impact and all the all the all, whatever it is, it's impacting us. And now you going to give these guys all our water, we need our water. It's the most thing. First thing we need is our water.

Ms. Barzilai: Three minutes, Chair.

Mr. Kaohelaui'i: It's belong to the people of Hawai'i.

Chair Ako: Okay. Three minutes, Mr. Billy.

Mr. Kaohelaui'i: Well. Well, that's all I got to say. Thank you.

Chair Ako: Thank you very much.

Ms. Barzilai: Jeri Di Pietro.

Ms. Jeri Di Pietro: Aloha, commissioners.

Chair Ako: Good afternoon.

Ms. Di Pietro: I'm Jeri Di Pietro, for the record, President of the Kōloa Community Association. I have the honor of working alongside Louie Abrams, our past president of KCA, until he

returned to be on the Planning Commission here. We worked together through the permitting and design of the Kōloa Village, the South Shore Community Plan, the (inaudible) Multimodal Plan. I wish he was here today. This is when we first learned about form-based code. So, this project does not fit this location, like on a computer, you could (inaudible) in and you look at the project, looks one way, but when you dolly out, when you blow it up, you see that the location is all wrong. The lots are too close to the existing homes on Hapa Road. We don't have a big intersection there at Weliweli and Waikomo, it's very narrow. Waikomo itself is not only too narrow, but it also is a large part of the safe routes for school, to Kōloa School. We've walked that many times with the school and with the mayor. To have an ingress and egress come out on Kōloa Road or Waikomo Road, sorry, it's, it would be intolerable. It would be too much traffic and it would not be safe. The corner, this corner site is not for building. I feel such reverence when I go to that stop sign and see that untouched pahoehoe stone. The former owner, Mike Thompson, when he controlled the spot, I knew if he ever wanted to build on it, it would be very problematic. Where will the water go? Francis Frazier once told me, she said, if we destroy everything there is, there will be nowhere left to show people the way it used to be. I was at that meeting at Bridget Hammerquist home with Mike Serpa and a few of the other ladies. We were not told that the plans and the permits were in the works already for this project. We talked about it. I check the P.O Box every single day for Kōloa Community Association. We were never notified. Your commission here sent deferred at the last hearing on this project and we had the community meeting. There were over 250 people there. They were all very passionate about where is the water going to go? We've seen more and more floodings, Waikomo Stream everything has to go there and it's just not big enough to carry the load of the rain. The more that we pave the soil, we pave the town, the more flooding we'll see. The last ten years of building visitor accommodations is choking the soil is catching up with us on our roadways, at our beaches, at all of our sites, shopping, transportation, everywhere. And the runoff has increased dramatically. It's not fair to the town businesses getting flooded and flooded over and again, you know, it's dangerous for the homeowners on Waikomo and Waihohonu Stream. A young man died last year trying to save a dog in the stream when the Waikomo was just rushing so very hard. We cannot evacuate safely by vehicle during emergencies. Even as we stand today, we are a small town with small roads.

Ms. Barzilai: Three minutes, Chair.

Ms. Di Pietro: We've had a building, we've had to build two bypass roads and the KEMA folks cannot even get down to Kōloa in an emergency.

Chair Ako: Three minutes, Mrs. Di Pietro.

Ms. Di Pietro: So, I just want to close by saying, how are we supposed to fulfill safety for the people who live here now and the visitors in the area? Thank you very much for your time.

Chair Ako: Thank you.

Ms. Barzilai: Snookie Buhk. Snookie.

Multiple People from audience: She said cancel.

Ms. Barzilai: Elton Bukoski.

Unknown Woman: Elton.

Ms. Barzilai: Elton Bukoski. Okay. Julie Souza.

Ms. Julie Souza: Thank you. I thought you threw my name away.

Ms. Barzilai: Would never do that to you, Miss Souza.

Ms. Souza: Aloha. My name is Julie. I'm a fifth generation in Kōloa, and I am here today to show support of what we need to do. I think with all the money that has already been put in for Mr. Serpa, he should have moved his project elsewhere by now, because we don't want it where he wants to go. It'll change our whole ruralness of Kōloa and the, and the guests that come, you know the tourists is only what we have to offer today and if we close up our town like they're wanting to, what will happen? We'll lose the tourism. I worked in the hotel business for 40 years. I loved it, they love Kaua'i. They love it the way it is. Why change something that is doing so well? I know we need housing for our people, but housing can be done in another area, not in the core of Kōloa Town. Go outside (inaudible) there's lots of property. Get it from the Knudsen's. I'm sure they would give you property to buy or trade it with him. But you know it is so sad to see that our young people won't have the opportunity to enjoy what we had to enjoy, and we want to try to hold on to that as long as we possibly can. I'm 80 years old now, and I want to see the kids playing in the yards of apartments or houses, instead of apartments. I want to see that happen. I want them to know what it is to be close to the families. It's heart, it's our heart that keeps our people here. Unfortunately, we don't have enough commercial things to do. We only have tourism, and that's why our kids are being forced out of paradise because they're finding other jobs, you know, working as, oh, well, maybe we could do something good with lawyers, huh, get a school for lawyers. No, but just a joke. But, you know, that's where it's at. And I know that a lot of people from Kaua'i, from Kōloa would come up and speak, but everybody's kind of shy, and they want only a few that will talk. But they, you know, what is in their hearts...

Ms. Barzilai: Three minutes, Chair.

Ms. Souza: ...because otherwise they wouldn't be here today. Thank you for that opportunity.

Chair Ako: Thank you, Miss Souza.

Ms. Barzilai: Kuulei Santos.

Ms. Kuulei Santos: Aloha, everyone. My name is Kuulei Santos. I am born and raised in Hanapēpē and I do own a construction company here on island. I am in support of the project just because I feel like my employees who do not, who do not qualify for affordable housing, this is a good opportunity for them. It's a great opportunity for them and it gives them a goal. So, I brought a team of them here and not, didn't force them to come. And what I said was to pay attention, listen to both sides, gain your own opinion, and at least you guys can see that there is options. There's options out there that will allow you guys to have a goal, to be able to gain a little piece and have a stepping stone to better things. So, thank you for your time.

Chair Ako: Thank you.

Ms. Barzilai: Halia Baclayon or sorry, Halia.

Ms. Halia Baclayon: Aloha mai kākou o Halia Baclayon ko'u inoa, noho au ma Kōloa. Thank you for the opportunity to share my testimony. I was born and raised on this island, especially in Kōloa. Despite my family being in Kōloa for seven generations and it has always been my home. Due to my current occupation and income level, I do not qualify for affordable housing. I would greatly appreciate the opportunity to participate in the Gap Housing Program so that I can continue living and contributing to my hometown. I would also like to share that I also recently moved back to Kaua'i from being away, 4,000 miles away from home. I did enjoy my time there, but considering my future children and the generations after me, simply I would want Hawaiians to stay in Hawai'i. So, I support this project and thank you for your time.

Chair Ako: Thank you.

Ms. Barzilai: Rupert Rowe.

Chair Ako: Good afternoon, Mr. Rowe.

Mr. Rupert Rowe: Good afternoon, commissioners. My name is Rupert Rowe. We lived in Kōloa, our family, from 1845, know the history. I want everybody to understand there's a serious problem that lies ahead. There is no drainage. Mr. Serpas, property on the road was lift five feet up in the air. There is no drainage to the ocean. The Kōloa Fire Station is in the mouth of the river. It floods. What's wrong? That's your first responder. So, now we have to come back here and understand there is a serious problem in the drainage. The bridge by Sueoka Store cannot handle the flood. It's obsolete. We get Hawaiians and kānakas in here. Support the project, but don't know the history. Very critical. Now, the heiau became a detention basin. The county gave the right to use the property. So, there's a serious problem. From my point of view under my organization at Kāne'iolouma Heiau, we will challenge the drainage and if need be, we will sue the county. You must have a drainage plan. You cannot continue development. So, everybody that lives on the spillway from Waita, Waita means water and Japanese means field. That's the definition of Waita. It was once a taro patch, so they knew the rain comes very hard over there. So, they made the reservoir. Everything going down never did come in the heiau. Everything came from the west. So, it's sad that we don't have a drainage plan. Somebody's gotta be liable. I don't support the project. You change the character of the place. So, like I said, we've been there from 1845. That was our winter home. Our summer home was at Coco Palms. So, we is the punies that live there. So, I have a little history and I want to share that with you folks. Show us the drainage plan. I had Ka'aina Hull there, I had Michael Moule, Troy Tanigawa, Patrick Porter and Bernard. We asked them for the drainage plan. There's no drainage plan.

Ms. Barzilai: Three minutes, Chair.

Mr. Rowe: The water just runs free. Again, show us the master drainage plan. The fire station cannot be in the mouth of the river and flooding. Something is wrong.

Chair Ako: Thank you, Mr. Rowe.

Ms. Barzilai: Chair, it's 1 o'clock, do you want to continue for another 15 minutes or are we going to break?

Chair Ako: How many more left?

Ms. Barzilai: We have one, two, three, four, five more signed up and then we could take our break at that point.

Chair Ako: We can take it now (inaudible).

Ms. Barzilai: We're going to break for lunch, folks. So, we'll be back in about 40 minutes. 1:40, yes. Thank you so much.

The Commission went into lunch break at 12:59 p.m.

The Commission reconvened from lunch at 1:47 p.m.

Chair Ako: Okay, if we're ready, may we continue on with our public testimonies. We are at...

Ms. Barzilai: We have Mr. Mervin Chung.

Chair Ako: Mervin.

Ms. Barzilai: Mervin. Hello, sir. You have three minutes to testify. Please state your name.

Mr. Mervin Chung: My name is Mervin Chung. Born and raised in Kōloa, kānaka maoli. As for me, I went to the first meeting in Kōloa, well, the first meeting I knew about it in Kōloa just recently, with an open mind, because I didn't know what it was all about, really. But to me, what the developer lacks is from the community especially, is trust. I don't think we trust any developer honestly to do the right thing, pono, it's gotta be pono, he's got to do, you know, environmental, culturally, environmentally, all these, financially, all these things got to be pono for things to advance or for us to trust that development is going to be right for the community. I think it stems from 133 years of distrust, honestly, as a kānaka, that developers, the government, are they going to do the right things for kānaka and for everybody else? And for me, that's what it's all about is trust. Are we...can we trust him to do the right thing? And from what I see that everybody, you know, everybody kind of wants this or doesn't want this, but where it's at seems to be the problem. You know what I mean? I'm all for gap, gap housing or whatever the hell you guys call it, but the spot to me seems like it's not a good spot to be. There is 200 years of not developing that spot. There's got to be a reason for it. So, I mean, not even the Hawaiians, I don't think even put houses on that. Who knows? But it's not developed for 200 years. I think it should just be left like that. That's the gist of it that I get from that. But as far as everything, I think trust you should go do some research on Hawaiian Kingdom, Mr. Serpa, Hawaiian kingdom.org you can go check that out and you find Hawaiian history and 133 years of trauma that we've been going through here as Hawaiians. Mahalo.

Ms. Barzilai: Thank you. Ray Gordon.

Mr. Ray Gordon: Hi, I'm Ray Gordon. I'm a longtime resident of Kōloa, and with over 40 years of experience in architecture and city planning. I feel the proposed project would have a significant positive effect on Kōloa community and as well as the surrounding areas. I previously submitted a more extensive written testimony for the record, and today I'll just summarize some of the key points that I included in that letter. I believe that there is an overriding important

factor that is that this proposed project helps address, is the urgent local need for affordable housing on the South Shore. As the South Kaua'i Community Plan clearly states in its land use section, 4.1.1, it describes the needs for the Kōloa Town, and it says future growth in this area is envisioned as tighter and denser within the town core, within the neighborhood center, an estimated 450 new residential units are required through 2035. This proposed project currently is only a block from the Kōloa Town Center. The developer has stated that these units will be sold within a price range that fills the necessary gap in the current housing stock. Affordable housing for people who earn too much to qualify for workforce housing or Section 8 subsidies, but do not have the financial means to afford a new single-family home at today's land and construction prices. It's important to consider the building form itself, attached units are less costly to construct and provide utilities for, which keeps the per unit cost within the range of working class families. Traditional single family home construction today on the proposed site would have to be marketed at a much higher price, eliminating the ability for most local families to afford a new home. A key factor is that the proposed project is very close to Kōloa Town Center, which will minimize the need for vehicular use for trips to dine out, shop for groceries, visit the post office or bank, or reach employment if located within the main center area. The number of trips generated by the new homes will thus primarily be for trips to and from work, which can use five existing roads that avoid directly traversing the town center. As mentioned earlier, the South Kaua'i Community Plan acknowledged the need for at least 450 additional homes in Kōloa. Therefore, the local road capacity is coupled with planned improvements, many of which are already in place in progress, were deemed adequate to serve a level of residences over three times the number of units from the proposed project. Of course, I'm confident that there are other issues raised by the community that can be resolved successfully with continued communications with the developer as the plan is refined. In summary, providing affordable housing for a community that desperately needs additional homes is paramount in ensuring a healthy future for prosperous Kōloa. Thank you.

Chair Ako: Thank you, Mr. Gordon. Thank you.

Ms. Barzilai: Devon Parker Evans. Levi Baclayon.

Mr. Levi Baclayon: Aloha mai kākou. Thank you, everybody, for this opportunity today to come here before the committee and everybody watching outside, online and behind me.

Ms. Barzilai: Sir, could you just state your name, please?

Mr. Baclayon: Levi Baclayon. Is the first community meeting that I've been to in a while, you know, but hearing both sides of where the kānaka maoli, where us Hawaiian people stand from and where the developers want to help the community. I would, what I can see on both sides or even from past stuff, is a lot of people have the intentions, but everybody wants it done their way. Truth to the fact of this, whether you're a CEO or president, or the developer or even just an employee, you're not going to satisfy everybody. That's plain and simple. What we can do is take into consideration everybody's thoughts so that generations to come no longer have to say these words, I was priced out of Hawai'i, so I pray you guys move forward in integrity, in aloha and respect. Mahalo. Iesū pū.

Chair Ako: Thank you very much.

Ms. Barzilai: Maria Hacker.

Ms. Maria Hacker: Aloha. For the record, I'm Maria Hacker, longtime resident in Kōloa, and I think the concept of the gap housing is a really, actually a really, really good thing because obviously we need housing for all our workers. I'm just not, the whole thing is that I'm not sure that it's actually gonna be local people that are going to be buying these, just because, I don't know how you can enforce that other people can't buy them unless it's actually a workforce development, so maybe I'm wrong on that, I'm not sure, but how can we stop, you know, it's a free country, anybody can buy the property, so how do we know that it's going to be our local kids here on Kaua'i. One of the things that is concerning is the plotting because I live in the Old Mill Camp up by Hadama's and there's another mill camp up from us, and we've had many, many homes destroyed, actual structural damage. People were, you know, displaced from their homes. And then down in our neighborhood, every single person down there had damage, you know, upwards of 60,000 per household from the flood in April. So, I feel like Kaua'i as an island, needs to work together to mitigate the flooding. I don't think we have that under wraps. And so, to put another development in without infrastructure and making sure that we're not going to have more flooding as a result of more concrete, I think that's a concern for me. So, one of the things I know that our county has sent letters to property owners that border the Waikomo Stream, that they have to keep the how bush out of their fronting properties on the streams, but who actually makes sure that this gets done, because it's quite expensive to do that? And then I also know that a lot of the properties in Kōloa have ditches and I know that a lot of new owners coming in from the mainland that don't get the whole not diverting water, have filled in their ditches so that their property looks bigger. So, I know this has had an impact on us and other homes in Kōloa, Spanish Camp and all around Kōloa Town. So, I think that these are things that council needs to work on and get, mitigate the flooding before we go put more development in. And like I said, I'm not against gap housing, but we need to have the infrastructure in place. Mahalo for your time. Thank you.

Chair Ako: Thank you very much.

Ms. Barzilai: Lance Reyes.

Mr. Lance Delos Reyes: Aloha everyone. My name is Lance Delos Reyes. I am 34 years old and I was born and raised here on Kaua'i. I am fortunate enough to own a home on this island, so I will not directly benefit from this project. However, I'm speaking on behalf of my generation and the generations coming after me who would. More and more, I see classmates, friends, and colleagues who grew up here leaving because they cannot afford to find housing they can afford. These are hardworking local families who want to stay, raise their kids here and contribute to this community, but they can't realistically do so. Today, most available housing falls into two categories, high-end luxury or affordable. For working professionals like me, who don't qualify for affordable housing but can't afford luxury prices, there is almost nothing. Gap housing is not a want, it's a need. I understand that people want to protect what makes their town special, and that is the basis for most of the opposition to this project. But what truly makes Kaua'i special is the people. The families who were born here and raised here. If we don't create opportunities for the next generation to live here, we will continue to lose them. And when we lose them, we lose the heart of this island. Communities have to adapt to survive. Making room for local families is not changing Kaua'i for the worse. It's preserving what makes Kaua'i, Kaua'i. I support this

project and future versions of it because it gives us hope. Hope that our generation can stay, build families and continue to call this island home. Thank you.

Ms. Barzilai: Mimi Campbell. Mimi Campbell? Kainani Kagawa.

Ms. Kanani Kagawa: Aloha. My name is Kainani Kagawa for the record. Aloha, commissioners. I am born and raised on Kaua'i, grew up in Anahola, taro farming, doing all those fun things. Incredible path I've had in my career. I was the former Housing Director for the County of Kaua'i and left five years ago into the private sector to develop housing with private developers throughout Kōloa and throughout the island of Kaua'i. And I just wanted to share some experiences, the ugly side of it. I think we all heard the good side of development, but just the ugly side that perhaps the commissioners will take into consideration and include on some of the conditions. The conditions currently written are very broad, very generalized, and it's not, unless you make that decision today, it doesn't really address the concerns that our people are seeing. And, you know, had I just listening, right. I've had five years of real hardcore community meetings, hardcore court cases. So, first and foremost, the project sells itself as gap housing, I think that's incredible. Our people do need gap housing. The commission should put as a condition, gap housing is 160 to 180, AMI, Area Median Income, for a family in Kaua'i, in context, that's \$229,000 they got to make, and the cap for sale for a home is \$800,000. So, you know, if we're going to allow high permissible density, the commission does have the authority to condition that it is truly gap housing. And I bring this up because in 2019, there was a Civil Beat article on the developer, which was great, that said, hey, it's gap housing, this is for the Kōloa project, we're going to sell it 300 to \$400,000. Guess what? The market changed. Whatever came. And now the homes are selling for 700,000. So, you, we don't have a scheduled timeline of when his project is going to be developed, therefore the market can shift and he can, without any conditions put in on this project, shift over to market housing. I've seen that happen in many developments. Unless there is a condition permissible by law that that is put on this project, that's one thing just and that's for my experience as a housing director, you can, you can do an agreement. This special permit gives the commission that authority to do that. The second thing I want to point out, which I think is important, and I'd also like the commission to consider as a condition, is that there's a state historic site, 50-30-10-5002, it is a stone wall, it is 187 feet by three feet by three feet. It is currently undergoing an archeological inventory survey with Cultural Surveys Hawai'i. The State Historic Preservation Division, SHPD has not addressed the significant criteria of this wall, so for the...

Ms. Barzilai: Three minutes, Chair.

Ms. Kagawa: ...developer to move forward on any development without addressing the significance of this wall before SHPD weighs in. I also want to talk to the experience of just my own development experience. Cultural Surveys have been wrong so many times, I've had to bring in secondary, third, fourth, archeologists, consultants to recheck my own data.

Chair Ako: Three minutes, Ms. Kagawa.

Ms. Kagawa: And because of that, many sites were destroyed. So, I don't...unless until SHPD makes a ruling, I would implore us to protect that stone wall. And the last thing before I leave, the project is adjacent to a Land Commission award for the Kapuniai 'Ohana, and in that is

remnants of their boundary wall. They should have been consulted for this Ka Pa'akai Analysis. There's so many families that are on Facebook, like, I'm related to the Kapunia'i, I'm related...so, that part should also be preserved because it's an intact preserved cultural resource...

Chair Ako: Okay, thanks, Kanani.

Ms. Kagawa: ...and I'll talk more to it. But those are things that is not presented by the applicant. Thank you.

Chair Ako: Okay. That is it for the public testimonies for everybody that has signed up. Is there anybody that wants to sign up for...speak for a second time?

Mr. Sakimae: I'm Bruce Sakimae, and I had to come back.

Chair Ako: Bruce.

Ms. Barzilai: Sir, your microphone.

Chair Ako: Up, up. Yeah, thank you.

Mr. Sakimae: Oh, for the record Bruce Sakimae. I had to come back because when I walked out, one of my friends confronted me. So, I had to come back. You know, when I say ten years, right, you can't sell them you cannot rent them, yeah and all that. What I meant was, gotta be first time buyers. And he told me I didn't say that. Yeah. And you know, I wrote something down because I forgot half of the thing when I came up here. So, I was writing some things down. I, I know if this thing doesn't pass that he can build, okay. But the problem is this, if he can build, right, probably going to be 3 or 4 million, right, I'm sure people on this island can afford, but majority are going to be somewhere else. But the problem will be this, we're going to be beholden to 25 people on the 25 buildings, they can rent to whoever they like, and you know what today, and you cannot prove it, going take ten years. They can vacation rental that, if he's selling them outright to the guys. So, now who can monitor that? Not you guys. The state, the county getting hard time. They're getting sued. So, to me that's going to be a major problem. And, you know, when I passed Burger King right, from Kōloa I looked to my right, right, my right, my left, I looked at the three-story buildings coming up, right. I think as a norm today to get housing. You go Honolulu not everybody can afford one fee simple house, 15, 1.5 million, yeah. But at least somebody can afford this. But say somebody say to prove right. And somebody buys that for 500,000, 600,000. After maybe ten years, 15 years, they get equity, right, they can borrow money and say, this guy build a little bit more down because you get the sewer line and it does the same thing, yeah, in trying to help the people. They can buy one place for their kids because even the first time buyer buy, you still get kids, you get second, third and fourth, you know what I mean? But I don't know as just the way I feel. But my main thing is, I, I know going to get problem on the, on the cars, the parking but maybe right across the street on the left-hand side going down to the thing, maybe you can lease from Knudsen and gravel the damn thing out and build some more stuff. You guys can park over there. I don't know, I'm just saying it, but I think I don't see any subdivisions coming up. 500 homes, 100 homes, you know, fee simple, 6,000. Nothing. I don't see nothing. So, now we're going to wait ten years more and the price is going to be way, way more out of hand. To me I see this as, I feel sorry for people that no can own one house, no get me wrong.

Chair Ako: Thank you, Mr. Sakimae. Three minutes.

Mr. Sakimae: Yeah, but...

Chair Ako: Got it.

Mr. Sakimae: That's the way. That's the way I feel, I mean, I like see everybody owning something, but I think this guy stay on the right track. But, if you guys disapprove this, it's not going to happen. That 25 guys going own all that buildings, they got vacation rental and you're going to get headache. Not you guys. You guys going to be off the commission. So, you're not going to get already. But you got to think right now. Okay.

Chair Ako: Okay. Thank you, Bruce.

Mr. Iten: Hello, I'm Greg Iten, and I had a couple of other things that I neglected to bring up the first testimony. I'm requesting that the council or the commissioners follow on this property request that the developer follow the base form code rather than a PUD. There is no government funding involved in this. It's not low income. The developer calls it gap housing, which is in his description is, affordable for certain percentage of the population. And if the form-based code is followed, we end up with some open spaces and the South Kaua'i Community Plan indicates that developments should have open spaces, and there are no open spaces that are indicated in the plan right now. The other thing is, I would like to see if the commissioners would take the time to go down and drive through Kōloa and just see what the existing development is and looks like behind the shopping village that the developer has constructed. And to get a sense for the roads and the traffic situation. Thank you.

Chair Ako: Thank you. Aloha.

Ms. Okinaka: Aloha, commission. Mahalo for the extra time. My name is Elizabeth Okinaka. So, first and foremost, I want to address the fact that just about three weeks ago, you guys deferred this same motion or the same permit application from this developer. What has changed since then? Has he presented a traffic plan, a traffic study? Has he done an actual Ka Pa'akai Analysis with interviews of community members who live there, even in that area? Has he gotten archeological clearance from SHPD? Has he presented a drainage plan or a drainage study? None of this has been met. And so, I ask you guys to please deny, or at the very least, defer this today until these conditions are met. We cannot keep approving these things without the proper infrastructure. Waikomo Road is a one lane road. We have all of the children that walk to and from Kōloa School every single day on this road. It is crazy that he would not have to present a traffic study, or at least a traffic plan, before this is approved. I would also like to say U.S. Fish and Wildlife was never consulted directly next to this property. We have critical habitat for the Kōloa cave spider and the Kōloa cave sand hopper. The corner property right next to the Kōloa bypass, the older bypass is designated critical habitat. It is known that if you develop on a parcel next to that, you are most likely going to find mezzo caverns or other parts of that habitat. Like I said, SHPD has not given clearance. There was a heavy machinery on there last week. They were told to leave because they do not have clearance from SHPD. I think it's very concerning that our Planning Director was so willing to approve this original application. We have properties that were going up for permits that were not even included in this application. So, was there actually

work done to look into these issues and address these conditions? None of these conditions have been met, defer. He's also using, applying under a PDU. This cannot be used. There is no government. There is no workforce housing. As much as Mr. Mike Serpa likes to say that this will be for local people. I encourage you guys to go right now, you can actually see a listing. So, this developer actually has already built 60 units. These people haven't even moved in. Our community has not even had the chance to feel the impact of what is going to happen. And now he wants to double that across the street. If you guys pull up the listing right now, you can get a price for about \$705,000 for a one-bedroom apartment. I'd like to know who in my generation has \$150,000 put down on this and still pay this guy thousands of dollars a month? If you go to the Zillow listing right now and you do the math, you put down 140,000, you're going to pay this guy \$8,600 a month. There's HOA fees. There is opportunities on Kaua'i for people to get local homes. We have Habitat of Humanity. We have POW. There is no enforcement for this development to actually ensure that these will go to local people. How do we know that investors aren't going to buy up these properties and sell them off? So, I encourage you guys, ask Mr. Serpa to name at least 5 or 10 local people that he has sold these existing already built units to, because I can guarantee you he cannot. The only thing he can say they're local by is saying they have an area, an 808-area code on their telephone number. So, there's no in-depth look into who is actually purchasing these properties. The local community is not going to profit from this...um, not going to benefit from this. The only people who are here are supporting this. You also have construction companies like Shioi, that actually on this property have an illegal base yard for his existing project. I testified against the current project five years ago. None of those base yards were ever approved. So, there's so many loopholes that this developer is using. We have ex-county attorneys who are using their knowledge to benefit developers instead of helping the local community. There is a lava tube on that cave. There is possible iwi kūpuna, and without actually conducting a Ka Pa'akai Analysis, where you interview people so we can try to say what is there and state our concerns.

Ms. Barzilai: Three minutes, Chair.

Ms. Okinaka: Mr. Serpa blatantly did an interview and said he has no problem with the analysis.

Chair Ako: Ms. Okinaka, three minutes.

Ms. Okinaka: So please remember the email I sent you guys because Mike lied. He admitted in that email he never did a Ka Pa'akai. He lied to our face.

Ms. Maddy Serpa: Hello.

Chair Ako: Hello.

Ms. Serpa: My name is Maddy Serpa. Public speaking is my biggest fear in the world, so I really didn't want to come sit up here, but I just wanted to say thank you all for listening today to both sides. I wanted to say thank you for everyone who stood up and had something to say, whether it was for the project or against the project. And I also just wanted to clarify one thing. We are at the end of our sales process and prices are where they are, but right now I am constantly getting texts back and forth from homeowners that are Kaua'i residents that are going to be moving into their brand new homes this upcoming week, and that otherwise would not have been able to. And

I also wanted to say that I am listening. I've been listening. I listened at the community meeting. I respect everyone and everything that they had to say. And if this does move forward, I promise to make it a priority, just like I have with the current project that Kaua'i residents are the ones to purchase and are the ones to purchase at the lowest possible pricing to still make the project feasible. It's important to me. I know I'm biased, but it's important to my dad and I feel really lucky to be here, to be on Kaua'i somewhere that I've cherished since I was a little girl. And so yeah, I just wanted to speak on that. And yes, you can pull up listing, but what you cannot do is you cannot speak to the people that are actually purchasing the homes and for their privacy, I'm not going to give a list of 15 names, but I promise you I could. And so, I can speak on that. And so, I just wanted to say that and yeah.

Chair Ako: Thank you very much.

Ms. Di Pietro: Aloha commission, Jeri Di Pietro. I wanted to make a few more points, you know, how did we get here today? How are we here at this, this point in time? Well, starting a few weeks ago, we were tasked from the commission to go hold a public meeting because the public had not been informed. We had over 200 people at that meeting. So, I wanted to come back up here and give them a voice. They showed up, they took their time. They shared 'ike that I don't have, you know, as a haole and I, what I do see, though, in Kōloa is the topography. You can see where the high spots are, the low spots, you know, the older homes are in those low spots. The, anywhere that you're going to be building, you're going to raise from this point forward. So, it's a very unbalanced and a burden, you know, that people will be forced, their houses are going to be messed up. How did we get here? Let's go back even further. So, you guys are very honorable to come and serve on this commission. But it seems like the terms I'm not sure the length of your terms, but there's been many people here since, since I've come to these hearings. We spent about ten years on Kōloa Village talking, looking, walking the land. I think that's really important, you know, site visits. I would encourage you all, you know, I didn't see anyone from the county, one person from the county, Felicia Cowden, came to our meeting at the neighborhood center. But there's nothing like taking our time, you know, we've got to this point of having so much visitor accommodations in Kōloa, Po'ipū, and we are a world class destination. We love it that people want to come here. We try, try and help them out and keep them safe and share things with them. But there's a point and, you know, going back, you know, ten, 15, 20 years, way before that, we've built and we've built, hotels and condos and we still don't have a sewer system. You know, we still don't have a sewer treatment plant in Kōloa, Po'ipū, a world class visitor destination. We have lava tubes. Those are precious. And we're using them for the exact opposite purpose. You know, they have federal protection, and we're putting our junk down there. You know, we need to, you know, just like you said, go back and meet with the community. We ask that you please take your time. We, I know the need for gap housing. I'm not sure that what it will cost going forward. Prices are rising and shortages and all these things going forward you see on the news everyday.

Ms. Barzilai: Three minutes, Chair.

Chair Ako: Three minutes.

Ms. Di Pietro: Okay. I just want to say that here's nothing wrong with taking more time and getting some of these, these things in place. The, you know, we're just now getting around to the

(inaudible) a plan. That was what, 2008? We're getting the sidewalks and the street median in Po'ipū Road to slow down traffic. Things take time.

Chair Ako: Thank you.

Ms. Di Pietro: Did you say three minutes?

Chair Ako: Yes.

Ms. Di Pietro: I'm so sorry. Okay, but you get my point. Thank you very, very much.

Unknown Woman from audience: I just wanted to add a few more things to the people who made such good points. First of all, I want you to understand no one would be in their right mind against gap housing, and that's not what the protests are about. And again, there is no guarantee that as written, it's going to really work. Besides, if you sell that first whatever 100,000, you know, first one-bedroom unit and then you resell it, gap housing gone. And so, that but no one's arguing that gap housing wouldn't be a good idea. And the other thing is, you must understand that that particular parcel of land is really unique, historically, culturally and geologically. If he really wants to help people and continue with his gap program, 25 acres just came up in Kukui'ula think about it. If he, if he really, really cared about it, he could donate it to the state and get a one whopping tax write off on his next project. He's got many projects besides this one. I'm just asking, please protect this land. This particular parcel of land. It can lead to dangers in the future. Finally, trust. I sat arm to arm right next to him at that so-called community meeting. There was five of us, and he said to me, well, not just to me, but to the people at the table, you know, there's some owners who want to build on that piece of land. And so, they asked me if I check out if it be feasible. And I've been thinking about it. So, I came here today to get your opinions and your ideas on it, and the whole meeting dissolved and to other conversations. And I don't know, we never heard anything about this plan, only to find out that the very next day or that I think it was the same day, if I recall correctly, but he went out, he filed all the permits. He had the whole project all done, all the drawings, all the and the permits in. And we just were just dumbfounded that he used us like that. So, I have an issue with trust, and I urge you to go online and check the projects and the law cases that are against the companies he worked for before, and, okay, those were the companies, but he's in there somewhere because he held leadership positions. And I think a little bit of research would do you well. And basically, my issue is protecting that land. And I'm afraid to trust from what I've experienced already of Mike Serpa allowing precious resources in his hands.

Chair Ako: Thank you.

Mr. Todd Dorney: Good afternoon. Thanks for your time. My name is Todd Dorney, I am a long-term resident. Worn many hats here on Kaua'i. Developer, builder. And I've actually known Mike Serpa for a very long time. We grew up together in California since we were little, and I feel like, you know, nobody's going to toot his, he's not going to toot his own horn, but I personally know that he helps a ton of people in the Kōloa community and different places on Kaua'i and has done things that have been very beneficial for local people here. And I can speak to his integrity. And I know Mike inside wants to do the right thing and develop this in the right

way, and I know that the right decisions will be made. And I just want you guys to know that. Thank you for your time.

Chair Ako: Thank you. Is there anyone else that would like to speak?

Ms. Kagawa: Hi. Kanani Kagawa for the record. So, I wanted to continue on and bring up the insufficiency of the Ka Pa'akai Analysis. And this is a lesson I learned in my previous capacity. The, just from looking and everything I've known over the last five years, it's insufficient. And there is precedence from this commission that made an applicant, it happened to me when we submitted one to re...go back out and redo consultation. We were required by the Planning Commission and asked to take our Ka Pa'akai Analysis, which, and we had a lot of consultation done and we were...because the project was so contentious and I'm speaking about the Meridian Project. It's same, just to be honest. And we did such an extensive job but the Planning Commission, made us go back out and redo consultation. And from that, I'm so grateful. The work was harder and longer, but we were really able to grasp and speak to community and cultural experts. It's really hard for them to come forward, in my experience, because they're sharing 'ike that has been protected, generations. And now they got to put it into a study that it becomes public knowledge and it can be mistreated. And I understand that part of why our people don't come forward to just openly share their 'ike to be published and recognized. But from that, at this Project, Meridian, we learned so much more beyond what was in an archeological report, what was in a biological study, what was in a geological study. I'm speaking firsthand from experience about destroying things you cannot get back. You got to go back down and talk to the cultural people. And I implore them to come forward and talk to you. If they trust you, they will talk to you. And because of that, of going back and doing all that work again. Yeah, it costed time, it costed resources. We are preserving things that is only exists in Kōloa. A 13, (inaudible) systems, 1300 .a.d., Kōloa irrigation systems, things that were categorized as cattle walls are not cattle walls. When you bring in those cultural practitioners, you got to really do the work to find them. You got to find consultants or community members that are willing to get them, it...if you really care about preserving the culture, you got to put all of that fussing aside, all of the fighting we've gone through, because at the core of it is protecting kānaka maoli practices that are being destroyed.

Chair Ako: Three minutes, Ms. Kagawa.

Ms. Kagawa: And I assure you, if you go back out, Mr. Serpa and you do the work, you will be, it will be integrated in your project before you destroy things that that you cannot build. You cannot remake. No amount of money given back to the community is going to rebuild walls or repair lava tubes. It doesn't exist.

Chair Ako: Okay, thank you.

Ms. Kagawa: Once you blast through it...

Chair Ako: Kanani, thank you.

Ms. Kagawa: ...it is gone. It is gone. Don't make that mistake that I made.

Chair Ako: Thank you for coming today.

Ms. Kagawa: Thank you for your time. Appreciate it.

Chair Ako: Is she the last one? Or is there somebody else? This is your chance? Mike, we're good? Real quick.

Ms. Okinaka: So, yeah, I just want to reiterate on that.

Ms. Barzilai: Ms. Okinaka, your name again, please.

Ms. Okinaka: There is no valid Ka Pa'akai Analysis. Sorry. My name is Elizabeth Okinaka. I just want to reiterate on that. There is no valid Ka Pa'akai Analysis for this project. How can we locate and talk about what resources are there when they're not even willing to interview community members? You can read that email, Mike says, I'm not impressed with cultural surveys. Why? He told me the same himself. We were willing to work with him if he was willing to find a company that would actually do a survey and interview the people in the community, which they never did. They're doubling down now in presenting you a full There is no valid Ka Pa'akai Analysis. So please, Planning Commission, if you guys accept this, other developers are going to see this. They're going to think they can hire Cultural Surveys Hawai'i. They can put out notice to people, not get any response, and say it's complete. So, this is wrong. And we have to start setting higher standards for these conditions. It is not met. Mahalo.

Chair Ako: Okay. That's it. We have passed stage three, I think, or stage two. This here, for our first agenda item of the day. Knowing that, you know I think as we close out the public hearing, I just wanted to thank all of you for taking the time to coming.

Ms. Barzilai: Not the hearing. Not the hearing it's testimony on (inaudible).

Chair Ako: Yeah, for your testimony. I mean, you folks have been here all day. I really appreciate, in terms of the way you have presented, whatever you had to say, whether you're for the project or for you were against the project here. And then based on that, you know, sometimes you just feel paralyzed in how you move, because I think both sides have made very compelling arguments on this issue here. But in the end, you know, the five of us or the six of us, whoever is here at the end will come out with a decision on this, on this issue here. So, with that, at this point, if we can call up the applicant for presentation. Oh, I'm sorry, I'm sorry.

Ms. Streufert: I just wanted to reiterate what the chair has said. We live in very contentious times and people get very upset. And they sometimes, it sometimes results in uncivil behavior. But in this particular case today, both people who are on the positive or on the negative or somewhere in between, you guys have all been very civil with each other, and I really appreciate that. I mean, I, it's not often that we get to say these kinds of things about comportment and behavior, but I think we've been all very impressed by the way that you can have differing opinions, and we can still talk about it, and we don't have to get angry and upset with each other. So, thank you.

Chair Ako: Okay. I think you folks heard the same thing that we've heard.

Mr. Jung: Good afternoon, Chair, members of the commission, Ian Jung, again on behalf of the applicant, SK Investors LLC. With me is Mike Serpa, who's the principal for SK Investors. I

think what we would like to do...another presentation. I know I didn't set this up because I wasn't sure of the timing, but if the commission would like, we can show on the slides again if, if...to see the project. If not, we can move past it. It's just up to you guys.

Ms. Barzilai: Chair, the request is whether or not we want a slideshow, slideshow presentation from Mr. Serpa.

Mr. Mike Serpa: I know you guys have been, it's been a long day for you, so...

Chair Ako: I'll ask the commissioners whether you feel like you need one. I think there's a lot of questions out there already that needs to be asked.

Ms. Cox: I guess it depends on if the slide presentation...

Ms. Oyama: Commissioner Cox.

Ms. Cox: ...is going to address some of them...

Chair Ako: Yes.

Ms. Cox: If the slide presentation is going to address some of the concerns we heard, then I would say we would like to see it.

Chair Ako: Well perhaps we'd...

Ms. Cox: If it's just another...

Chair Ako: ...we'd like to ask the questions first and see if they have an idea how they can do their presentation. What is the way we shall...questions first and then...would that work?

Mr. Serpa: Absolutely.

Mr. Jung: Yeah. At the pleasure of the commission.

Chair Ako: Who wants to start this thing up? Commissioner Ornellas?

Mr. Ornellas: After listening to all of the testimony, I do have some concerns about escalating pricing on these units. I mean, if we're going to go market rate, then, and I can see it getting very expensive very quickly. Can you address that?

Mr. Serpa: Yes, so I can tell you across the street from this, we have the first phase of gap housing, which is Kōloa Village where we have 60, where we've sold 59. And so, we do understand our buyers and the way that we handled pricing there, and the convenience of my daughter Maddie, who has worked for me for a number of years and is a very good agent, the directive to her was when we started, when we started Kōloa Village, we started well under the appraised value. When you get a construction loan, the lender does an appraisal and we set our pricing and for the total value of the project, we sold the project about \$5 million less than what the appraisal and the market value was. And what I did with the pricing, and depending on conditions on the project that you may impose that might relate to pricing, what I did basically

was I wanted to sell at least two thirds, local. We ended up selling 70%, local. I haven't had anybody that wants to come and look at our contracts without jeopardizing somebody's privacy. That's not hard to prove. So basically, our pricing looked like a hockey stick. We increased it each phase a little bit, maybe 10,000 per release every eight homes. And it was pretty flat pricing line until we hit somewhere around that 700 range and then it started to thin out for Kaua'i buyers. And when it started to thin out, we had 40 of 60 sold. That is when we let the market run with it and it did go up substantially. So, the listings that you might see today might be for the last unit. We didn't market the project publicly. We didn't put it out there online because we wanted to sell to as many local as we could. And we did, and it worked. So, without project condition to do so, we sold 70%, and that is a hard and true number. So, somebody challenged, can you, can you name 15 names? I didn't handle the sales directly, my daughter did. We can name a lot more than 15 names.

Ms. Streufert: Is there any way to know whether these are residences or whether they're being bought for speculation and for secondary market?

Mr. Serpa: Yeah. So, when somebody buys a unit, we have legally, I don't know if anybody understands this, but legally, if you look at our CPR documents and our sales documents, we have, I think it is a, it's a 30% mandate or maybe it's a 50% that have to be offered locally first. So, we do have that. So, that overlays that obligation. But the...ask that question again I'm not answering your question.

Ms. Streufert: I guess. I guess my question is really one of, are these, are people who are buying it, buying it for their personal residence or are they buying it for speculation or are they first time buyers? Is there any way to know all this stuff?

Mr. Serpa: Yeah, there is. Thank you. There are a number in each category, the leanest category or investors, but it is, it is people that that don't know if they're going to live in the home, the investor piece, which is our lightest piece. It's mostly first-time home buyers, it is parents helping their 30 something with a down payment, but they have good income so they can afford the income. We have a lot of that. But yeah, we don't have a lot of investors, but the ones that we do are going to rent local. So, it does open up somewhat of a rental pool. But remember it's long-term rentals. We don't, we're not vacation destination here. So, in either case it's either a local rents or locals have purchased.

Ms. Streufert: There's some question about drainage that came up quite a few times. Can you address that?

Mr. Serpa: Yeah, so, drainage is, for my projects and any projects that I've ever done, we start, our mandate is 100-year event. That's what we designed to. The...it's, drainage isn't difficult. And that water runs downhill and you do two tests. You do a percolation test to see how fast that stormwater goes into the ground as it does today. And then you look at the topography on the site, and someone mentioned in their testimony that there are properties surrounding the...where water runs toward their property, which is true, and we know exactly where those are and we can fix those. So, how our drainage system works, it's two tier, and the first one is where you see the green space in the community, which I can put it up on the screen, you can see it. Where you see the green space, all of our stormwater from streets, roofs, houses and everything goes to there, to

those. It filters through that grass, it goes through that, and then it is piped to another retention facility. There's a difference between detention and retention. I hear those words used interchangeably. They're not really interchangeable. Retention basically slows the storm down. So, from what's hitting the ground and going in the ground today, with our system, the post-project condition will be better than the pre because we control the water there. It's, today it's not controlled. So, that's why you get certain areas that flood. Had the same thing at Kōloa Village. We had substantial flooding in certain areas. We don't, we don't have that today. So, it goes through the first system, goes to the second system which is underneath all the parking areas, and it's called a storm tech basin system. So, if you Google storm tech, you will see their drainage chambers. And they're fairly deep and they have a filtering system in them. So, when water gets into our system, it goes through two levels of drainage, then it goes into the ground. That's how you can handle 100-year event. If you had 100-year event as the land is today, you'd have substantial flooding. In this case, it would be better.

Ms. Streufert: And this would be not just for the property in question now, but also for the neighbors. In other words, it's not going to spill over to the other (inaudible).

Mr. Serpa: Absolutely. Yeah.

Ms. Streufert: Okay.

Chair Ako: Mr. Serpa, very honestly, I'm not real sure what you just said. You know what I mean when you're talking about drainage here. But, you know, like, sometimes when you go to a doctor and they tell you you've got this and you've got this and you're asking for a second opinion.

Mr. Serpa: Yeah.

Chair Ako: Is there a way that somebody else might be able to confirm so that we can come to that same conclusion?

Mr. Serpa: Well, we haven't yet been through, so I think some may misunderstand what this Class IV Permit actually allows us to do and what it doesn't allow us to do, what we're not allowed to do, if a Class IV Permit is approved that doesn't approve us to build anything. In entitlement, there is a programmatic approval, that's what this is. Then there are project level approvals. Once the programmatic approval is done, the Class IV, in this case, then that releases our funding, we can get funded to then proceed to build construction drawings. Department of Public Works goes through it, building goes through all the structural engineering on the housing. That's where our, what we're presenting and proposing as designs, that's where those designs get heavily scrutinized, and those... what's that? Yeah, and grading, our grading plans would be part of that with Department of Public Works. So, this Class IV Permit does not allow us to build anything.

Chair Ako: So, it would be Public Works that would confirm with you about a drainage plan?

Mr. Serpa: Correct. Correct.

Chair Ako: That we currently don't have one? Right?

Mr. Serpa: Well, we do, we have a conceptual drainage plan. Yes we do, but Department of Public Works would have to scrutinize that and go through it and look at all of our civil engineers calculations and verify those. Yeah.

Chair Ako: When we're talking about pricing on these units here, we're talking about gap housing.

Mr. Serpa: Yeah.

Chair Ako: Is that a fixed range, earning X amount to X amount? Or is that something that a price that you determine, what gap housing is?

Mr. Serpa: Yes. Great question. So, because we have 60, that we just built, sold and we know who the buyers are and we have the statistics on them, I would say the range in income ranges somewhere between 100,000 and 200,000. That translates to what sort of, what they can afford. In the next project if it's approved, the one that we're talking about, what we learned in the first project was, and I was unaware, there's, there are a lot of financing programs that are available to, especially first time home buyers. There's kama'aina loans that American Savings Bank offers that are 3% down at a 5% rate, which are phenomenal terms not available really to anybody else. So, you have to be local to have those terms. So, we looked at this project to do programs that, quite frankly, we didn't have at Kōloa Village, despite the fact of getting 70% local buyers, we didn't have the attractive financing programs. I was just introduced recently to Hawaiian Homes, which I would like to meet with and talk to them about special programs we may be able to offer to capture more buyers with them, and they would help qualify those buyers and work with those buyers. I do think we have substantial programs, but the term gap is not a not a term that I made up, quite frankly. But, you know, we've said it many times, it's for people that make too much to qualify for affordable, deed restricted housing, but not enough to buy something to own. So, they're stuck renting. That's the gap. Our pricing that we've offered, apparently fits that gap really well because that's who we have.

Chair Ako: So, that price that you have already is a fixed price? I guess what I'm really looking at is that as time goes on, I think all of us here know already we're looking at the cost of living. Cost of living is whether it's because of tariffs or whatever. It is just going up skyrocketing. And wages doesn't necessarily keep up, especially in Hawai'i. So, as prices go up and wages don't keep up, the cost of housing goes up. Then we kind of getting out of whack in terms of wages and cost of housing. (Inaudible) we have a cost today that is going to rise because the project will be done in another, I don't know, two years, three years or whatever it is which increases and yet wages does not keep up with that. So, the price of that house, is that something that is what we have today will be the price when you sell it?

Mr. Serpa: That is, that's a great question. I'm glad you asked it. So, the thing about these projects, when you bring them, been doing this over three decades, and when you're proposing a project like this, time matters. Time matters. So, when the Petition to Intervene was filed, if they should then go challenge and this project gets pushed out over time, it drives the cost of the housing up because you have legal costs, and yes, what you said cost, cost of producing the product goes up. So, it makes it less affordable. So, is there that risk that, you know, if we go get this approved and we can move forward, now I can speak to the cost and the pricing now

because I know what it is because we're finishing one right now. So, I know what the cost is. I know what the market is to sell them. So, I feel very comfortable. Speaking of pricing now, there was a young lady earlier that said, you know, when he first talked about Kōloa Village, it was lower than it is today. That's the point. The longer it takes to bring it to market, the higher the price.

Chair Ako: So, what would be considered a gap housing today, may not be a gap house tomorrow. It might be a luxury price already. Is that true?

Mr. Serpa: Well, it could be true. I think it's all relative, right, if it's, you know, if we're five years from now, the pricing wouldn't be the same as, which is your point, what would incomes then be, and the cost of living then be, you know, I don't know, I was talking with a lady outside and her and her husband bought a home 30 years ago for, I think she said \$40,000 or something like that, which is amazing, right, but, and it changes over time. So, the longer it takes to bring these houses to market, the less affordable they become. So, the challenges and the delays do not help get Kaua'i people in the houses.

Ms. Streufert: If everything were to go optimally, how soon would these houses be available?

Mr. Serpa: Another great question. It will take us, if we got to move forward, it will take us...we would start the project in October, it would take nine months to get the first pads ready to go vertical. So, I would say the soonest would be somewhere between 12 and 14,16 months, something like that, from now. I'm pretty comfortable speaking to costs and prices in that time frame.

Ms. Streufert: From the time you started the Kōloa Village, the other one to the time that, to today.

Mr. Serpa: Yeah.

Ms. Streufert: What's the percentage of increase?

Mr. Serpa: Well, publicly I said, and I think it was one of the...there's been many of my public statements that have been on social media and everywhere. I think the very first statements I made were, 375 to the low 400, I think it was something like that. And I'll never forget the Housing Director at the time, Adam Roversi, called and said, are you really going to do that? Like, are you really going to do that? And I said, yeah, I am going to do that. That was a number of years before, but we ended up bringing them in the market in the low five hundreds. So, relatively speaking, over the number of years, if you look at the annual increase there, we brought them in pretty close.

Mr. Ornellas: So, on your 60-unit project, right now, you've got listings at 700,000. Why would this new project be any less than that?

Mr. Serpa: The honest answer is because I would take less. Right? And I know the opposition doesn't want to hear that. Oh, you know, benevolent guy taking...that is the truth, that is the hard truth, that the 5 million less that we sold them at, at Kōloa Village went in the buyers equity. That didn't, that didn't come to us. So, when I commit what I'm committing, I'm taking a risk,

right, because if that house goes up and I've made these statements publicly, it's pretty hard for me to take them back, right. And I've established, I think, a pretty good reputation. There's been some question publicly of, you know, some trust, and I will speak to that meeting, that infamous meeting that where folks said that I wasn't truthful. I can speak directly to that, but I am making those statements, and I'm the one taking the risk on that.

Chair Ako: Yeah, I guess having said that, I think the last meeting that we had, we had deferred it, so that you had the opportunity to have a public meeting with the, well, not the Kōloa residents, but whoever was interested in coming, yeah. Would you be able to share with us how that meeting went, what that meeting was about and what, if any, changes that had come about because of that meeting?

Mr. Serpa: Absolutely. And I appreciate that. So, just before I get into the public meeting, I wanted to also speak to project changes. So, I had heard that the church property, it's already developed. There's a lot of impervious space there. It wasn't covered by the Ka Pa'akai. The cultural resources went out there, they saw a constructed building, and they were doing their study on vacant land. And so, they didn't do the Ka Pa'akai Analysis on that developed property with the church and the and the concrete and all of that. And then there was also a question on that driveway on Waikomo Road, which if I can put the project plan up, I can show you. And that neighbor that's across the street, quite frankly, called and just said, hey, I'd like to talk to you about the location of that driveway. So, we took those four buildings out of the application. That's the change. The other change that we made was we looked at all of our parking and we had nine-foot-wide spaces, all of them. A standard space is eight foot six, a compact space is eight foot. So, the only other change was we went and we restriped it basically, and we found a whole bunch more parking spaces in just doing the math. The last point I'll make before I get into the community meeting was, the parking that we have off site is pushed into the property that doesn't go on the public roads. It pushes into the property and it's public parking. It's not private parking, it's public parking. Same as Kōloa Village. So, yes, our residents can use that parking, but the public could park there as well. The community meeting, I mean, you know, anybody that watches the tape, there was email blasts that went out that had the tape link on it, and it was put on YouTube. And, you know, we took our, we took some lumps there and I didn't want to watch the video, quite frankly, but I'm glad that I did. When I went back and I would urge you to go watch that video. When you watch that video, you will see that the videographer is toward the back of the room, and you get to see a cross-section of who attended that community meeting. And there's a question asked in the meeting, who is for this project? Who supports it? The videographer didn't pan the room, stayed on me. And then who was against the project and they panned the room, freeze the video right at that point where the hands go up and look at the crowd. Not everybody in the crowd is raising their hand. Probably half are raising their hands. So, there was not, there were not 300 people there. There may have been 200, somewhere between 150 and 200. And there were a lot of people that were in favor of the project there. They were quiet and they didn't say much because some of the commentary was pretty spirited and came at me personally and made, you know, a lot of insults and all that. But we did our best to answer the questions about drainage, about parking, about cultural resources. We took a little bit of a beating by, you know, some of some of the commenters. But truthfully, I walked out of that meeting with far more emboldened than I was going in, knowing that this this is not a community wide thing, it's not a Kaua'i wide thing, right, we have a group of people that challenge a lot of projects, and they're very prolific at it. They're very good at it, got a lot of

email addresses. They do all kinds of email blasts. I don't think they realize I'm on their email blast. So, I see them all. And you know, I don't have that, I don't have that advantage. I don't have this massive Rolodex of emails, right. But I was surprised with all that email blasting. That was what turned out at the community meeting. So, you know, I think there's some misinformation out there. And, you know, there's the Facebook posts and my name personally, and they haven't done any of their studies and all that. I do have David Shideler here from Cultural Resources, and he can speak to all the studies that they have done. Ka Pa'akai Analysis was well underway, where I met Bridget Hammerquist and a group of her people and they say that I lied, let me just tell you really quickly, I asked them for the meeting because I'm getting several landowners, big landowners in the community that they've seen Kōloa Village, they like it, they've heard I have a good reputation. So, they asked me if I would consider developing their property. So, before I went and did those meetings, I called Bridget and I wanted to meet with them in the spirit of let's talk about Kōloa Town, let's talk about the different properties. And some of the things I said in that meeting were merged together, properties were merged together when they came back, and what they're saying they thought I was untruthful about, was when I talked about three properties, I talked about South Kōloa Town, and I said, that one's done, I'm going to do the gap housing exactly like I did at Kōloa Village, and then I went on to the other properties. That was all I said. No, I didn't say, hey, January 13th, we're going to have a Planning Commission... that is true. I didn't say that, right. I wasn't there to get into the weeds about South Kōloa Town, but you could see Kōloa Village, it's built, it's physically built. And if I say I'm going to do exactly that over there, it's this, we're cleaning up the floor plans a little bit. We learned some lessons over there, putting a half bath in the one bedroom, so you don't have to have your guests go into your bedroom to use the bathroom. We did some things like that, but I wasn't there prepared to tell them all about what we were doing in South Kōloa Town. I was asking them and now at Creekside, the next property over, that landowner wants to do this. What do you guys think? At the other property. That was the genesis and that was how that conversation happened. There were no lies. There were no untruths, there were no nothing. I just didn't lay out all my future plans. That was that was really all that was.

Chair Ako: Mr. Serpa, I think for me, the bottom line really becomes the purpose of the deferral was to get concerns from the community and to see how we could work that. I think we're talking about a lot of people in this room believe in gap housing, we believe that this project needs to go forward. While it goes forward, how is it that we can address the issues that are coming up? Because, you know, we've heard that same meeting today, and I think there's a lot of unrest in this room. I think we're very fortunate that the way they presented it was very, it was very admirable in how it was presented. But I still feel that unrest within this room here. How is it that we can continue to address the issues that we have without making it taking another two years, three years, and then price goes up and all of a sudden it's not gap housing. Is that a possibility?

Mr. Serpa: Yeah. Well, I think that the system that you have in place, Department of Public Works, the building officials that you have in place, drainage is addressed, their parking is addressed, their traffic is addressed there. And we do have studies for all of those things. That is, that is where all of that, all of those questions get, get filtered out. The people that have concerns about, they're legitimate concerns. Absolutely. But I nor, they have the expertise to work together to work those things out. You need people that have the degrees, that have the experience, and that's who you have in your system.

Chair Ako: I mean, I'm looking at maybe an issue like parking.

Mr. Serpa: Yeah.

Chair Ako: I mean, I've been down that road and for me, every time I go down Kōloa, I feel kind of crowded already.

Mr. Serpa: Yeah.

Chair Ako: When I go down that road right now with the construction there, yeah, it's very, it's very crowded. Is it possible, like the possibility of making it a no parking on both sides of the roads, maybe cutting back from 148 to maybe, I don't know, 100 units over there creating more parking so that whoever has one parking, the family has two cars, right? So, we can have more parking. And, you know, I'm sure that's something that the Department of Public Works will not be addressing, right. If we can reduce parking by taking it from 148, maybe to 100 units there, obviously there's a lot less homes for maybe the 3,000 units that we need to fulfill, housing within our island here. But, you know, it's issues like that, I'm hearing the issues about the Ka Pa'akai Analysis that was not done correctly. Now, whether it was done correctly, I don't know, right, I'm just, I guess as the words coming up today, it's trust, that we're trust that's out there. Yeah. So, I'm trying to figure out how is it that, you know, the things that Public Works is not going to address. How can we in this room address it so that when the project is done, we can pass by it and feel good about it so that you can, that you win, the community wins. But I think it's really got to be something that two parties got to come together.

Mr. Serpa: Yeah.

Chair Ako: So, I'm kind of wondering, you know, it seems like in my mind, this past community meeting, well, it may have been something, but it's still...things that are still bubbling out there.

Mr. Serpa: Well, I think with a project like this in a place like this, you're never going to get consensus. I said, I think you can get, you can do better, right. But I do think that you have systems and you have good people that work here on Kaua'i. When I hear, you know, the mistrust of the county and all that, I'm telling you, I've worked with some, in some of the biggest jurisdictions in some of the bigger cities in the country. You have good staff. They are good, they're good, they're good at what they do. And Michael Moule is not going to let me get away with anything. If he wants speed tables, we have to put in speed tables. If he, you know, Michael is very, very good at what he does, and Ka'aina and planning are very good in engineering and building, they're good. I mean, they're good. So, but I will speak to, and I know you're just, you're throwing some numbers out and referencing like one 148. It was 100 and all that. I respect that, I appreciate that. But also remember for every give there's a take, right, there's, there's, it's just a it's a mathematical equation, right. Each rooftop in yield that goes down, the price goes up. So, and we have certain financial realities with building this project. It's, you know, it's crazy expensive to it's very hard to produce these projects. With respect to parking, I take it very seriously because I live there and I will hear about it. And you don't want unhappy buyers. We have duet homes. They have two cars that park there. We have three-bedroom homes. They have two cars that park there, and then we have the one, and the two-bedroom homes. So, in those homes we park them about one and a half, and that works because some people do have two cars

and other people have one cars. That is far more than the county standards that require. Where, if we just meet the county standards compared to that, we're well parked more than that. Is it enough? I think we continue to work on it. And I think we can get, we can do better. I think we can do better.

Mr. Ornellas: I don't think we'd even be having this conversation today if we were not in a housing crisis. I mean, people are desperate. The county's desperate. They understand how many units we're short, thousands of units in Kaua'i need to be built just to meet the current need. Not even take into account future needs, I think we all understand that. Going from R-6 to R-16, is a tremendous windfall for the property owner, and I don't think the county would even consider it, if it was not for the situation we're in today regarding housing. But, you know, we want, if we're going to do this, if we want to, we want a good return. The people of Kaua'i and the County of Kaua'i want a good return, and that return would be affordable housing. So, that's my concern, is if it's going to be the highest bidder, gets it and we're all going to be in trouble.

Ms. Streufert: I agree with that wholeheartedly. But I have another, there's some, there are a number of people who brought up the environmental, ecological issues, and I don't know whether you're going to have to blast or not. Have, I'm not into construction, I really don't know. But if you were, if you had to blast. What? You know what, I'm not even sure I know what that means. So, I'm kind of just putting words out there. But if you had to blast and if this is blue rock, which I think it is, right, based on the reports that I've been reading. What's the impact of that in terms of aerosols or anything else? Is there any kind of health issue that we have to be concerned about, or is the Department of Health going to take care of that? I'm not quite even or EPA. Could you address that? Thank you.

Mr. Serpa: Yeah. So, with blasting I had never blasted before either. And it was recommended. So, at Kōloa Village, it's a mixed use project. We have retail on one side, residential on the other. When we did the retail side, we had really long utility (inaudible). And one of the bidders, one of the civil contractors, proposed blasting. And so, in my mind, I just envisioned dynamite, and, you know, these massive blasts and which as a kid, I kind of liked fireworks. So, I said, well, if I do that, I want to push the button. And they were a great company. Technology has changed a lot. And fortunately, although I wasn't super happy that the community meeting was put out on the internet, on YouTube, but I don't know where they got it actually, because I'm one of the very few people that have the video, but there's a video on there that wasn't in my presentation at the community meeting, but when they produced the video online, somebody put the video in there that shows the micro blasting, which was great because people can see it. And the difference is, we blasted on the retail side. We did not blast on the other side, we hammered. And the difference is, it takes depending on what you're what you're doing, ten times longer hammering. So, for neighbors involved, people can say what they want about blasting. But the hammering is way, way, way more intrusive. And I've lived next to the residential side as they hammered it. On the retail side, we had over 300 feet, more than that of trenching. And what they do is they drill, they spend maybe three weeks preparing and then blasting is over in 10 seconds. So, they drill all these little holes to set the foundation, the boundary of the trench, and then they, when they blast it, that's it. It goes in, you bring it back out and you dig it out. So, in terms of dust and all that, if you watch that video, you can see it's like a it is a plume of dust right there, and that's it. I think if you were doing that, you know, every day and many of those every day, then I think

you probably would have dust issues and that sort of thing. Not my experience that that happens to that quantity or duration.

Mr. Jung: And commissioners, just for review by other agencies. You have the Department of Health as a commenting agency, which will manage the Clean Air Act and whatnot and require best management practices throughout the construction site.

Ms. Streufert: That was a concern that came up several times today. So, I wanted to have that addressed out in the public.

Ms. Cox: And I guess this is just an attachment to that, because it was part of the concern was the blasting itself and the toxics, toxicity, which I can't say, but also the environmental effects on the cave spiders. And I'm wondering, that sort of brings me to the Ka Pa'akai Analysis, which we heard there were some concerns with it. Can you speak to the concerns that we've heard about that?

Mr. Serpa: Again, beyond my level of expertise, but I do have David Shideler here of Cultural Resources. If I could bring him up and speak to the cultural aspects of it and caves and that sort of thing?

Mr. Jung: And given the testimony that came in prior to the January 13th hearing, we did have Cultural Surveys go back and take a look just in case. So, they kind of did a review because there was a 2007 AIS for the property, which identified that one historic wall that's commented to be an agricultural animal husbandry wall. So, we wanted them to come back out to take a second look.

Mr. David Shideler: Aloha, commissioners. Aloha kākou. My name is David Shidler, Cultural Surveys Hawai'i, my kuleana, my area of expertise is archeology, historic preservation and Ka Pa'akai Analysis. I want to tailor my remarks to meet your needs. I'm happy to give a very short summary of those three domains.

Chair Ako: Please do.

Mr. Shideler: Mahalo. Okay. First, mahalo to the commissioners for your continuing good spirits in dealing with these complicated issues that are highly emotional. Mahalo to the audience on both sides of the issue. I do believe that this process results in better projects. And even mahalo to the critics of the work that I'm involved with for end line of producing a better product. First, speaking to the historic preservation and archeology history of this project, this project was subject to an archeological inventory survey that was accepted by the State Historic Preservation Division in a review letter of January 7th, 2008, that Archeological Inventory Survey identified one historic property that was given a State Inventory of Historic Places number. It was thought to be a remnant of a cattle exclusion wall. That wall is still there today. It was evaluated in terms of significance, as a significant under criterion D, in Hawai'i Administrative Rules, D means a significant for information content, and it was argued that the information content had been recovered in the course of that archeological inventory survey. The SHPD review letter accepting the report, says this is an archeological survey, ten acres in Kōloa, one historic rock wall, site, 5002, was found in the Archeological Survey, Site 5002, is listed as significant under criterion D. We concur with this determination. No further work is recommended for Site 5002. No further

archeological work is recommended for the project. We concur with this determination. The report is acceptable. So, for 17 years there was an SHPD accepted Archeological Inventory Survey for the entire parcel. In the middle of 2005, SHPD asked for a, effectively, a Supplemental Archeological Inventory Survey emphasizing subsurface testing. We've been out there. We've conducted 13 backhoe assisted test excavations. There was a reference to a machine on the parcel. As far as I know, they're talking about the backhoe assistance for the 13, 20-foot long Supplemental Archeological Inventory Survey testing trenches that we've completed. We've met on site with SHPD lead, Kaua'i Archeologist, David Buckley, to discuss findings. No additional historic properties have been documented. The, as expected, the subsurface testing reached depths of bedrock between ten centimeters, three inches, and two meters, six feet. So, there were some deep pockets, but on average pahoehoe bedrock was encountered at 50 centimeters or one and a half feet. So, an archeological survey was conducted, it was accepted by SHPD, SHPD 17 years later, standards change, there may have been some confusion in later correspondence about the status of the rock wall, but basically our findings hold, and have been further substantiated by the 260 linear feet of subsurface testing that we've conducted there. A question arose as to, speaker said, well, there's no buildings there, there's nothing constructed there, even the Hawaiians didn't live there, and that's true, and that there must be a reason, and I agree. And the reason that we are hypothesizing, is because of its distance from Waikomo Stream, you couldn't irrigate there, and particularly the shallowness of the soil, as you know, just driving down Weliweli Road, you can see that Weliweli Road is cut, is a road cut not very deep, but it is cut into the pahoehoe, that makes up perhaps 20% of the very stony silk clay loam of, of Waikomo. So, that's a brief status of where we are in inventory. A Supplemental Inventory Survey will be submitted to SHPD. But it will basically argue the same findings as the Archeological Inventory Survey of, that was accepted in 2008. Are there any questions regarding the archeology, I could hope to address?

Ms. Cox: Mine's not archeological. The concern, one of the concerns we heard from those who testified was consultation with local Native Hawaiians in the area.

Mr. Shideler: Yes.

Ms. Cox: Wondering if you could speak to that?

Mr. Shideler: Absolutely. The Ka Pa'akai Analysis was critiqued, the Ka Pa'akai Analysis running over 100 pages, details consultation with 36 parties. The way consultation is conducted is that you reach out to the, in this case, 36 parties, and then you reach out to them again. I think 35 of the parties were contacted a second time. An important part of the consultation is the specific request for referral, and I would emphasize that, the, so 36 parties asked almost all of them twice for any referral for information. It was pointed out, and indeed is a valid point, that a number of the parties were not Kaua'i people. And of course protocols is, you start with the po'o. So, if you're reaching out to Kamehameha Schools, if you're reaching out to OHA, if you're reaching out to SHPD, it's good to go with the chain of authority there. If you're reaching out to the Historic Hawai'i Foundation, for example, there are certain parties outside of Kaua'i that are completely appropriate to reach out to, looking for guidance and direction. It's just a very quick review, not (inaudible) to be complete or thorough, but you know, we did reach out to Kaua'i archeologists based on Kaua'i, David Buckley, Kaua'i Historical Society, Pam Chock, Wai Koa Kaua'i, Jesse Cummings, E Ola Kākou, Roslyn Cummings, Kaua'i Burial Site Specialist,

Kauanoë Ho'omanawanui, Aha Moku Council, this is always a critical one. You look forward to reaching out to the members of the local aha moku council, both of them, asking for referrals. Kumu Hula, Kōloa Plantation Days leader, Rupert Rowe, who spoke earlier. Donna Kaliko Santos, who wears many hats in the history of Kaua'i, the KNIBC, the Kaua'i and Ni'ihau Island Burial Council. So, we reached out to make a good faith effort we feel to reach out to parties. I would also emphasize here that in Ka Pa'akai Analysis, what you're trying to identify is, of course, use of traditional Hawaiian practices, which are of course based on resources. And in this case, the resources just do not appear to be there. Now, I can't trust my opinion on resources, although I'm pretty akamai about plants and other things, you know, I've seen resources of okerous earth, alae, that were significant and needed to be preserved. So, sometimes the resources are subtle, but I really don't believe the resources are in this project area with its 50 centimeters of earth that has been extensively reworked over time. So, that's where we stand. We have a Ka Pa'akai Analysis that has made a good faith effort to reach out to many parties on Kaua'i. The Ka Pa'akai Analysis is not to be targeted at neighbors. You're really trying to define necessarily, not to be excluded, but to emphasize that you're looking, trying to identify traditional Hawaiian cultural practices and beliefs associated with the parcel, and that they have not been found. And I fully believe that if this was redoubled, quadrupled in effort, that the findings would hold because the resources aren't there. We're far from the ocean. We're far from water. It's a very shallow pahoe-hoe. It never supported much more than it supports now, which is frankly a pretty weedy landscape and pretty ubiquitous for Kōloa. I would just want to comment two other little things that did come up that might be developed in a Ka Pa'akai Analysis extension. One lava tubes. It's very difficult to say with 100% certainty there are no lava tubes. What I can say, is that two lava tubes have been identified within 500 meters of the project area in Kōloa, which is a very low percentage, very low ratio. Mercifully, Kōloa Town is not a lava tube rich area. I agree lava tubes are precious, the point was made and then I'm 100% behind that because they often have unique biological resources, they often have iwi kūpuna. That was another issue that was raised. It was asserted here that there are, there may be even iwi kūpuna in the project area. It's very hard to categorically say with certainty that there's not a single human bone fragment in ten-acre project area, but what we can say is, there's one burial area within 500 meters, that's the family plot, Waterhouse family plot. Well, that's not exactly a native Hawaiian burial ground. There are a minimum number of two individuals associated with that one lava tube, at a distance of 450 to 500 meters of the project area, that this was, of course, very much the pattern in mauka areas that you would have traditional Hawaiian burial within lava tubes, and they're just not there. Otherwise, the pattern was very much more coastal burial and also burial within monuments which are not within the project area. Are there any further questions I could hope to address regarding archeology, historic preservation or Ka Pa'akai Analysis?

Ms. Cox: Thank you. You've answered my question.

Mr. Shideler: Thank you.

Chair Ako: Of the 36 that you reached out to.

Mr. Shideler: Yes.

Chair Ako: Initially, then you the second time you reached out to 35, how many responded from those?

Mr. Shideler: Sure, there were only four responses, and you could take the Ka Pa'akai Analysis to fault for having only generated four responses. But people respond if they have concerns, they respond if they have knowledge, and the lack of response is actually suggested to be significant. As was pointed out, we had a, you know, a week ago in Kōloa Community Association meeting, there were very large number of people and perhaps 200, close to it. And, you know, who spoke about cultural resources, cultural practices, cultural traditions in the project area, the same two individuals, I believe, that have spoken here today before you with the somewhat nuanced presentation. But I'm just saying that that we feel we see a multiple lines of evidence indicating that this is not an area that is rich, and again, actually, as an archeologist, while I don't necessarily have a position on a project, I really would be thankful for the commission putting projects where there is no archeology.

Chair Ako: Yeah. Is there any reason for you to believe that of those that did not respond, that they did not respond for a particular reason? I mean, I think the issue that came up today was trust. Yeah, we know a lot, but we share only with certain people.

Mr. Shideler: Right.

Chair Ako: The trust issue. Did you encounter that?

Mr. Shideler: Well, people respond on matters of concern, of course. And thus, you've heard a lot of discourse about issues of concern here today, as we did in Kōloa. And what I would point out is that a traditional Hawaiian customs and practices specifically associated with this project area are not a core issue.

Chair Ako: Other questions?

Mr. Shideler: Mahalo.

Chair Ako: Thank you very much.

Ms. Cox: I have a question about the open space. We also heard a concern that there's no open space. Can you speak to that?

Mr. Serpa: Okay. I was trying to get our, the project, the site plan up here. What I wanted to show you. Maybe you can work on queuing it up so I can show you visually. There has been talk about R-6 zoning, and that this is going from R-6 to R-16. It's actually 15.5 to the acre. I want to remind everybody that Kōloa Village is at 21.5 to the acre. So, this proposal is some 25 plus percent less dense. If we were to do, and so, so just entertaining for a moment, R-6 zoning is not the zoning that's, that's on the property, but if we were to entertain R-6 zoning, I want to just explain for you what that does. The footprints of the buildings are larger. So, if the, the reason and I'm going to show you if he can get it queued up, I'm going to show you a project that the previous owner had taken. It's not my project, that met the R-6 zoning. And what you'll see with that is the footprints of the buildings are much larger and what R-6 zoning does, and we're thinking like six homes to the acre, right, R6, that's not what it is. R-6 zoning would produce, and I will show you, it would produce more buildings, more rooftops than what I'm proposing. And I'll show you, I'll show you how that happens. And the math is very easy, but with the size of those footprints of the buildings, you get less open space. What, the reason that I brought

forward the fourplexes instead of duplexes is very simply that the prices get less because the units are smaller, rather than a duplex, they're larger, the prices are larger. So, R-6 zoning produces higher prices, less attainable for locals and larger footprints and less open space. And if we can cue it up, I will, I will show you what that, what that looks like. But so, and then there was, there was a comment that, that I hadn't, I hadn't, we didn't have any open space or the comment that I made in the community meeting was we hadn't programed the spaces yet. So, and what that means is, if we're going to do amenities and things like that in the different open spaces that we do have, we haven't programed them yet. We're not done with our landscape plan and to decide what our amenities should be, whether we have pavilion, barbecue pits, you know, that sort of thing.

Ms. Streufert: One of the animals, insects, whatever that is, about as famous as our Kaua'i chickens. Are these blind spiders. Can you address that?

Mr. Serpa: Again, not my area of expertise, but my understanding is blind, they're blind cave spiders, I think, is what they're called. So, you have to have a cave to have a blind cave spider is my understanding. That's my deduction.

Ms. Streufert: I think someone said that they might be living in these, excuse me, lava tubes, but I'm not sure, which could be the equivalent of a cave, I presume.

Mr. Serpa: Right. And I, I, as far as you know, as David commented earlier, David Shideler, that there are two lava tubes in the area within 500 meters, but there aren't on site.

Chair Ako: How we doing with the video? Are we doing okay? Or is it time to take a break? Yeah, we can just take a 10-minute recess. Okay, so let's see, 3:40 we return back.

The Commission went into recess at 3:28 p.m.
The Commission reconvened from recess at 3:45 p.m.

Mr. Jung: Yeah, I think we have it loaded and can be put up on the screen for the commissioners. And it is a very short presentation, but I think it provide,s I think at issue is, is the zoning. And one of the issues with what the zoning is, how the South Kaua'i form-based code has essentially superseded the conventional density per acre kind of concept. So, I think this map will illustrate how the interface of allowing additional building types to minimize the effect of sprawl by going to lesser building counts than what was originally proposed as more building counts in the single-family model. So, I think that's where Mr. Serpa is going to take you.

Mr. Serpa: I'm going to burn through this real quick because I know we're all tired. This is Kōloa Village. This is the mixed-use piece. And you see the residential piece. And the only reason I put this up here is just to remind everybody that that one has 21.5 to the acre. Go ahead, go forward one. There you go, 21.5 to the acre. It's actually 70%, not 75%, local buyers, 95 parking spaces, 77 cars. Just the highlights to show you the building form and show you what Kōloa Village looks like. This one is a triangle shape, so it affords more density just in terms of design. This is directly across the street. Go ahead, go forward. I want to show you this because this is R-6 zoning. This is what the site looks like, the subject site that we're talking about. So, you can see most of the primary large footprints that span the upper right and left of the site, and then as you go further left, you see a lot of little cottages there. R-6 zoning provides for you could do duets,

which would be at R-6 provide 60. Each building has two in it, so that would be 120 primary residences. Each of those 120 primary residences would then, you could do a Ohana unit as well as an apartment rent. So, R-6 you could get a lot more density on this site than what I'm proposing in terms of lot coverage. Go ahead and go forward. Oh, that's all the selling points you've heard. Go forward again. Okay, so if you look now this is the proposed project, right, and you, and you remember this site that I just showed you and what that looked like with R-6 zoning. So, the whole idea with these fourplexes and eightplexes is that it provides more space between the homes, more architectural relief as you drive up Weliweli Road and up Hapa Road, you have more breaks in the buildings. A comment was made about sidewalks that, yeah, they have some sidewalks in some areas. Well, the truth is we have a sidewalk at street level surrounding the entire project from end to end. And then through the project, you can see we have several walking paths through the project. This is very pedestrian friendly and provides safe sidewalks and green space along the street areas and a street tree. Go forward, and these are the structures, I don't need to go through these too much, again, they're basically the same structures that we did at Kōloa Village. You have the duplex, two homes, fourplex, four homes, and the eightplex, which is eight. The eightplex is nothing more than a fourplex joined to the next fourplex. That's basically what those are. But we were able to create in those some three-bedroom homes because some of our local buyers said it'd be really nice if you had three-bedroom homes. So, we played with the building form a little bit. This is not representative of colors. We've not gotten that far in terms of colors, but we have floor plans and, and the like. So, that's really it, that's what I wanted to show you. If you go back one and there's the, there's the thing. So again, the changes that we made, you see the future phase up there that is where we took out the four buildings, that's where we have the driveway that we need to work more on with the neighbor who lives across the street. He was the only one gracious enough to call and say, hey, what can we do here? I don't want the driveway directly across from my house. That site where it says Future Phase, that is the Jehovah's Witness Church. When I purchased it, they had already vacated the church. Somewhere on social media, it said that I had thrown them out of the church. They, I've never known them. That site is completely developed with concrete and buildings, several buildings, and I really don't know what we would do with it just, just yet.

Unknown Male: Microphone.

Ms. Streufert: So, are those buildings then color coded for duplex, fourplex and eightplexes, is that...

Mr. Serpa: Yeah, really good question. The blue ones are fourplexes, I believe it's no three bedrooms. The fourplexes that are tan color, I'm fairly certain those have three bedrooms. The pink colored ones are eightplexes and the top left green those are duplexes. Because that's Hapa Road in the upper left, that driveway up there, generally, people are going to take the shortest route. That driveway up there is where we went with a little less density. If you really study too, we gave a lot of thought to the boundary between the neighbors and this property at the top. And if you look at where those buildings are, there's the one multiplex building, I think it's a sixplex or something like that, it's right under proposed project. There's an existing building there. I think there are six units in that building or something like that. And so, we put buildings in front of that. But when you look at the houses, we tried to be sensitive to not putting buildings right behind the houses. That doesn't mean we can't shift them for (inaudible) or side to side a little bit, but we did give a lot of thought to the boundary and the neighbors and drainage is also created.

So, remember I mentioned earlier, if you see the green space all between the buildings, those are all areas where stormwater is directed, and then that stormwater goes from those green areas to the parking areas, and underneath the parking areas is where we have storm tech basins. So, that is how the stormwater is managed. Trying to think if there's any, there's any other any questions on that. Happy to answer.

Chair Ako: You know after your last house on this Hapa Road, duplex, are there residences further down? Along Hapa Road?

Mr. Jung: Yeah, I'm familiar with that property that there is a residence there, a residence and a guest house.

Ms. Otsuka: I have a question. You mentioned how the green spaces are designed to control the stormwater, but is there is, you know, I'm not an engineer, so I don't understand enough. But is there a way, say this project gets after completion and there is a storm, and what you're saying doesn't really happen and it goes into neighboring, you know, on the street, and there's flooding in a neighboring. What can the people currently living there, how can they be protected, you know, after this is built, like you need to go to the Planning Department and say, okay, the stormwater is coming into my yard or it's covering the streets, so we can't even drive through. What kind of protection do the current residents have as a knowing? Hopefully it never happens. But as a...just to have it in their mind that they're there's a possibility of being protected. Is there any county rules or...

Mr. Hull: For drainage that's under the Public Works Engineering division. So, the development when it goes through engineering review, final site review, it has to retain all stormwater on site. And so, if there's a violation of that then we'd have, they would be set and it'd have to be rectified.

Ms. Otsuka: Okay. So, okay we considered a violation.

Ms. Cox: So, I know earlier you said that the open spaces had not been programed yet. I can't tell, I'm not good enough at scale to know how big those open spaces are. But I mean, is there, are you thinking that there might be room for, like, a little playground for kids or a field where kids could play kickball? Or, you know, I'm just wondering what your vision is. I know you haven't programed anything.

Mr. Serpa: Yeah. So, some of it like, along Weliweli Road where you see the breaks between the buildings. There's one that's a little wider, a little longer than the others. And you also have to remember there's an elevational difference from the Weliweli Road, Hapa Road, this site goes up, there's approximately 20 feet of fall from the top of the site where you see the proposed project site, it's 20 feet of fall. So, what we're going to do with the site, and this also helps us manage drain, drain water. But it also affects what we're talking about right now, is because it's easier to work with dirt than it is rock, we'll take the back of the site down a little, and we'll bring the front of the site up. So, along Weliweli Road, so basically, flatten the site more along Weliweli Road, Hapa Road, you will have anywhere from a 2.5 foot to a 3.5 foot, lava rock wall that will, that will span the entire project to be able to bring the front of the project up. So, elevationally, even at the road level, Hapa road, Weliweli Road, it will be higher than the road

itself. So, back to programing parks, if, you know, we have those wider open spaces and we felt like we would have more children than we did at Kōloa Village, at Kōloa Village, we didn't have too many kids, yet, but we would plan for them. So, if, you know, play area or pavilion or barbecue or whatever, we would, we would put them in the biggest spaces. Yeah.

Chair Ako: Okay. Anything else regarding the presentation? Lori?

Ms. Otsuka: Regarding the first project, Kōloa Village, you said 70% sold to local families. And if I remember correctly, you sold all units except one unit. Okay. Why? Why one unit left?

Mr. Serpa: So, when you design these projects, you have to have ADA, disabilities. You have to have ADA. You either build them ADA or they're ADA convertible. So, we keep available for the entire the project, the last ones we sell, are those units that are ADA convertible. So, that one unit that we have has, but we have to do the exteriors first, so, we have a ramp. We have ramps up to the ADA convertibles, where the other buildings don't. That one is a two-bedroom, two bath, ADA convertible. Yeah.

Ms. Otsuka: And how many ADA units do you have planned for the new proposed project? Is there a...

Mr. Serpa: For a project of this size? And again, it depends on demand and you have to keep them open. Project of this size would probably be somewhere around six or something like that. Statistically for every 100 you may get one.

Ms. Otsuka: So, (inaudible).

Mr. Serpa: So, you have. Yeah. So, six would be probably more than enough. But you never want to, you want to be ready and available. You want to have something available if you get somebody that needs that.

Ms. Otsuka: Thank you.

Chair Ako: Okay. Moving on. How about our department, would you like to have comments on this, on the application itself?

Mr. Hull: Nothing to add further than what was provided. But if you have any clarifying questions for us.

Chair Ako: Okay. How about other questions for our applicant. I got one. How is it that if this is going to be for Hawai'i or Kōloa residents, is there a way that we would be able to say that, I don't know, if you're a resident, you get to buy it, if you're not a resident, you don't get to buy.

Mr. Serpa: I think there's a way to say a certain percentage of them, I, you know, again, I'm not an attorney, I'd have to dish to Ian. But, you know, there are fair housing laws and things like that. And I will admit, it is the reason we were pretty quiet in the way that we sold them at Kōloa Village. It wasn't until maybe the last ten where we had our highest prices. When we sell our selling strategy, when we sell these, like I said earlier, pretty low. We were again, very, very quiet in how we did that. But that is our intention. And I am, I, we can definitely do that to a

certain percentage or something. I don't, I don't know that we could shut the door on everybody else. Yeah.

Chair Ako: And when you do that, how do you determine who's a resident?

Mr. Serpa: Their previous address, quite frankly, at Kōloa Village is pretty easy because they were renting most all of them, renting. We did get some buyers like up in Ōma'o, parents were going to sell their home, take that money, help their daughter with a down payment, and they would live at Kōloa Village and their daughter would as well. We did have that happen. So, there's some of, some of that, which is wonderful.

Chair Ako: Okay. Mr. Jung, any idea what that percentage can be? 75% or...

Mr. Jung: You know, it's interesting because when the county effectuated its housing policy, early on in 2008, there was the mandated 20% for affordable housing, right. And then after nobody built affordable housing because it was just too excessive on the penciling, they excluded the town cores from affordable housing conditions. So, the town cores were excluded. From a fair, fair housing standpoint, I did do a little bit of research on this, but I think the one of the avenues you could look at is having primary residence. So, you avoid the speculation, right. So, if there's a percentage by way of condition where you look at primary residence occupancy, only, then you could potentially use that mechanism kind of as running with the land as an, as a point where you would restrict, you know, from people having speculative type approach, buying a house and selling it, or buying a house or buying a unit and then renting it out to somebody else, there's that type of approach that could be considered.

Chair Ako: I guess I'm looking before that as a first buyer there. I need to be a resident of, I'm going to say Kaua'i. Yeah. How do you determine who's a resident? Is there a way, I mean, voting, if I live with my mom and dad, I don't really...

Mr. Jung: Yeah, residency standards are usually likened to, you know, where your physical address is, where you're registered to vote, where you have a utility bill. Those are the typical residency requirements that are used in county regulation to define who's a resident, but someone saying local for one year versus local for 12 years versus born and raised here, there's no way.

Chair Ako: Yeah, okay. And we can't say 75% gotta be residents or that's a fluctuating number or...

Mr. Serpa: I think Ian just described it very, very well because we have, we have a smattering of Kaua'i residents, right. We have parents, we have helping the...the parents helping the kids buy, we have, an example of an investor is we have people that are in their mid to upper 60s and they believe that's where they want to live, you know, it's walkable, their doctor is at Kōloa Village and they say, no, we're going to live there. But you know, there are some events in their life. So, they're saying we'd like to buy it and rent it. And again, it's long-term rental. They'll rent it local. But ultimately that's where we'll be. It's a ground floor unit and it's walkable. So, that's an example of some of the investors. If you looked at that, we don't have a lot of them. But it's a perfect example of a fitting situation that that is plausible, it's reasonable.

Ms. Otsuka: On the purchase agreement, are you allowed to state where, say, if I was to purchase a unit and I would have to live there for X amount of years instead of one year or three months, turning around and selling it to someone in the mainland. Is this something that can be controlled or it's illegal to...

Ms. Barzilai: That part...

Mr. Jung: Yeah, that's also a challenge. Like so, remember we're trending towards gap housing, which is outside the typical restriction of affordable housing. And typically, you have income restrictions on affordable housing. And then you have deed restrictions on transferability. Cause I'm on the board for Habitat for Humanity, and we look at this stuff. We look at what the deeds can say. So, if someone gets foreclosed on, what happens with the equity they build up, that technically goes back to the original, you know, through the habitat, because that equity is borne by the fact that they got reduced cost and reduced tax incentives from the housing project being a government sponsored project. So, it's a little challenging when you get to these types of projects, which are exempt from affordable housing controls, to apply an income restriction or deed restriction type of approach.

Ms. Barzilai: So, in other words, it's one thing to put a condition on...

Ms. Oyama: Laura.

Ms. Barzilai: ...it may be one thing to put a condition on the developer and conditions upon the original sale, but then to prevent somebody from their property rights moving forward and selling to the next person, that might be more difficult from a constitutional perspective.

Ms. Otsuka: Thank you.

Ms. Barzilai: But I'm comfortable with the percentage and I'm comfortable with the primary resident requirement.

Ms. Streufert: And the first time. And also, first-time buyers or some preference for first time buyers.

Ms. Barzilai: I think that the department has already drafted something.

Ms. Streufert: Okay.

Ms. Barzilai: I don't know if we're at that stage yet for conditions. And we have a lot more questions to be asked.

Chair Ako: Yeah. Yep.

Ms. Cox: Actually, my question was just so that we think that all three of those things could be in a condition.

Ms. Barzilai: We're talking about, first-time buyer.

Ms. Cox: Primary residence and percentage. Okay.

Ms. Barzilai: I don't know if that's going to be acceptable to the developer.

Ms. Cox: But we can at least explore that.

Ms. Barzilai: Yes.

Mr. Hull: With the, with the...sorry, we drafted some potential conditions given the way the conversation was flowing. We did not fold in the first-time buyer because of the applicants kind of talking about the parent situation where they wouldn't be the first-time buyer. So, can that be done? Yeah, but at least when we drafted off of what the conversation was meandering around, we didn't include the first time, but we did look at a percentage within kind of legal parameters that Laura was kind of nudging.

Ms. Barzilai: Mr. Jung was looking at it from fair housing. I was looking at it from Commerce Clause. Also, how much can we restrict?

Mr. Hull: Do you want me to read? Sorry, do you want me to read this?

Ms. Barzilai: If the commissioners are there yet, I think they have questions for the department though.

Mr. Hull: Okay.

Chair Ako: Further questions?

Ms. Streufert: Could you talk a little bit about deed transferability, Ian, you had said something about that? What exactly does that entail? And what are the, what are the potential conditions that can be there?

Mr. Jung: Yeah. So, for deed restrictions you can't sell it for a certain period of time, in some cases ten years or you can't sell it. But that's for projects that are affordable housing. And I think one of the important facets of gap housing is immediately upon purchase, there's the potential to improve on the possibility of equity. So, if a family, two people, enter into the home, eventually say they have kids, they need something bigger than a one bedroom. They immediately build and compound upon the equity and then can go and potentially...(sound cut off for 20 seconds).

Chair Ako: Other questions?

Ms. Barzilai: Questions for the department or are we ready to move on to conditions?

Chair Ako: Yep.

Unknown Commissioner: (Inaudible).

Ms. Barzilai: If you want to hear further, yeah. If you have any questions about technical issues.

Chair Ako: After all of this, is the department ready for recommendation? Or do we want to address...

Mr. Hull: The department had submitted the original recommendations. We stand by what was submitted previously. I think there seemed to be some inclination that there were potential draft conditions that may meet some of the commissioners concerns as they're brought up. We have compiled a few different draft conditions based off of discussion that occurred here today. One is concerning, vacation rentals, one is concerning, residency for purchase, and one is concerning, U.S. Fish and Wildlife review.

Ms. Cox: I have one more. Possible one, having to do, a condition that about recreational space being incorporated in the open spaces.

Mr. Hull: Do you have...

Ms. Cox: I don't know how to word it exactly, but something about residential, I mean recreational use incorporated into the open spaces, programmed into the open space or something.

Ms. Barzilai: I think Mr. Serpa was talking about barbecue pits and a playground. One of the comments that we got today was about the lack of open space or recreational space.

Mr. Jung: If I could just comment on the recreational space component, I think it's got to be a bit flexible because once these units are sold and an HOA is established, typically with these type of buyer models, you want to keep the type of amenity down, so it doesn't increase the HOA fees. That can then compound upon the actual mortgage amount that's needed.

Ms. Cox: I understand that, but on the other hand, I really believe that if you're talking about you're trying to get people who can't afford other houses that have families, that they want a place for the kids to be able to run around, and they're not going to have their own yards. I mean, earlier we heard talking about people, you know, being able to run around their backyards. They're not going to be able to run around their backyards. But I do believe a large development like this should at least have some place where kids can run around.

Mr. Ornellas: Along those lines. Was there a park dedication fee involved?

Mr. Hull: No. Yeah. Sorry, not with this project.

Mr. Ornellas: Not with this project, okay. Thank you.

Ms. Streufert: So, we realize that you know that this is not in a vacation destination area. It's not a VDA, and therefore transient vacation rentals and home stays are not approved for that or allowed. But we also know that there are people who may not be aware of this, and that's why one of the conditions may be to put in there about transient vacation rental use or homestay use of any dwelling unit on the subject property is prohibited. You already know that, it's already there. But just to make sure that everybody knows that and we have no argument as to whether it is or is not.

Mr. Serpa: Absolutely.

Ms. Streufert: And for the Fish and Wildlife, it's more just to ensure that our second most popular insect, after the mosquito, is protected, or at least is considered in your deliberations.

Chair Ako: Those conditions seems to be acceptable?

Ms. Barzilai: I think...

Mr. Jung: We haven't seen any of these conditions. So, if we can get them read to us.

Ms. Barzilai: We need to hear the language. We can also recess.

Chair Ako: It's a trust issue, right?

Mr. Hull: Sorry, did you want me to read them onto the record? Okay. So, the, and commissioners, this was just going off of based off of comments that were made. So, the first condition we saw might be initiated from the commission would be, a new Condition No. 14, which would read, transient vacation rental use or homestay use of any dwelling unit on the subject property is prohibited. Ian, Mike, you guys okay with the vacation rental prohibition?

Mr. Serpa: Yes, I'm okay with that.

Mr. Hull: The next condition, which would read Condition No. 15, and the figure we came from, was in discussions with the County Attorney's office from a legal standpoint. So, I know there might be some discussion around increasing, decreasing but the number we drafted was in consultation with the County Attorney's office, up to 45% of the dwelling units for sale shall be made available to on island residents or Ni'ihau residents whose primary residence is within the County of Kaua'i.

Ms. Barzilai: I think I need to let the applicant chew on that for a minute.

Mr. Serpa: Yeah, I wasn't sure if you said 25 or 45. It reads 45, but we exceeded that by so far at Kōloa Village. Now, from, as a percentage basis, it's a larger project, right. So, I don't know if, I'm hoping we get that many because that would be half of 148, whatever, whatever that number is. So yeah, I think, you know, we have a really large interest list for this. So, that's the intention, that that is that is our goal. If, if for some reason we couldn't get there like we ran out of Kaua'i buyers, but again, as I talked about my pricing structure, which is I think we'll get there because it's pretty low. And then it'll go up once we hit that.

Ms. Barzilai: I know this wouldn't be the most comfortable thing, but coming back to the commission for a modification is always an option.

Mr. Serpa: Yeah.

Chair Ako: Yeah.

Mr. Jung: I'm just thinking in my head how to stand up the system, right. So, we can show compliance with the condition.

Ms. Barzilai: Yeah.

Mr. Jung: Where we create a marketing plan specifically targeting local on island residents. And I think that would most likely comply, should we submit a package saying this is what we're proposing.

Ms. Barzilai: Like the kama'aina loan that that Mr. Serpa mentioned earlier.

Mr. Jung: Right.

Mr. Serpa: Yeah. I think we could do that. And again, now that we've had some publicity and we're out online and all of those things, I will say after that community meeting, we had more than 40 calls the very next day, and 20 of those calls had attended that meeting. And they asked, you know, how they would purchase the homes and that sort of thing. So, we'd like to keep it low, and we would set up the marketing program just local.

Ms. Otsuka: So, they...

Mr. Hull: The next condition. I'm sorry.

Ms. Otsuka: Sorry. Just so I understand. So, you will base it on the person's address and you're going to not ever say an 808-area code.

Mr. Serpa: Yeah. Yeah. That didn't go well for me.

Ms. Otsuka: Okay.

Mr. Serpa: It was really just kind of a reference.

Ms. Otsuka: I understand.

Mr. Serpa: But it wasn't good. Yeah. I took a beating on that.

Ms. Otsuka: Thank you.

Mr. Hull: The next condition is condition, proposed Condition No.16, would state, prior to building permit approval, the applicant shall submit the proposal plans to the U.S. Fish and Wildlife for review. And the applicant shall resolve any outstanding requirements from U.S. Fish and Wildlife. So, the Planning Department wouldn't be able to sign off on the building permit pursuant to this condition until U.S. Fish and Wildlife has reviewed and met all the requirements.

Mr. Serpa: Yeah. So, having a 30-year career and having done a lot of United States Fish and Wildlife permitting, I can say those permits which to have them sign off, it's akin to a permit. It can add a lot of time and uncertainty. What I would rather do is have a certified biologist. I always had one on every project. And if we have areas of sensitivity or that, you know, they can be there for that. And if we discover something or hit something, then United States Fish and

Wildlife Service, I wouldn't have a problem involving them in that sort of review. But to create a perm, which is similar to a permitting loop, the United States Fish and Wildlife Service, is hard to do. That would be hard for me.

Ms. Streufert: If it were somewhat akin to the, let's see, where is it, the environmental history? Should any archeological or historical resources, that I guess that's Condition 10 or 11, should be discovered the same kind of thing if we were to discover, if you were to discover something that would indicate a potential for a, what is it, cave, blind cave spider.

Mr. Serpa: Blind cave spider.

Ms. Barzilai: A threatened or endangered species.

Mr. Serpa: Yeah, 100%. Well, we'd also have a cultural monitor as well.

Ms. Streufert: Got it. Okay.

Mr. Serpa: Because the last thing we want to do, if something is discovered, everything stops. Just. I've had projects on the mainland that that that happens. And we've literally had helicopters flying in. You just stop. Everybody goes home. And until it's substantially reviewed and you're okay to proceed.

Ms. Streufert: I think that fits the intent of purpose.

Mr. Serpa: Yeah.

Ms. Barzilai: So, Chair, department will read a different draft.

Chair Ako: Okay.

Mr. Hull: A possible updated language for Condition 16, would read should any endangered species be discovered on site, construction activities shall cease until U.S. Fish and Wildlife has been consulted and requirements are met.

Mr. Serpa: Yeah, I can do that.

Mr. Hull: And the last one. Commissioner Cox, to your point, a draft Condition 17. Sorry, I didn't have this to circulate. Was trying to put something together on the of the statement Commissioner Cox made. Condition 17 could read, residential recreational spaces shall be incorporated on site for unit owners to use. Such spaces may include, but not be limited to, playgrounds or barbecue pit areas.

Mr. Serpa: Yeah, that works.

Ms. Streufert: Can I ask, how long do you think developing this whole thing from groundbreaking to last ten units, how much time that would take?

Mr. Serpa: I would say 3 to 4 years.

Ms. Streufert: Okay. So, I'm not sure how this would work, but, you know, one of the problems that we've had with Kukui'ula, I think, is that we have asked, there has been in the, in the conditions, a recreational area for the community, but it was to be completed at the time that the whole development was completed, which means it's never been done. It's never been finished. It's already been two generations practically, that we've had going through that area, and they've never had that recreational area. If we were to put this in there, I would certainly hope that it would not be at the end of the whole thing. I don't know how that would, how you would put that in there. What would be acceptable to you. But based upon that experience, I'm a little gun shy.

Mr. Serpa: Yeah. I completely understand that with this type of a project, you do it in phases. And the homeowners that move in, part of the marketing program, they're looking at your whole plan, right. So, they're seeing your green spaces. And part of the value that they're paying for include those spaces. So, you can't be late with them, but you do do it in phases. So, if we built the first phase of the project and it had the larger green space in it, and we have a landscape program in there where we have amenities, you have to offer that to them now because their HOA fee that they're paying is paying for that, right. So, you have to deliver the amenity in the same phase as that it's built. And there's a 100% chance that they'll all be built by the time the thing is finished, because they'll all be paying their HOA fees for those. So, if you wanted to add a condition to say any and all amenities, something like that, you don't want to trust me to make that up. But in any and all amenities would have to be done by the time the last house is complete. That that would happen. Yeah.

Mr. Hull: To that point, Commissioner, the department could amend the proposed Condition 17 to start off with prior to building a permit approval, instead of (inaudible) it has to be in the site plan prior to the department signing off on any building permit. And if it's constructed and sold without the recreational space as depicted on the building permit approval, it would be a zoning violation.

Mr. Serpa: I'm having some gaps in my brain right now. You might have to say that one more time. I was busy breathing.

Mr. Hull: So, in order to address the concerns about the phasing of a recreational area, we could amend the condition for the recreational areas to be incorporated on site to, prior to building permit approval, so that in your site plans for building permit approval, it has to depict the recreational areas and once construction is complete and Certificate of Occupancy is granted by building permit. If those recreational areas are not there at Certificate of Occupancy, it would be a zoning violation.

Mr. Serpa: Absolutely.

Mr. Jung: So, we would submit a site plan for review, site plan comments, making sure they're there. If they're not built, it's a violation.

Mr. Hull: Correct.

Mr. Jung: Yeah.

Chair Ako: Okay. We're getting closer.

Ms. Barzilai: I don't think the applicant has commented on their agreement.

Chair Ako: Oh.

Mr. Jung: Oh, yes. That condition's acceptable.

Ms. Barzilai: Thank you. Okay. That's it.

Chair Ako: Okay. Any other questions before we move forward? If not are we ready for a motion?

Ms. Streufert: I move to approve Project Development Use Permit, PDU-2026-7, and Class IV Zoning Permit, Z-IV-2026-9 with the amended conditions.

Ms. Barzilai: We need a second or not.

Chair Ako: Second?

Mr. Ornellas: Second.

Chair Ako: Second. Okay, we have a motion and it's seconded. Before we move to the vote, do we have any last comments we'd like to make?

Ms. Cox: Yes. I would like to make a comment. And that is that this I know there were many concerns that were brought up today that we didn't resolve, and that was not because we don't care about them, but because they will come up at the next stage when Public Works will be looking at the project and looking at things like water and traffic and wastewater and all those evacuation. So, I just want the public to know we are not ignoring those, it's just that that happens at the next stage.

Ms. Barzilai: If that's it, Chair, then motion on the floor is motion to approve PDU-2026-7, Class IV Permit, Z-IV-2026-9, with conditions as amended.

Chair Ako: We all good?

Ms. Barzilai: We all good? Would you like a roll call?

Chair Ako: Let me comment first.

Ms. Barzilai: Of course.

Chair Ako: Ever since I've been on top of this Planning Commission, I think this is one of the, this is the hardest one that I think that I've ever been through, because I really think that we've really dug ourselves in a really, really big hole. And it's a hole that we don't know how to get out of. Yeah, I think we're looking at having a shortage of about 3,000 units, you know, on the island. How are we going to do that by, how are we going to fill that by doing 148 at a time? Yeah. It's not going to happen. And then where are we going to put them. You know, as I mentioned earlier, I think I've been in Kōloa and I think it's really, really crowded in there. But I really believe too, that this is not only going to happen to Kōloa, this is going to be happening to

all the other communities in there, because I'm not sure. I don't see any other way to do it. And as we do that too, I think we really got to look at this, this problem globally, because not only do we need to look at housing, we need to look at the infrastructure that comes with it. We've got the roads to go with it. We got wastewater to deal with. We've got water to deal. We've got all these things to deal with and what are we going to do? How are we going to do it? Yeah, I think this is just a Band-Aid situation in terms of how we move forward, because I think, I'm guessing and I don't live in Kōloa, but I think there's a lot of unhappy people today because you're going to have that because it's going to be crowded in there. But the choices that I think that we face right now is the fact that, do we want like 50 luxury homes, which we're going to be more than likely bought by somebody from off island coming in and just adding to the situation there, as opposed to having 148 maybe gap homes, which will actually go to local people, because if we have the luxury homes, we still get the gap problem, gap housing problem that is there, you know? And at what price do we do it? For myself, our son just left Hawai'i and he went to move to the mainland because of one, right, the rising cost just to live in Hawai'i. And that's why I'm really concerned, too, about the length of this project that's going up. Because if this project takes on too long, it's no longer going to be a gap housing project. It's going to be a luxury home project that, you know, we're going to be facing with, you know, so I really hope that discussions continue because I still feel that there are still some unsettled issues that are out there. And, you know, I think you would do the community a lot, a lot more great things if you had continued to see how you can work. Because as I said earlier, people will continue to pass that area, pass that area, and you just want them to pass that area feeling good about, you know, what this has done for our community there. So, with that, I'm kind of guessing, you know, I kind of know where the votes are going to go. But, you know, I just want to thank everybody for your patience. Commissioner Ornellas.

Mr. Ornellas: Yeah, I'm not exactly happy with the situation as well. You know, I think it's been lost in the whole discussion. But somebody did bring it up earlier that this area is a transition zone between urban and agriculture, right. And as a farmer, I can tell you we have a lot of problems with that interface. And, you know, it's supposed to be a gradual, you know, transition from urban core to, you know, semi-rural to agriculture. And, you know, we are losing a component here. But here, again, the real crisis we have in housing, and I agree with you, we need to do something. And I think I'll just go ahead. Oh, go ahead.

Ms. Cox: No, I already said my peace.

Chair Ako: And I think I'll just close up by saying, you know, I think we all want Kōloa Town to remain Kōloa Town, that we knew what it was going to, what it what it always was over there. But I think Kōloa too has already been changing, as well as so many others going to be. And somehow, in my mind, I hear this guy, Jerry Santos from Olomana, he talking about, you know, change is a strange thing because it cannot be denied. You can either find yourself or you can lose your pride in it. Yeah. So, I think right now I think the decision is going to go one way. And from here on forward, I think that that's our decision, yeah. Are we going to find who we are, or are we just going to lose our pride and give up on this, on this issue here? With that, if we can have a roll call.

Ms. Barzilai: Roll call, Mr. Chair. Vice Chair Cox?

Ms. Cox: Aye.

Ms. Barzilai: Commissioner Ornellas?

Mr. Ornellas: Aye.

Ms. Barzilai: Commissioner Otsuka?

Ms. Otsuka: Aye.

Ms. Barzilai: Commissioner Streufert?

Ms. Streufert: Aye.

Ms. Barzilai: Chair Ako?

Chair Ako: Aye.

Ms. Barzilai: Motion carries. 5:0. Thank you all very much.

Mr. Serpa: Thank you.

Mr. Jung: Thank you, commissioners. Appreciate your time.

Chair Ako: Thank you, Mr. Jung.

Ms. Barzilai: Thank you to members of the public for your patience today. We appreciate it. Thank you.

Mr. Hull: Okay. There was a request because of a flight. To take Item 2.c. out of order. Amenable to that, Chair?

Chair Ako: Yes.

Mr. Hull: Okay, so the next item would be.

CLASS IV ZONING PERMIT (Z-IV-2026-10) and VARIANCE PERMIT (V-2026-3) involving a 18-lot subdivision, to allow a deviation from the requirement relating to the construction of curbs, gutters, and sidewalks for residential subdivision, for a parcel situated along the makai side of Ala Kukui'ula in the Kukui'ula Master Plan Community, approximately ¾-mile west of its intersection with Ala Kalanikaumaka, further identified as Tax Map Key: (4) 2-6-023:040, and containing a total area of 114.47 acres = **BBCP KUKUIULA DEVELOPMENT LLC. [Director's Report Received, 1/28/2026, Hearing Postponed, 2/10/2026].**

1. Director's Report Pertaining to this Matter.
2. Transmittal of Agency Comments to Planning Commission.

Mr. Hull: We do not have any members of the public signed up to testify. Is there any member of the public that would like to testify on this agenda item? Seeing none, the department would recommend closing the agency hearing.

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

Ms. Otsuka: Second.

Chair Ako: We got a motion. We got a second. All those in favor say aye. Aye (unanimous voice vote). Oppose.

Ms. Oyama: Chair, your microphone.

Chair Ako: Okay. The motion has passed. 5:0.

Mr. Hull: Motion passed. 5:0. So, we move directly into the agenda item. I'll look to Kenny to give a brief synopsis of the proposal.

(Commissioner DeGracia re-entered meeting at 4:07 p.m.)

Mr. Estes: Okay. I'll summarize the report for the record.

Chair Ako: Okay. Do we have any questions or comments for the department? Seeing none, I think I'm going to go straight to...do we have any questions for the applicant? Seeing none, we can, ready for a motion.

Ms. Cox: We want to hear the...

Chair Ako: Oh.

Mr. Estes: The department's recommendation. Based on the foregoing evaluation and conclusion, it is hereby recommended that Class IV Zoning Permit, Z-IV-2026-10, and Variance Permit, V-2026-3, be approved, subject to the following conditions noted in the Director's Report.

Chair Ako: Can we have a motion?

Mr. DeGracia: Motion I move to approve Class IV Zoning Permit, Z-IV-2026-10, and Variance Permit, V-2026-3.

Ms. Streufert: Second.

Chair Ako: Okay. We got a motion and a second. Any comments, any concerns?

Ms. Streufert: Does this mean that there are no sidewalks at all?

Mr. Estes: There is going to be one sidewalk, which is going to be on the eastern side of Ala Haku Lei Loop. So, it's going to follow the proposed sidewalk noted in the Public Path and Trails Exhibit for Kukui'ula.

Mr. Mauna Kea Trask: Yeah. If I...for the record, Mauna Kea Trask behalf of applicant, if I can just supplement what Mr. Estes said, a primary component of Kukui'ula is a comprehensive public hiking and biking trail system running through the entire project. And this was a condition of not only the zoning ordinance in 2004, but I also believe the LUC decision and order in 2003. So, essentially what you have here is this development before complete streets, before all subdivisions required sidewalks. We had this trail system that was required for everybody. Both the residents and the public can use it. So, what we're actually asking to do is maintain that motif, which allows Kukui'ula to avoid being overdeveloped, don't have dual sidewalks, and we have this trail system. So, we're asking to maintain that and maintain the wide swales which provides distance from through traffic. And just to maintain that, you know, the design. So, it will have, and it will be integrated into the existing trail system and continue on to further subdivision.

Ms. Streufert: Because the swales are actually about drainage and the sidewalks are actually about transportation, so...

Mr. Trask: Correct.

Chair Ako: Mr. Clerk, roll call.

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

Ms. Cox: Aye.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 6:0.

Mr. Trask: Mahalo, everyone.

Chair Ako: Thank you, Mr. Trask, for staying this long.

Mr. Hull: Next, we're working our way down the agenda. Item 2.

CLASS IV ZONING PERMIT (Z-IV-2026-8) and VARIANCE PERMIT (V-2026-2) involving a 20-lot subdivision, to allow a deviation from the requirement relating to the construction of curbs, gutters, and sidewalks for residential subdivision, for parcels immediately adjacent to the Koloa Estate Subdivision, situated along the western side of Lopaka Paipa Boulevard in Koloa, further identified as Tax Map Keys: (4) 2-6- 014:041 & 046; 2-6-015:005, and containing a total area of 6.064 acres = MAKAI KOLOA LLC. [Director's Report Received, 1/28/2026; Hearing Postponed, 2/10/2026].

1. Director's Report Pertaining to this Matter.
2. Transmittal of Agency Comments to Planning Commission.

Mr. Hull: Do we have any members of the public that would like to testify on this agenda item? Seeing none, the department will recommend closing the agency hearing.

Chair Ako: A motion to close.

Ms. Cox: I move, we close the agency hearing.

Mr. DeGracia: Second.

Chair Ako: Any other concerns, if not, all those in favor say aye. Aye (unanimous voice vote). Opposed. Motion passes. 6:0.

NEW BUSINESS (For Action)

Mr. Hull: With that, we move directly into the General Business item of it, and I'll turn it over to the staff planner to give perhaps an even briefer description.

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

Chair Ako: Any questions for Mr. Estes? If not, do we have an applicant that is present? This must be Mr. Quinn.

Mr. Lindsay Crawford: Good afternoon, commissioners. For the record, Lindsay Crawford, representing Makai Koloa LLC.

Chair Ako: Any questions for Mr. Crawford? Doesn't look like it.

Ms. Streufert: One question. At the end of this, when it's completely built out, how many more units do you anticipate building in this area?

Mr. Crawford: This particular subdivision will create 15 new residential...

Ms. Barzilai: Your mic, please.

Mr. Crawford: I'm sorry. This subdivision will create 15 new residential lots.

Ms. Streufert: And that will complete the build out of this area?

Mr. Crawford: I'm sorry.

Ms. Streufert: Will that complete the build out of this area?

Mr. Crawford: That will complete the build out of Kōloa Estates, which is the end goal for this.

Chair Ako: Okay.

Ms. Streufert: Is that recreational area a part of this?

Mr. Crawford: I'm sorry, a little louder.

Ms. Streufert: Is the recreational area for Kukui'ula part of this particular?

Mr. Crawford: Do I have an area photo?

Ms. Streufert: No, the recreation area that was supposed to be built for Kukui'ula. Is that part of this?

Mr. Crawford: No, we're adjacent to the community park. Is that, is that what you're speaking to?

Ms. Streufert: Yes.

Mr. Crawford: The community park? Yes.

Ms. Streufert: What's the status? Do you know what the status of that is?

Mr. Crawford: Well, the status of that, if you'd like to know, is that we've actually been working with the county, the Planning Department, the Parks Department, the mayor, everybody for the better part of a year. And we, now I'm speaking in terms of Kukui'ula. We have a first draft of a first phase of the community park designed, submitted to the county, reviewed, and a first plan check back. So, now it's in our ball court. We're going to make a few changes and resubmit.

Ms. Streufert: Great. Thank you.

Mr. Crawford: Okay.

Chair Ako: Okay. Anything else? If not, can we have a recommendation?

Mr. Estes: Based on the foregoing evaluation and conclusion, it is hereby recommended that Class IV Zoning Permit, Z-IV-2026-8 and Variance Permit, V-2026-2 be approved subject to the following conditions noted in the Director's Report.

Chair Ako: Okay. Are we ready for a motion?

Mr. DeGracia: I move to approve Class IV Zoning Permit, Z-IV-2026-8 and Variance Permit, V-2026-2, with included conditions stated in the Director's Report.

Ms. Otsuka: Second.

Chair Ako: We have a motion and we got a second. Any questions, concerns? If not, Mr. Clerk, if we can have a roll call vote, please.

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

Ms. Cox: Aye.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 6:0.

Mr. Crawford: Thank you, commissioners.

Chair Ako: Thank you.

Mr. Hull: Next, we go on to.

SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2026-4) to allow construction of a new single-family residence and associated site improvements on a parcel situated on the mauka side of Kuhi6 Highway in Wainiha, approximately 350 feet west of the Alamihi Road/ Kuhio Highway intersection, further identified as Tax Map Key: (4) 5-8-011:024 containing a total area of 5,940 square feet = **TIMOTHY J. QUINN.**[Hearing Postponed, 2/10/2026].

1. Director's Report Pertaining to this Matter.
2. Transmittal of Supplemental Information to Planning Commission.

3. Transmittal of Agency Comments to Planning Commission.

Mr. Hull: We don't have any members of the public signed up to testify. Is there any member of the public that would like to...you're representing the applicant? Okay, I'm just making a call for public testimony. Is there public testimony for non-applicant representative present that would like to testify? Seeing none, the department will recommend closing the agency hearing.

Ms. Cox: I move that we close the agency hearing.

Mr. DeGracia: Second.

Chair Ako: We got a motion, we got a second to close. All those in favor say aye. Aye (unanimous voice vote). All those opposed. Hearing is closed. 6:0.

Mr. Hull: Moving directly into the Director's Report portion of this, I'll turn it over to Romio, who is going to demonstrate that he has even better brief skills than the previous planner.

Staff Planner Romio Idica: Aloha. This report was transmitted to you on the during the February 10th agenda. However, we didn't have quorum, so it was deferred.

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

Mr. Ryan Facer: Hello commissioners. Thank you for your time. For the record, my name is Ryan Facer, representing the applicant, Johnny Quinn. And thank you Romio. Yes, we've compiled and I'm not sure if we want to forego the brief slide presentation that kind of describes what Romio had said. We're compliant with the SMA requirements from Chapter 205A for Hawai'i Revised Statutes. Earlier in this month, there had been a request from the County Planning Commission for more investigation and work for Ka Pa'akai. We have been gathering some names and organizations. We had done a preliminary investigation, researching databases, but had been asked for more face-to-face community outreach. We've been compiling these names, and we have a list of names that we'd like to engage with, although we have not engaged with them yet. So, in our compilation of names, we would be reaching out to Barbara Say, Megan Wong and Maka'ala Ka'aumoana, to make sure that we're identifying any potential Ka Pa'akai considerations that need to be brought before the project. It is a small residential dwelling, one bedroom, one bathroom. The lot is small, less than 6,000 square feet, and the project is small, less than 1,300 square feet. But it would just be for a single-family dwelling for Johnny Quinn, who's been a member of the North Shore community for some time. But that is our efforts moving forward, we'll reach out to these organizations to make sure that we can engage in those conversations regarding Ka Pa'akai and identify if there's anything that we need to be aware of for the project.

Mr. Hull: Thank you for acknowledging that. And this is, it is just a small, single-family dwelling, but we appreciate the fact that it is an extremely sensitive area given the presence of potential cultural sites, including, but not limited to iwi. What do you have an anticipated timeline on when you'll be complete with the outreach with the groups?

Mr. Facer: I would hope within the next month, we should have everything, all the conversations complete, documents compiled, notes taken, and so we can provide an update memorialized for the Planning Commission.

Mr. Hull: Are you okay with moving out to the second Tuesday of April?

Mr. Facer: That would be okay.

Mr. Hull: Romio, do they have to waive any timeline requirements that they're bumping up against?

Mr. Idica: Mr. Facer has provided a waiver of the approval, and that letter is within the file.

Ms. Streufert: So, are you suggesting or is this, the recommendation to defer this until April?

Mr. Idica: Yes, that is correct.

Ms. Streufert: Thank you.

Chair Ako: Okay. With that, we can take a motion. April 14th.

Ms. Cox: I move, we defer the Special Management Area Use Permit, SMA(U)-2026-4, to the April...what did you say?

Ms. Otsuka: 14th.

Ms. Cox: ...14th meeting.

Mr. Ornellas: Second.

Chair Ako: Okay. It's been moved and seconded. Any other comments? If not, Mr. Clerk, can we take a vote.

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

Ms. Cox: Aye.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 6:0. Thanks, Ryan.

Mr. Facer: Thank you, commissioners.

Chair Ako: Thank you very much.

Mr. Hull: Moving on to the last agency hearing.

CLASS IV ZONING PERMIT (Z-IV-2026-11), USE PERMIT (U-2026-8) and SPECIAL PERMIT (SP-2026-3) to conduct a guided agricultural tour operation involving a 5.4 mile excursion and associated improvements on parcels situated on the mauka side of Kaumualii Highway in Puhi, approximately 1,100 feet north of the Kaumualii Highway/Nuhou Street intersection, further identified as Tax Map Keys: (4) 3-4- 001:002 (Por.), 3-4-005:003 (Por.), 3-8-018:002 & 003, and containing a project area of approximately 8.98 acres = **KILOHANA EXPEDITIONS INC. (KEI) [Director's Report Received, 1/28/2026; Hearing Postponed, 2/10/2026].**

1. Director's Report Pertaining to this Matter.
2. Transmittal of Public Testimony to Planning Commission.

Mr. Hull: We don't have any members of the, well, we have some communications, written communications concerning the applications. We don't have any members of the public signed up to testify on this agenda item. So, I'll make a call for the public. Are there any members of the public that would like to testify on this agenda item? Seeing none, the department recommended closing the agency hearing.

Mr. DeGracia: I move to close the hearing on this agenda item.

Ms. Otsuka: Second.

Chair Ako: Okay. It's moved and seconded. All those in favor say aye. Aye (unanimous voice vote). All those opposed. Agency hearing is closed. 6:0.

Mr. Hull: With that, we can move directly to the general business item. And Dale is going to demonstrate why he's the supervisor and be briefer than all the other planners proceeding him.

Staff Planner Dale Cua: Good afternoon, commissioners.

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

Chair Ako: Questions.

Ms. Cox: Yes, I have a question. It's probably a silly question, but since I don't deal with tours like this, first of all, I want to go on this tour. It sounds absolutely beautiful, but is it normal that regular drivers with a driver's license get to operate these things, you don't have to worry about, like them going off on their own and doing silly things?

Mr. Fred Atkins: Yes, I can answer that. My name for the record is Fred Atkins and I'm the president of Kauai Expedition, Inc. also the general partner of Kilohana Plantation, which is now a family business. And my son and I own the Ka'aahi Ranch and farmland. So, where the tour will be starting and ending. Yes, most of the tours that are done like this in Hawai'i and like Kipu Ranch, they let the people do drive their own vehicles. But there's a front guide and there's a back guide, so they keep them together. And yeah, it's fairly safe that way, but they just don't let them go off on their own. No.

Ms. Cox: Thank you.

Chair Ako: Okay.

Ms. Cox: Am I the only one with questions? Okay, I have one more question and then a comment. The question is, noise, I know that most of the tour is going to be where there aren't any residences or anything. Still, I'm worried about noise or just in general, so, the natural environment. Could you just speak to that?

Mr. Atkins: Sure. You know, the ATVs are kind of loud, okay. And we took that in consideration. And so, we did a couple trials where we leave from Ka'aahi Ranch goes down north, and then it goes into an old cane road that connects to Mr. Bukoski's ranch and that road goes all the way up to crater. I think where you're concerned about since you were the provost, is to college and Island School. So, we took both of them. We showed them the route, and they did not have concerns. On the other end of the property, we have a couple units that are owned from Kilohana Plantation. There's two down by what they call Rapozo Crossing. And then from there, Mr. Cua mentions about 1800 feet to the next home, which is down towards Līhu'e. So, what's nice about this, once you leave Kilohana and get on to the other part of Grove Farm, because we, we actually own the 75, but we're tenants in common with Grove Farm that has a couple thousand acres under the four TMK's, which we will be operating under, no one's going to hear anything. And what we would like to do, and it's not at that level yet, but there are ATVs now that are electric. And so, we're hoping in the next 3 to 5 years that the development batteries are changing every year. It's amazing what the (inaudible) and they're doing it for everything. And we would love to have a non-gasoline powered UTV because it's so beautiful up there. The noise is a little distracting. So, for our people they're going to have the helmets for safety. But they'll also have the narration. And there's noise blockers in those. So, you're not hearing, you know, the amount of noise you'd hear with six, eight or ten ATVs.

Ms. Cox: That's great. And I love the fact that you noted in your application that you hope that it will go electric because...

Mr. Atkins: Yeah, it's a good (inaudible). Going from Kilohana to Kilohana Crater is pretty much uphill. It goes from about, I think, around 300 to 1100 feet. So, you need a battery that can handle that twice a day. So right now, like I said, I'm saying 3 to 5, it could be 2 to 3. But I know they've already started with two seaters. So...

Ms. Cox: Great.

Mr. Atkins: It's wishful thinking. But I think it's something we can do because that's about the time we're going to start turning our (inaudible)...we're getting brand new 2026s, and the warranties are for 3 to 4 years, depending on what it is. So, it's a perfect time for us to transition if they're ready to, you know, if they're ready to say yes, you can do a tour and it can handle.

Ms. Cox: That would be great.

Mr. Atkins: It would be wonderful for both of, you know, for visitors and locals that are taking the tours, everybody.

Ms. Cox: Actually, that was my last comment was about locals. And this isn't just about you or this is, or this tour. I mean, as I said, this sounds like a absolutely beautiful tour and a nice way to learn about what's happening back there as far as agriculture. But in general, this island is, so much of this island is privately owned and inaccessible to the people who live here, and so, I was just wondering, I guess my comment is that I hope that there is a substantial kama'aina discount so that people who have never been, and not just me, although I will, I will be the first to sign up, but I just I actually think it's really important that the, that the tourists that live all over the world get to see parts of the island that those of us who live here never get to see. So that's...

Mr. Atkins: So, Mrs. Cox, if you don't ask, you don't receive, right? So, I'm glad you asked. It's a really important question because it's the heart of what we've done with everything we've done at Kilohana. Kilohana in June will be 40 years that we've opened to the public, and Kilohana was not lived in for many years, so we had to totally reclaim it. But our marketing strategy back then is that we opened this because it was totally private, except for the (inaudible) days that people came and went. None of the local people ever got to really see the beauty of Kilohana and the state. So, we figured if we made it feel comfortable and they came, they're going to tell the visitors. And, you know, I think a lot of our success with Kilohana, because we had so much local support. And I was out down there at lunch today and I was just, every day I'm just amazed how many locals come for lunch and they come for dinner, they come for a special occasion. Our restaurant, I don't know if it'll even be operated without local people to be honest because they make a good percentage of what we do there. So, when we try to create a tour because we we've gone through maybe four times with the Planning Commission on Special Use Permits, you know, one of them was the train project and the agricultural project. You can go down there on any Sunday and see how many families are taking their kids that are local on the train, because we give them about a 50% discount. Okay. And then my son who created Rum Safari, you can go there every day of the week and you'll see local people, kind of amaze me. And on weekends you'll see six, eight in a group. Sometimes they take the whole 20 because it's a birthday party.

Yeah, they get two drinks, but it's more than that. They have fun. They get to learn a lot about the ag and we have some great guides. A lot of people say are comedians, but they know all their stuff. So, we've always thought if we can do it for the local people and they're proud of something that they do, you know that we do. It's the best marketing we can get, and that's been our motto throughout 40 years. And same with the luau, luau is expensive, but we see locals that bring people from the mainland that are visiting. We're very proud of our show. It's been going on for 18 years and we sell out in the summer, so it's a big key to make sure and if I have another minute, we've been taking local people up there for about a year and a half now, because that's how long we've been working on it. We thought we'd, we thought it might have, six months to take to get a permit. It took longer. So, we just kept going and going. And you take some of these older local people and they used to hunt up there or, you know, they had fun in the old days when everything was open, you just had to wave to a cane haul driver and pull over, and they said, okay, you can go fishing or wherever you did up there. They almost had tears in their eyes. They hadn't been there for years. And then I've had local people that had never been there. You know, we have a couple Hawaiian boys that work for us, unbelievable workers that they're like 18, 22. They said, you know, they're taking pictures and we've never seen this. We live here. It needs to be opened up to our local people. It's Kilohana Crater, and, you know, one of the mandates that Grove Farm told us they want you to tell the ag story about the ranching that was before sugar, now, after sugar, the two homes. It's such a neat thing. And to connect these old roads, they were totally overgrown with invasive species. And I lived at Kilohana, not Kilohana, but Iliahi for seven years, 2005, and at that time when I went up to the crater, it was absolutely gorgeous. When Don Horner asked me if I could do something that could help Iliahi and I went up, I was just blown away at the Albizias that had taken over the guinea grass, the waiwi guavas. You could not look in the crater. And before it was totally open and, you know, after a year's worth of work, a lot of it hand (inaudible) whatever, you can see the crater again and it's so beautiful. I want, I'll take you, Helen.

Ms. Cox: Thank you.

Mr. Atkins: Yeah.

Ms. Cox: That's really (inaudible).

Mr. Atkins: Because that's the heart of it, but for me...

Ms. Barzilai: She can't accept that right now, but thank you. Thank you so much for the offer.

Mr. Atkins: I guess that goes for the commission, but it is so nice to start taking out this guinea. The NTBG is going to give us 25 starters with ohia. We're going to start, I mean the guinea wiped everything out and then we start taking on the hillsides, you start cutting away and we see all this native palapalai fern. And it's just and the grasses are...I mean, I'm really excited and turn a lot of people on to it. So...

Ms. Cox: Thank you. Thank you very much. And I just want you to know, my mother loved the trail.

Mr. Atkins: We, you know, everyone offers a standard discount to local people, everyone I know that runs a reputable business for visitors more than locals. We want to try to do something that

goes beyond that because like I say, we're just starting out and if a visitor comes their most reliable, it's not the magazines, it's they have an opportunity to talk to a local person and they say, what do you think? Oh, I've heard about that. Yeah, I think it's good or I've been on it. That's better than any kind of social media or anything. So, we, that's our direction.

Ms. Cox: Thank you.

Chair Ako: Okay, guys. Team building, riding ATVs. Okay. But, if nothing else.

Mr. Ornellas: Just a quick comment.

Chair Ako: Please.

Mr. Ornellas: Over the years, Mr. Atkins has been very supportive of agriculture on Kaua'i and has some tenant farmers at Kilohana Plantation who probably would never have gotten a chance to farm except for the generous leases he offers them and use of equipment. If you've read some of the testimony, it alludes to that, so I am fully supportive of his application.

Mr. Atkins: It brings up a point, Mr. Ornellas, you know, on the tour, we want our guides to do everything authentically, but we also want to promote the ag, but more so the Kaua'i products, you know, that come from ag, they come from all the there's so many great products now, and I know the farmers, you know, right now they're getting great prices for their cattle. Sometimes it goes down. But on the other side, the farmers that are doing added value products, that's where the money is. It's just not in our fruit stand. It's in the, it's in...and we have so much of that at Kilohana. A lot of our shops carry a lot of Kaua'i products. And we want to emphasize that because we're hoping our people come before tours and have lunch, maybe shop or vice versa. And one of the things that made Kilohana successful, we'd had to diversify with a lot of different things, you know, and it's by creating new activities that are welcomed by local people and will bring into visitor dollar to Kilohana has made it successful.

Chair Ako: Anything else? No, if not, recommendation, Mr. Cua.

Mr. Cua: Now moving on to the recommendation. Based on the foregoing, it is hereby recommended that Class IV Zoning Permit, Z-IV-2026-11, Use Permit, U-2026-8, and Special Permit, SP-2026-3 be approved, subject to the following conditions; there are a total of eight conditions noted in the Director's Report. I'm available to answer any questions or concerns you may have regarding them.

Chair Ako: Okay. If there's no questions...

Mr. Hull: I don't know if there's a three-drink minimum condition for this operation. Sorry, it's been a long day.

Chair Ako: Okay, we're ready for a motion on this.

Ms. Otsuka: Motion to approve Class IV Zoning Permit, Z-IV-2026-11, Use Permit, U-2026-8, Special Permit, SP-2026-3, applicant Kilohana Expeditions, Inc.

Chair Ako: Thank you, Lori.

Ms. Cox: Second.

Chair Ako: It's been moved and seconded. If not, Mr. Clerk.

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

Ms. Cox: Aye.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes. 6:0. Thank you for your patience gentlemen.

Ms. Cox: Thank you. Thank for all you do.

Mr. Nick Atkins: Thank you.

Mr. Atkins: Can I just add thing? We know that getting this permit is a privilege, and we will take it very seriously. The conditions that Mr. Cua has put in there, we want to comply with all those and we'll work with a different department heads. But thank you very much for giving us this opportunity. It's appreciated.

Chair Ako: Thank you for coming.

Ms. Cox: Thank you.

Mr. Hull: That concludes the agency hearing portion of the agenda.

Continued Public Hearing

Mr. Hull: Onto the Continued Public Hearing.

Proposed amendments to the Special Management Area (SMA) Rules and Regulations. [Director's Report Received, Hearing Continued, 1/13/2026].

Mr. Hull: We don't have any members of the public signed up to testify, but would any member of the public like to testify on this agenda item? If so, you may approach the microphone. Seeing none, I can say the commission had these rules, I think for about a month now. Jody Higuchi, the deputy, is playing point on this and is still working her way through the last touches of discussions with some coastal advocate groups, and they anticipate having this ready for the March agenda. But if we could just have an open-ended deferral, we anticipate March or April, unless the commission wants a specific date, if it's a specific date, we'd probably ask for April, but it may be ready in March. So...

Chair Ako: Okay, if we can have a motion to defer?

Ms. Streufert: I move to defer.

Ms. Cox: Second.

Chair Ako: We have a motion to defer and seconded. Mr. Clerk.

Mr. Hull: Roll call?

Chair Ako: Roll call.

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

Ms. Cox: Aye.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Chair. 6:0.

New Public Hearing (None)

CONSENT CALENDAR

Mr. Hull: The Consent Calendar was approved on approval of the agenda. Mr. Graham is waiting for the consent calendar.

GENERAL BUSINESS MATTERS

Mr. Hull: We're moving on to General Business. I just asked, perhaps because there are a number of appeals against the department. Perhaps we could move the Habitat for Humanity agenda item. Romio is not even going to discuss it. We can, I can a brief sentence, if you guys are okay with moving the Habitat for Humanity to the top of the General Business Matters.

Ms. Otsuka: Yes.

Ms. Cox: Yes.

Mr. Hull: Okay.

Request for time extension of SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2021-8) for the development of an affordable housing project involving the construction of seventeen (17) housing units containing 8 duplexes and a single-family residence, and associated site improvements involving 2 parcels in Waipouli, located along the makai side of Kuhio Highway in the vicinity of property identified as 4-870 Kuhio Highway, further known as Tax Map Keys: 4-3-009:051 & 071, and containing a total area of 36,861 square feet = **Kaua'i Habitat for Humanity.**

a. Director's Report Pertaining to this Matter.

Mr. Hull: Are there any members of the public who would like to testify on this agenda item? Seeing none, you got five sentences or less, Romio.

Mr. Idica: Yeah. First of all, I would like to hand out the original Conditions of Approval that was referenced as Exhibit A, so I'll hand it out to you folks to make the record complete, to make the record complete. Thank you.

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

Chair Ako: I'm sorry, what was the request to defer date?

Mr. Idica: The request to...the applicant needs to show substantial progress determined by the director by July 13th, 2031.

Mr. Hull: We don't anticipate I don't think and I think Mr. Haigh is here to address that. In order to give as much leeway as possible for the Habitat for Humanity project, we're proposing a five-year extension.

Chair Ako: Five years.

Mr. Doug Haigh: You never know, but we're trying as hard as we can to keep moving. We're very fortunate. We have a great site work contractor working for us, as always, it's a challenge working with State Historic Preservation Division and getting through these issues. We believe we've done all our deep excavations, and we did a couple test excavations for the redesign because we ended up having to redesign to accommodate the requirements in the locations of the existing inadvertent finds. So, we're hoping within the next month to get back into construction. Right now, our contractor is reviewing the design changes, and of course, we need to come to agreement on any additional costs that may be related to those, and then we'll be moving forward. It's been a challenge, but it's always a challenge, and we're pushing ahead and doing the best we can. We're hoping to be able to get the 17 homes completed for Kaua'i residents as soon as possible.

Chair Ako: Okay.

Mr. Idica: It is recommended that the commission approve the extension to allow the completion of the project and that the applicant be subject to all applicable requirements. Furthermore, Condition No. 13 shall be amended to read as follows: Unless otherwise stated in the permit, the applicant must make substantial progress as determined by the director regarding the development or activity by July 13th, 2031, or the permit has, shall be deemed to have lapsed and no longer in effect.

Chair Ako: Okay.

Ms. Streufert: So, that was changed from two years to five years.

Mr. Idica: That is correct.

Ms. Oyama: Commissioner Streufert.

Ms. Streufert: So, that was changed from two years to five years.

Mr. Idica: Yes.

Chair Ako: Motion?

Ms. Streufert: I move to a grant the time extension for Special Management Area Use Permit, SMA(U)-2021-8 for five years, as specified in the conditions.

Ms. Cox: Second.

Chair Ako: Okay. Got a motion and it's been seconded. Mr. Clerk, can we have a roll call, please.

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

Ms. Cox: Aye.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Chair. 6:0. I'll turn the rest of the agenda for general business over to you in the county attorney's office.

Ms. Cox: Thank you. Thanks for your patience.

Ms. Otsuka: Thank you.

Chair Ako: Thanks, Doug. Thanks for being here so long. Okay. Next item on the General Business, I.1.

Clerk of the Commission's Recommendation to Refer Appeals of the Planning Director's First Notice of Violation[s] for the operation of a Commercial Retreat in the Open Zone District, and Eight (8) Notice of Violation & Order to Pay Fines for the reestablishment of a Homestay Operation on the property located outside of a designated Visitor Destination Area, **Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust**, Tax Map Key (4)49012005, Kapaa, Kauai, received on October 20, 2025, for referral to Boards & Commission as Contested Case File No. **CC-2026-2. [Deferred, 12/9/2025; Postponed, 2/10/2026].**

a. Cheryl Cowden Schenck, Kauai Kai Diamonds Irrevocable Trust's Appeal of Orders of Violation of Violation:

- Order 1 (Date referenced in Notice)
- Order 2 (Alleged infraction on December 3, 2024)

- Order 3 (Alleged infraction on September 23, 2025)
 - Order 4 (Alleged infraction on September 24, 2025)
 - Order 5 (Alleged infraction on September 25, 2025)
 - Order 6 (Alleged infraction on September 26, 2025)
 - Order 7 (Alleged infraction on September 27, 2025)
 - Order 8 (Alleged infraction on September 28, 2025)
 - Order 9 (Alleged infraction on September 29, 2025)
 - Order 10 (Alleged infraction on September 30, 2025)
- b. Transmittal of Additional Information to Planning Commission.

Mr. Donahoe: Good afternoon, commission.

Ms. Sheryl Schenck: Hi.

Ms. Barzilai: Just one second, please. I'm sorry. Obviously, there's nobody here to testify, is there...madam, would you like to testify on this?

Ms. Schenck: No, because they said I was doing an appeal again because there's no time.

Ms. Barzilai: Yes, you're a party, Mrs. Schenk. So, we're asking if anybody from the public. There are two other people here. I just want to check with them.

Ms. Schenck: Just my friends.

Ms. Barzilai: Just your friend. Okay. Thank you very much.

Ms. Schenck: Thank you.

Ms. Barzilai: So, would you like to hear from Ms. Schenk or the department first?

Mr. Donahoe: Good afternoon, Chair and commission. Thanks for your patience. Deputy County Attorney, Chris Donahoe, on behalf of the department, we did receive the appeal. It does meet the qualifications. We deferred it till today so that Mrs. Schenk was given the opportunity to obtain an attorney. I did speak with Mrs. Schenk, let her know that the purpose of today was to request that it be referred out to contested case, and that we not have the contested case today. She's more than, while this is pending the contested case, she's been advised that she can still seek counsel. And I have no objection to the commission referring this out to contested case.

Ms. Schenck: Thank you.

Chair Ako: Would you like to add anything else?

Ms. Schenck: That's it.

Chair Ako: Okay.

Ms. Schenck: Thank you so much.

Chair Ako: Yeah. Okay. Now we can take a motion on this. To refer.

Ms. Streufert: To send out.

Ms. Cox: We have to send out.

Chair Ako: Yes.

Ms. Barzilai: What is the inclination of the commission? Are you referring to Boards and Commissions?

Chair Ako: Yes.

Ms. Barzilai: Okay. So, the motion would look like that.

Chair Ako: Yes.

Ms. Barzilai: If you need assistance, let me know.

Ms. Streufert: I move to refer this to the Boards and Commission for a contested case.

Ms. Cox: Second.

Chair Ako: Do we need to make it as case file number CC-...?

Ms. Barzilai: I think it would be best if we add this referral to Boards and Commissions as Contested Case, CC-2026-2, as stated.

Ms. Streufert: So moved.

Ms. Cox: And so seconded.

Chair Ako: Okay. Been moved and seconded. Any discussion on this? Seeing none. Can we have a roll call vote?

Ms. Barzilai: Roll call, Mr. Chair. Vice Chair Cox?

Ms. Cox: Aye.

Ms. Barzilai: I don't have my sheet, so I'll go around the room. Commissioner Ornellas?

Mr. Ornellas: Aye.

Ms. Barzilai: Commissioner Otsuka?

Ms. Otsuka: Aye.

Ms. Barzilai: Commissioner DeGracia?

Mr. DeGracia: Aye.

Ms. Barzilai: Commissioner Streufert?

Ms. Streufert: Aye.

Ms. Barzilai: Chair Ako?

Chair Ako: Aye.

Ms. Barzilai: Motion carries. 6:0.

Chair Ako: Thank you.

Mr. Donahoe: Oh, and just real quick. Sorry, Deputy County Attorney Chris, I just want to put on the record real quickly that I did speak with Miss Schenk, and she did provide me with contact information so we could communicate to see if there's any resolution. But she was also advised that if she does receive an attorney to notify me, so I will not be speaking to her and go directly to the attorney.

Chair Ako: Okay.

Mr. Donahoe: Thank you.

Ms. Schenck: Thank you so much.

Chair Ako: Thank you for your patience.

Ms. Schenck: Thank you.

Chair Ako: Okay. General Business Matters, I.3.

Clerk of the Commission's Recommendation to Refer Appeal of the Planning Director's Cease and Desist and Forfeiture of TVRNCU #4219 and Special Permit SP-2011-13 (The Sugar House) for the Failure to timely renew by November 25, 2025, **We Belong LLC**, 3525 Anini Road, TMK: 53004029, Kilauea, Kauai, appeal dated December 19, 2025, for referral to Boards & Commission as Contested Case File No. **CC-2026-6**.

- a. Appeal of TVR-NCU Renewal Cancellation (12/18/2025) from Hally Lazo, Kauai Island Vacations, INC.

Ms. Barzilai: Okay, we have an Appeal of TVRNCU Renewal Cancellation dated 12/18/2025 from Hally Lazo, Kauai Island Vacations Inc. Is there anyone here to testify or is Ms. Lazo here? Is anyone here on We Belong? Okay, it appears that there was nobody here on this item. The request from the department is to refer to Boards and Commissions as Contested Case 2026-6.

Mr. Donahoe: Good afternoon, Deputy County Attorney Chris Donahoe, on behalf of the department. Okay. My understanding would normally if the appellant does not show up, then the request would be to just not send it out and deny. But apparently, she was here. So, out of an abundance of caution, no objection to referring it out for contested case hearing. However, notice

should be provided that that that's been done, to her. It should be noted, just for the record, that she can refer to the minutes that a similar situation to a TVRNCU being forfeited was handled in the case of Kendrick v Planning Department and Planning Commission of the County of Kaua'i, 155 Hawai'i 230, 561 P.3d 434, it's a 2024 case that was before this commission that I actually argued, and it's a published case where the Intermediate Court of Appeals affirmed the Planning Commission's decision to uphold the department's decision to not accept an untimely application because of the missed deadline and the forfeiture of the TVRNCu Certificate was upheld. So, if the minutes are made available that she should refer to that because that's what the county will be relying on.

Chair Ako: Okay.

Ms. Barzilai: We need a motion, Chair.

Chair Ako: Can I have a motion to refer the Boards and Commission?

Mr. DeGracia: I move to refer this agenda item to Boards and Commission as Contested Case File No. CC-2026-6.

Mr. Ornellas: Second.

Chair Ako: We got a motion, we got a second. Can we have a roll call?

Ms. Barzilai: Roll call, Mr. Chair. Motion to refer to Boards and Commissions. Vice Chair Cox?

Ms. Cox: Aye.

Ms. Barzilai: Commissioner DeGracia?

Mr. DeGracia: Aye.

Ms. Barzilai: Commissioner Ornellas?

Mr. Ornellas: Aye.

Ms. Barzilai: Commissioner Otsuka?

Ms. Otsuka: Aye.

Ms. Barzilai: Commissioner Streufert?

Ms. Streufert: Aye.

Ms. Barzilai: Chair Ako?

Chair Ako: Aye.

Ms. Barzilai: Motion carries. 6:0.

Chair Ako: Okay. And then under I. General Business Matters, number 4.

Planning Director Kaaina S. Hull's Petition to Revoke Applicant **Kimberly Bayless** Non-Conforming Use Certificate TVNCU #1108 (Hanalei Ohana), 5142 Weke Road, TMK: (4)5-5- 002:18, Hanalei, Kauai and Issue an Order to Show Cause and Set Hearing.

- a. Letter (2/6/2026) in response to the January 16, 2026, Petition to Revoke Non-conforming Use Certificate TVNCU #1108 from Harvey L. Cohen, Attorney at Law on behalf of Ms. Kimberly Bayless.
- b. Letter (2/12/2026) from Harvey L. Cohen, Attorney at Law requesting Ms. Bayless' appearance be waived at the 2/24/2026 Planning Commission meeting with the understanding and consent that, referral as a contested case, is the action that the Commission may take in Ms. Bayless' absence.

Mr. Donahoe: Good afternoon, Your Honor. Sorry. I was in...

Chair Ako: Thank you.

Mr. Donahoe: ...court. You're welcome. I was in court earlier. Good afternoon, commission. Chair and commission. Deputy County Attorney, again. My understanding is that Mr. Bayless did or the attorney did contact, said he would not be present. County has no objection to referring to contested case. It should be noted that ongoing discussions and negotiations are ongoing to try to possibly resolve this. But at this point, if we could just set it out for contested case, that would be our recommendation.

Chair Ako: Okay, so we should be sending this out for a contested case, contested case hearing.

Ms. Barzilai: It's another referral to Boards and Commissions, at which time it would be assigned to a hearing officer who would issue the order to show cause.

Chair Ako: Okay, who's brave enough to make that motion, the last one of the day?

Ms. Barzilai: Same as the others. You don't have to include a number, since I don't know if we're...

Ms. Cox: We don't have a number.

Ms. Barzilai: Should be on seven, but I'm not sure.

Ms. Cox: Can we...

Chair Ako: We can just refer to Boards and Commissions.

Ms. Streufert: I move to refer this case to Boards and Commission as a contested case.

Chair Ako: Okay.

Mr. DeGracia: Second.

Chair Ako: Second. Seeing nothing else, Madam Clerk.

Ms. Barzilai: Roll call, Mr. Chair. On Bayless, motion to refer to Boards and Commissions to commence a contested case. Vice Chair Cox?

Ms. Cox: Aye.

Ms. Barzilai: Commissioner DeGracia?

Mr. DeGracia: Aye.

Ms. Barzilai: Commissioner Ornellas?

Mr. Ornellas: Aye.

Ms. Barzilai: Commissioner Otsuka?

Ms. Otsuka: Aye.

Ms. Barzilai: Commissioner Streufert?

Ms. Streufert: Aye.

Ms. Barzilai: Chair Ako?

Chair Ako: Aye.

Ms. Barzilai: Motion carries. 6:0. That's...

Chair Ako: Now that we move on to...No, we're done. Did we get everything?

Ms. Barzilai: I think we got it. Here comes our clerk to check on us.

Chair Ako: Mr. Clerk.

ANNOUNCEMENTS

Topics for Future Meetings

Mr. Hull: There are no further agenda items unless any commissioner wants to make Max Graham earn his keep. He sat here for the Consent Calendar. We don't have any other agenda items. Except I would take note that we do have announcements for future meetings. There will be 2 or 3 use permit applications and a status report coming up in March for those two commissioners who may still be with us. For one commissioner, I can say, Commissioner De Gracia, this will be his last meeting of this year. And so, I would be remiss if I didn't somewhat try and look back and go over the array of different cases Francis has helped us navigate, both as a commissioner as well as a chair, and so Francis, from the County of Kaua'i on behalf of the

Planning Department, you know, and just myself. Thank you so much for the time you've served here. Don't go too far. I would imagine you'll be getting a call shortly, but thank you so much, Francis, for your time here. And we really, really, truly appreciate it. We can't express how much you've had to walk through all of you commissioners have had to walk through over the past several years. But thank you, Francis.

Mr. DeGracia: Thank you very much. And it was my pleasure to serve and thank you to the Department and all you commissioners, for making this journey very fulfilling and looking forward to the next chapter. Thank you.

Chair Ako: I would say thank you for being the chair two times, so that we didn't have to do it.

Mr. Hull: The next scheduled meeting is March 10th, 2026. We'll see everyone but Commissioner DeGracia, bright and early for another, what is soon to be eventful Planning Commission of an agenda.

Chair Ako: This term can make your last motion.

ADJOURNMENT

Mr. DeGracia: With that, I'd like to make a motion to adjourn this agenda meeting.

Ms. Cox: Second.

Chair Ako: Okay, all those in favor. Aye (unanimous voice vote). Meeting is adjourned. 6:0.

Chair Ako adjourned the meeting at 5:28 p.m.

Respectfully submitted by:

Lisa Oyama

Lisa Oyama,
Commission Support Clerk

(X) Approved as circulated (April 14, 2026, meeting).

() Approved as amended. See minutes of _____ meeting.