

KAUA'I PLANNING COMMISSION  
REGULAR MEETING  
**April 11, 2023**

The regular meeting of the Planning Commission of the County of Kaua'i was called to order by Chair DeGracia at 9:18 a.m. - Webcast Link: <https://www.kauai.gov/Webcast-Meetings>

The following Commissioners were present:

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

Excused or Absent

Ms. Helen Cox

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

Discussion of the meeting, in effect, ensued:

**CALL TO ORDER**

Chair Francis DeGracia: The time is 9:18, I'd like to call to order the Planning Commission meeting for Tuesday, April 11, 2023. Could I get a roll call please, Mr. Clerk.

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

Commissioner Ako: Here.

Mr. Hull: Commissioner Apisa?

Commissioner Apisa: Here.

Mr. Hull: Commissioner Cox is excused.

Mr. Hull: Commissioner Ornellas?

Commissioner Ornellas: Here.

Mr. Hull: Commissioners Otsuka?

Commissioner Otsuka: Here.

Mr. Hull: Commissioner Streufert?

Commissioner Nogami Streufert: Here.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Here.

Mr. Hull: You have a quorum, Mr. Chair. Next up we have the approval of the agenda.

### **APPROVAL OF AGENDA**

Mr. Hull: We have no...

Ms. Otsuka: How about the next meeting date?

Mr. Hull: Yeah, we're going to amend that at the end of the agenda. We have no amendments to the agenda; however, I'd like to note that the agenda did post a June 13, 2023, next Planning Commission meeting date. That actually needs to be corrected. The next Planning Commission date will be May 11, 2023. But (inaudible) create any amendments to the agenda, per say, that's just a notice, so just so the public knows it's going to be May 11, but we have no further amendments to the agenda.

Deputy County Attorney Laura Barzilai: Mr. Hull, is it May 9 or May 11<sup>th</sup>?

Mr. Hull: Apologies, May 9.

Ms. Otsuka: May 9.

Chair DeGracia: Commissioners, could I get a motion to approve the agenda with that date amendment.

Ms. Streufert: I move to approve the agenda with the amendment.

Ms. Otsuka: Second.

Chair DeGracia: Motion on the floor is to approve the agenda with the amendments. All in favor say aye. Aye (unanimous voice vote). Oppose. Hearing none, motion carries. 6:0.

### **MINUTES of the meeting(s) of the Planning Commission**

Mr. Hull: Next, we have up minutes for the meetings of January 24, 2023, February 14, 2023, and February 28, 2023.

Chair DeGracia: Commissioners, I'll entertain a motion, unless there's any corrections to the minutes.

Ms. Streufert: I move to accept the minutes (inaudible).

Ms. Apisa: Approve.

Ms. Streufert: I move to approve the minutes.

Ms. Barzilai: Of the dates as listed, Commissioner.

Ms. Streufert: Of the dates as listed.

Ms. Apisa: Second.

Chair DeGracia: Okay, Commissioners, motion on the floor is to approve the minutes for January 24, 2023, February 14, 2023, and February 28, 2023. We'll take a voice vote. All in favor say aye. Aye (unanimous voice vote) Oppose. Hearing no opposition, motion carries. 6:0.

Mr. Hull: Receipt of Items for the Record we have nothing. Additional to put under Receipt of Items for the Record, prior to posting on April 6, 2023, for this agenda meeting, however subsequent to the posting of the agenda, a number of communications both from applicants as well as from the public were received. Pursuant to the Office of Information Practices, Guidance and Rulings, we are unable to provide the Commissioners with those communications after the posting of the agenda until the time of the meeting, so you folks all have those communications in front of you. For members of the public that want access to them, they are both publicly available here in the Commission room, as well as the Planning Department front counter. At this time the commission will take a 10-minute recess to review these documents because again, they are not allowed to review them until the time of the meeting. With that, Chair.

Chair DeGracia: We'll take a 10-minute recess. Thank you.

Commission went into recess at 9:22 a.m.

Commission reconvened from recess at 9:31 a.m.

Chair DeGracia: The time is 9:31, I'd like to call the Planning Commission meeting back to order.

Mr. Hull: Next on the agenda, Chair, we have no Continued Agency Hearing. We're going into New Agency Hearing, Agenda Item F.2.

### **New Agency Hearing**

SPECIAL MANAGEMENT AREA USE PERMIT {SMA(U)-2023-6} to accommodate streambank stabilization repair work involving a parcel along the Moloa'a Stream, situated on the mauka side of Moloa'a Road in Moloa'a and further identified as 3540 A Moloa'a Road, Tax Map Key: 4-9-014:020 (por.), affecting a total area of 1.641 acres = **David Houston 1997 Trust.**

Mr. Hull: We don't have any members of the public signed up to testify. If there's anybody in the public that would like to testify on this agenda item for the agency hearing, please just approach the microphone. Sir, if you could state your name for the record and you have three minutes for testimony.

Mr. Peter Hecot: For the record my name is Peter Hecot. I live at 3531 Moloa'a Road, across from the (inaudible) where all the construction is being proposed. I have pictures of the chronologically documenting the stream and the extremity of our flood situations, which we were told and have been accounted that they're 100-year floods, and we've had a 100-year flood every year since 2018, and two in one year, so I would have to propose that this a normal situation, what we have to deal with right now, this is the reality, these are pictures, you can see trees coming down, you can see houses getting approached, and my position is, I have a lot of questions and maybe we can get to some answers on them. Phase I was a large installation of rock walls, and Phase II what we're dealing with now, is to mitigate damage that is going to cause and has been caused of Phase I. We're in a situation where we're building hard walls on the side of the stream that we don't have rules to accommodate, that's a bridge that's 8-feet

from the water, there is no physical rules that will manage that much water. You can put weirs, you can put anything you want, they're all just going to wash away with that much water, and so the question I have is, are we done with the rock walls? Is this going to be a bidding war, where everyone goes out and builds their own rock wall, and every rock wall, every hard wall affects the soft walls, so the people that can't afford it are going to get washed away. It is my position and many of the people that live there that want to protect their properties, is we would like to see the county take some responsibility. What is the county's position on the road? Do you want the road to stay there, because it's not going to be there much longer. It has gotten 8-foot closer at the last (inaudible) and now it's about 12-feet from the road, and there's nothing discussed about protecting the road, so the road is going to be a casualty, whether it's 2023, 2025, it's going to be a casualty. Is there a provision for that? Who's responsible for that? Where do we go? Does the Army Corp of Engineers actually have enough interest to get involved and make this a community project? Where we're all working together, and everyone's protected, and not just one guy because he can afford it, can build, it just passes right down. I just don't think that unless we look at it (inaudible).

Mr. Hull: Three minutes, Mr. Chair. If you could wrap up your testimony, sir. You have three minutes for your testimony.

Mr. Hecot: Sorry?

Mr. Hull: If you could wrap up your testimony, you have three minutes.

Mr. Hecot: Okay, I'm sorry. Alright, well, with each flood we've seen, and each rock wall, we've seen an increase, and I would just say to everyone that five years ago it began to be extreme, and houses have been threatened and got worse with every event, there have been five events since then, all have been documented with photos. This is Kaua'i, we live in paradise, and we're pitting neighbor against neighbor, we're out here taking pictures of people putting rocks in the stream and having to remove them, it's not what we're supposed to be doing. And I just think that we're all ohana here and I don't think anyone gets left behind, whether you can afford it or not. I'll leave these pictures if you want to look at them, they're all dated, chronologically, if you can enter them into the system, I would love for that to happen.

Mr. Hull: Thank you for your testimony. We'll take those photos.

Chair DeGracia: Thank you.

Mr. Hull: Is there anyone else in the audience that would like to testify on this agenda item during the agency hearing? Seeing none, at this time the Department would recommend closing the agency hearing.

Chair DeGracia: Commissioners, I'll entertain a motion to close the new agency hearing for this agenda item.

Ms. Apisa: Move to close new agency hearing on Special Management Area Use Permit (SMA(U)-2023-6).

Ms. Otsuka: Second.

Chair DeGracia: Commissioners, motion on the floor is to close this new agency hearing for this agenda item. We'll take a voice vote. All in favor say aye. Aye (unanimous voice vote). Oppose. Motion carries. 6:0.

Mr. Hull: Next we have agency hearing for:

SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2023-7) to allow construction of a new single-family dwelling unit on a parcel situated along the makai side of Pe'e Road in Po'ipu, situated approximately 400 feet south of its intersection with Pe'e Road and further identified as Lot 6 of the Makahu'ena Estates Subdivision, Tax Map Key: (4) 2-8-021:073, containing a total area of approximately 1.103 acres = **Makahu'ena-Preferred A LLC et al.**

Mr. Hull: This is the agency hearing portion, we don't have anybody signed up to testify from the public. Is there any member of the public that would like to testify on this agenda item? If so, just approach the microphone. Seeing none, the Department would recommend closing the agency hearing at this time.

Ms. Streufert: I move to close the agency hearing on the Special Management Area Use Permit (SMA(U)-2023-7).

Ms. Apisa: Second.

Chair DeGracia: Commissioners, motion on the floor is to close the agency hearing for SMA Use Permit 2023-7. We'll take a voice vote. All in favor say aye. Aye (unanimous voice vote). Oppose. Hearing none, motion carries. 6:0.

Mr. Hull: Next we have:

SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2023-8) to allow construction of a new single-family dwelling unit on a parcel situated along the makai side of Pe'e Road in Po'ipu, at the eastern terminus of a cul-de-sac, situated approximately 600 feet south of its intersection with Pe'e Road and further identified as Lot 2 of the Makahu'ena Estates Subdivision, Tax Map Key: (4) 2-8-021:069, containing a total area of approximately 1.027 acres = **Makahu'ena-Preferred A LLC et al.**

Mr. Hull: We don't have anyone signed up for this agency hearing for testimony. Is there anyone in the audience who has not signed up to testify on this agency hearing and would like to do so? If so, please approach the microphone. Seeing none, the Department would recommend closing the agency hearing at this time.

Chair DeGracia: Commissioners, I'll entertain a motion to close.

Ms. Otsuka: Motion to close Special Management Area Use Permit (SMA(U)-2023-8).

Ms. Streufert: Second.

Chair DeGracia: Commissioners, motion on the floor is to close SMA Use Permit 2023-8. We'll take a voice vote. All in favor say aye. Aye (unanimous voice vote). Oppose. Hearing none, motion carries. 6:0.

Mr. Hull: Chair, I'm going to ask for a two-minute recess, so I can step down for the next agency hearing.

Chair DeGracia: Okay. Commissioners and public, we'll take a two-minute recess to adjourn at 9:43.

Commission went into recess at 9:41 a.m.

Commission reconvened from recess at 9:42 a.m.

Chair DeGracia: Commissioners and public, I'd like to call the meeting back to order. Time is earlier, 9:42.

Ms. Barzilai: In light of the Departments request, I will be reading this notice.

SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2023-9) to allow construction of a 5 feet high entry gate, water feature, and associated improvements within the private road right-of-way serving the Makahu'ena Estates Subdivision in Po'ipu, situated along the makai side of Pe'e Road and approximately 60 feet south of its intersection with Pe'e Road, further identified as Tax Map Key: (4) 2-8-021:078, containing a total area of approximately 0.946 acres = **Makahu'ena Preferred A LLC et al.**

Ms. Barzilai: At this time is there any public testimony on this matter? Hearing none, do we have anyone else signed up? No testimony on this matter this morning. The Department is recommending that the agency hearing remain open. The Chair has a statement. The Department is represented this morning by Deputy County Attorney, Chris Donahoe, and Jodi Sayegusa. Would Counsel like to approach on behalf of Makahu'ena Preferred A LLC? Good morning, before we begin, I believe the Chair has a statement.

Chair DeGracia: I understand that the Department has requested a contested case by referral to a hearings officer. The Department is represented this morning by Deputy County Attorney Chris Donahoe. Before I ask the Commission discussion and a vote, is there any comment from the applicant?

Mr. Mauna Kea Trask: Yes, Chair.

Ms. Barzilai: You may begin, please state your appearance.

Mr. Trask: Thank you. Aloha, Honorable Chair and Planning Commissioners. For the record, my name is Mauna Kea Trask, I represent the applicant in this case, Makahu'ena Entities et al. To my right, is Mr. Dave Paxton, he is a representative of Makahu'ena. I actually spoke during the break to Mr. Donahoe, Deputy County Attorney about this issue, and I'll defer to him to confirm or clarify what we discussed, but what I'd like to do...what we discuss is an opportunity for me to briefly address the commission and then clarify some points that were made in the director's report, however, and thereafter, I would request, I think a mediation is more appropriate under HRS 91-8.5, which under state law encourages the parties to mediate in a contested case. So, I thought that it may be a more efficient use of time and resources if we try to work this out before procuring a hearings officer, taking the months of prep, and everything that's necessary to do a full contested case, if that's ok. Can I address the commission?

Deputy County Attorney Chris Donahoe: Yes, and if I may be given the opportunity to briefly respond and clarify.

Chair DeGracia: Please do.

Mr. Trask: First, what I'd like to do is, the application's really big, as you know, it's super thick. I actually printed out some exhibits for easy reference for discussion and some other pictures that I was able to print this morning to kind of relate some concepts. If I can approach or hand these out?

Ms. Barzilai: Mr. Trask, if Mr. Donahoe can clarify if he's in agreement with what you presented, is this matter going to mediation?

Mr. Donahoe: I have a different interpretation of, I believe a contested case hearing, the Department's still requesting a contested case hearing, but the parties are encouraged, and under 91-8.5, it states, an agency may encourage parties to a contested case hearing, so our position is we should still set the contested case hearing, participate and try to resolve it, but if it falls through then we're not losing that time by having the contested case hearing reset.

Ms. Barzilai: So, do you have any additional argument for the record beyond what you just stated?

Mr. Donahoe: No, other than under 162, as a party we'll still be recommending a contested case hearing, but we would try to resolve it through mediation.

Ms. Barzilai: So, at this time I'm not sure the purpose of more substantive material for the Commissioners.

Mr. Trask: Again, let me clarify, I apologize for that. So, under 91-8.5a, an agency may encourage parties to a contested case hearing under this chapter to participate in mediation prior to the hearing, subject to conditions imposed by the agency and rules (inaudible) in accordance with this chapter. I don't want to get into the chicken or the egg thing, but basically, you want to go to mediation, I think, but prior to that there is some statements in the directors report, those statements are available to the public and I would just like a brief opportunity just to reference and exhibits and so that, that is out there as well, so there's not any misconception about what we are requesting, if that's ok. It won't take more than five minutes.

Ms. Barzilai: It's at the discretion of the Chair.

Chair DeGracia: Question, is this kind of like a cliff notes, to what you have or is this additional information?

Mr. Trask: I wouldn't even say it's as extensive as cliff notes but yeah, it's just regarding the application itself.

Chair DeGracia: Okay...

Ms. Barzilai: Chair, would you like to hear from the Department?

Chair DeGracia: Please, Department.

Mr. Donahoe: Thank you, Chair. The application is, one, it's available to the public and it's extensively longer than the Director's Report.

Ms. Barzilai: So, what is the action that's being requested of the Commission right now, to send this out to a mediator? There's no mediation taking place today. The way that you read the provision; mediation should take place prior to a hearing with a formal mediator.

Mr. Trask: So, the actual request right now is just to pass out a few pictures and just let you know what we're here for, thereafter, we would request mediation, and in my understanding the under the state statute does say, parties to a contested case, so, therefore it assumes that a contested case is coming on and their parties thereto. However, under the Planning Commission rules, as you've stated, Ms. Barzilai, Commission has discretion to largely do many things, and I would argue you have discretion to order mediation before contested case, so that you don't have to go through the procurement process and spend those resources. Ultimately, we just want to sit down with the Department if necessary and talk about the concerns, try to (inaudible), come back to you, whether you want to go through procurement before that,

procurement after that, that's up to you but ultimately, we'd just like to do a mediation. Nothing, the process itself I don't want to get caught up in the details of formalities.

Chair DeGracia: I have a question for the Department. Department are you interested in this route, mediation or are you standing on your original recommendation of having a contested case hearing, sending it to an officer?

Mr. Donahoe: We'd be amenable prior to a contested case hearing but we're still going to be requesting a contested case hearing be set and then prior have mediation. We'd still need to work on a mediation agreement. Sets off costs, (inaudible), if sharing and so, the recommendation remains the same. We believe there's been enough issues raised regarding potential adverse effects that it warrants a contested case hearing to present evidence but with that, we're amenable to going into mediation prior to the contested case hearing. I think that would be in compliance with 91-8.5.

Ms. Barzilai: So, does the Commission understand the position of the parties?

Ms. Streufert: I'm not sure what you're expecting us to do at this point. Is this a mediation? Is this a deferral? Is this, we're asking for a deferral and before the mediation or before the contested case between the Department and the applicant, there will be a mediation?

Ms. Barzilai: That's my understanding Commissioner. That's the request.

Ms. Streufert: The request is then for us to request a deferral and then for the two parties to try to mediate.

Ms. Barzilai: The recommendation in the Director's Report is referral to a hearing officer and Mr. Trask has asked for mediation prior to the contested case.

Ms. Streufert: But that's between him and the Department.

Ms. Barzilai: Correct.

Ms. Streufert: Not between us.

Ms. Barzilai: The parameters will be decided by the parties.

Mr. Trask: Actually, if I can interject briefly.

Ms. Barzilai: Of course.

Mr. Trask: So, prior to about 10 a.m. yesterday, I was in jury trial, all last week. I was supposed to be in jury trial all this week, I shouldn't even be here today. As you know the communication to you, saying we are requesting a deferral because I wouldn't be here. That jury trial got continued this week so I'm free today, so I wanted to make my client, I represent them, and I wanted to speak with you today, I'm here, and so what I wanted to do first is that given the agency hearing is today, I'd like to make a couple statements, and that's the effect of this. To address some statements in the directors' report because I have not actually had an opportunity to speak with the Department yet because I was unavailable, I only got a copy of the director's report yesterday, Ms. Sayegusa gave it to me, or I only saw it, I had 300 emails that I was deep in, I had no idea what was going on, so I saw it yesterday for the first time. I haven't been able to talk with them about it, I looked for it, I saw some things, I just like a brief moment, short than what we've been stuck right now, to talk about this, and then after that you're going to make your decision

whether or not to go into contested case and thereafter, you go into mediation, however you still have to make that decision, and I know you have concerns, I know the Department has concerns. There is a very, there is a possibility that after hearing what I have say, the Department may not have such strong concerns, you may not some strong concerns, so I'd just like a brief moment to say our position and then thereafter, we can take the next steps with regard to contested case or mediation, or mediation/contested case or whatever your decision is.

Ms. Barzilai: Would the Department like to respond?

Mr. Donahoe: Only that if it's to address issues raised in the Director's Report that that would be the subject that's on the contested case hearing.

Ms. Barzilai: (Inaudible) view it this way as well?

Mr. Donahoe: I'm sorry, to present that evidence and vice versa for the Department.

Ms. Barzilai: I see this as a (inaudible) supplement to the application but again it's at the discretion of the Chair.

Mr. Trask: I have actually here, I believe this is Q6 I believe is the exhibit. This is the last page of Exhibit K. These are some google map street views of neighboring properties and there's a further picture within, I think it's O something...

Ms. Barzilai: So, basically Mr. Trask you're arguing the substance of the application.

Mr. Trask: No, no, no. All I want to do is address some of the statements in the directors' report that I think are benevolently mistaken and those issues are out there, the public can read them. We haven't had an opportunity to talk to them yet. I think under the rules, actually I know under the rules, as an agency hearing we have the opportunity to discuss and then after hearing our position, you have the unequivocal right to vote to go into contested case or to grant or to do mediation, whatever. I would just like an opportunity to speak first, not substantively with regard to contested case positions or anything just regard to the directors' report which has so far been unaddressed by the applicant.

Ms. Barzilai: Which is the subject of the contested case, so I believe we're reaching the merits of the application but if you wish to entertain this without discussing the merits of the application, you may.

Mr. Trask: It's just clarification that's all.

Mr. Ako: Mr. Chair, if I can add. I'm wondering whether it's appropriate to address it now, in the public hearing portion or do we address this in the new business section?

Ms. Barzilai: Commissioner Ako, based on the request of the Department, the new business will be dealt with by a hearings officer, this matter will go to official contested case. So, we will not be reaching L.4. today. Right now, we are deciding on a preliminary matter requested by the Department, which is referral to a hearings officer. We are already in a contested case.

Mr. Ako: Yes, and that decision would be done...

Ms. Barzilai: By your vote right now.

Mr. Ako: Now?

Ms. Barzilai: Yes, so therefore I'm suggesting that whatever would be added by Mr. Trask at this time would go to the substance of the application, which will actually be before a hearings officer, if that is how you go today. If you need further discussion or debate on the record or wish to go into executive session, you can let me know.

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

Ms. Barzilai: We have to read the notice.

Ms. Streufert: Okay.

Mr. Trask: I'm sorry, before that real briefly.

Ms. Barzilai: Yes, Mr. Trask.

Mr. Trask: Under the rules of the Planning Commission, the Chair of the Commission or anyone the Chair appoints can serve as the hearings officer, we would respectfully request because of the issues involved in this matter, we don't think that procuring a separate attorney hearings officer to do this is necessary. This can entirely be done by Chair DeGracia, and or anyone else on this commission. We're not looking for a fight. We just want an opportunity to talk this out and if you want to do the contested case that's what we think. This is very, we're being amicable, we're being very amenable.

Chair DeGracia: So, what I've been hearing is, Commissioners do you guys want to go into executive session to further discuss? I understand there's been a lot of moving parts, so that we can wrap our heads around this.

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

Ms. Barzilai: It'll be necessary for you to read the notice, Chair.

Chair DeGracia: Yes.

## **EXECUTIVE SESSION**

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 matter:

SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2023-9) to allow construction of a 5 feet high entry gate, water feature, and associated improvements within the private road right-of-way serving the Makahuena Estates Subdivision in Po'ipu, situated along the makai side of Pe'e Road and approximately 60 feet south of its intersection with Pe'e Road, further identified as Tax Map Key: (4) 2-8-021:078, containing a total area of approximately 0.946 acres =  
**Makahuena-Preferred A LLC et al.**

Ms. Barzilai: Is the motion on floor?

Ms. Otsuka: Yes.

Ms. Barzilai: Is there a second?

Ms. Otsuka: Second.

Chair DeGracia: Okay.

Ms. Barzilai: Voice vote is fine.

Chair DeGracia: Okay. Commissioners, all in favor of going into executive session say aye. Aye (unanimous voice vote). Opposed. Hearing none, motion carries. 6:0. We'll enter into executive session.

Ms. Barzilai: For 30 minutes.

Commission went into Executive Session at 9:58 a.m.  
Commission returned to Open Session at 10:28 a.m.

Chair DeGracia: The time is 10:28 a.m., I'd like to call the Commission meeting back to order and to start off, Mauna Kea to address that additional supplemental information that you have there, I feel that the commission will be discussing first hand, first if the merits of sending this to a contested case officer, so previous to that I will deny the acceptance of additional information, and then if we head along that path of if it changes and if we decide to close the agency hearing and hear substantive matter then I'll accept the information as we move forward.

Mr. Trask: Thank you, Chair. And just a point of clarification, I actually spoke with the Department and have removed some of the photos, but they've agreed that I can just speak about what is in the application and give you my, not get into argument but just kind of address a few things in the Director's Report, and this is on the first, really just the second and third page about this, and then that's what we discussed. I just want to make it clear this is not, what I have now is not (inaudible).

Chair DeGracia: Okay. Department could you please confirm.

Mr. Donahoe: Thank you, Chair. Yes, so long as it doesn't veer into argument.

Chair DeGracia: Okay.

Mr. Donahoe: We're okay with eh clarification based on items that are already in the application, nothing further.

Chair DeGracia: Okay, with that, you have a few minutes.

Mr. Trask: Okay, thank you, Chair. If I can approach to pass these out.

Ms. Streufert: Is this already in the application (inaudible)?

Mr. Trask: Yes, but to save you the time of flipping through.

Ms. Streufert: Okay.

Mr. Trask: And Chair, (inaudible).

Chair DeGracia: Thank you. Looks like we all have copies. Could you please keep it brief.

Mr. Trask: I will. Thank you, Chair. So, real briefly as you know this is Makahu'ena Subdivision at the confluence of Pe'e Road, which is a public road and Maka Place, which is a private road. The commission has granted various permits for development of houses, single-family houses on these lots and the constant refrain is concerns regarding the environment, flora, and fauna specifically, birds, there's an agreement with DLNR to protect the birds in that area, so well as a private contractor. The reason why, as stated in the Directors report the gate and water feature will service as an aesthetic amenity and will act as a passive means to direct the public to the dedicated public parking and coastal access easement areas and provide liability protection and security for the individual lots. The reason why we say that is because daily, David is down there along with construction workers, directing people to the public access areas, it's open right now, they park in there, they take their dogs out and they kind of just treat it like a big public park. Once they're clarified that they need to go here to the public area then they're fine. It just takes that time. They've also hired somebody to do that. What we want to clarify specifically is, end of page 3 and page 4, the potential significant adverse effects that this gate will result in an irrevocable loss of destruction, as well further restrict access to the view plain and scenic corridors of the area. Also, trend towards gated communities, which leads to privatization of further deprivation of access to key natural and cultural resources scenic landmarks. On those very strong statements, and so the reason why I provided these pictures to you is the first one, to show you as it correctly states, the gate is 5-feet tall, but as you can see, the gate, you can through it, I don't want to say wire, it's thicker than wire, but not (inaudible). The second picture is a copy of the easement map that was required as part of the subdivision. The point of this is to show that Lots 1-8 go all the way down to the shoreline, and so, the access easements, the public parking are actually on the lots themselves...

Mr. Donahoe: Chair, I'm sorry, I'm going to have to jump in, if he's pointing this out as how it differs from the Director's Report it's more than a clarification as to the application, it's arguing why he disagrees with the Director's Report and that's reserved for contested case.

Mr. Trask: Okay, well I'm not...I just want to...okay I can pull that back, but just to show this is in the application and to...I'm not saying that they're wrong, I'm just saying that this is what is in the application so it's clear, I just want to clarify, if that's okay.

Chair DeGracia: Thank you. Does that conclude?

Mr. Trask: Almost, I got another minute.

Chair DeGracia: Okay.

Mr. Trask: So, again, the public parking, the open space, the access easements, and the open space easements makai of the access easements are actually on the lots themselves, so there's no prohibition for access. The next page is the neighboring lot, Point at Po'ipū, to the east after that is Makahu'ena condos to the west, both of which you can't see through, and the last two, the picture after that is the lot when it was vacant prior to the subdivision development, you can see the No Trespassing sign and the invasive species totally blocked off the coast, and finally, currently, this is what it looks like at the top of Maka Road, it's totally opened up, and so, we just want to make...because the public reads this, the public sees this, these things can take off on social media, we just want to be clear, this is what it is. Thank you.

Chair DeGracia: Okay. Thank you. Commissioners, I'll open discussion on the Departments recommendation to move this to a hearings officer.

Ms. Streufert: I think...well, I'll start it. We've read through all off this and we've looked at everything and read the Director's Report on it, and the issues that are presented are more than just for the SMA. It appears that it may have implications or generalized ability for the rest of the county and therefore because it has more implications, it may have implications for the entire county, I would prefer this to go to a hearings officer in whatever form we want to put it into.

Chair DeGracia: Commissioners, any further comments, discussion? Okay, up to this point and including this additional information, it looks like personally to me, it looks like a lot of information to kind of absorb in just the merits of the application. There is a lot to be discussed and I'm leaning towards the Departments recommendation, so Commissioners, if we have any further discussion, we could have that now, if not I will entertain a motion.

Ms. Otsuka: I'll make a motion. I move to refer this to the Boards and Commissions for assignment to a hearings officer.

Ms. Streufert: Second.

Chair DeGracia: Motion has been made and seconded to refer this agenda item to a hearings officer. Laura, can we get a roll call?

Ms. Barzilai: I think we'll take a roll call, thank you Chair. Commissioner Ornellas?

Mr. Ornellas: Aye.

Ms. Barzilai: Commissioner Otsuka?

Ms. Otsuka: Aye.

Ms. Barzilai: Commissioner Ako?

Mr. Ako: Aye.

Ms. Barzilai: Commissioner Streufert?

Ms. Streufert: Aye.

Ms. Barzilai: Commissioner Apisa?

Ms. Apisa: Aye.

Ms. Barzilai: Chair DeGracia?

Chair DeGracia: Aye.

Ms. Barzilai: Motion carries. 6:0.

Chair DeGracia: Okay.

Mr. Trask: And as far...

Ms. Barzilai: The agency hearing remains open.

Mr. Trask: And as far as the request to have the parties participate in mediation prior to the hearing, is that...can we request that now?

Ms. Apisa: That would be between you and the Department to work out, if you can reach a mediation settlement prior to the...

Ms. Barzilai: That's how it was viewed, Mr. Trask, that it would be between the parties to discuss that element.

Mr. Trask: Oh, okay.

Ms. Barzilai: It seems that both parties are agreeable.

Mr. Trask: Well, the only reason why I want to say that is because it says, an agency may encourage parties to a contested case, so the Department in this case is one party, we are the other party, the agency therefore would be the Planning Commission, and an agency may suspend all further proceedings in the contested case pending the outcome of the mediation, so we would just request for clarity of record that you approve that encouragement, motion to encourage, I suppose, so that we can have clarity to go through that because we would like to suspend all the dates and timelines and all the contested case stuff so we can go into mediation.

Ms. Barzilai: I would leave that at Chair's discretion, but I think that the hearings officer stands in the shoes of the agency at this time, and it would be incumbent upon the hearings officer to order that, so...

Mr. Trask: And not to disagree with you, but I think even the hearings officer, it would be helpful to them if they knew that you would encourage that.

Ms. Otsuka: For mediation.

Mr. Donahoe: The Department is amenable to mediate prior to the contested case hearing, and we understand that the statute does say, that the agency, Planning Commission does encourage that.

Ms. Apisa: My position would be to encourage mediation, and both parties are in agreement with that.

Ms. Otsuka: I agree.

Ms. Barzilai: If it would make you more comfortable to formalize it by motion, I can recommend that to the Chair. I don't see it as necessary, but we can formalize it in motion.

Ms. Otsuka: Mr. Trask, you're asking for a motion?

Ms. Barzilai: Something on the record by vote.

Mr. Trask: It just seems like that's what the law says and although, Commissioner Otsuka, Commissioner Apisa, individually as Commissioners, you made that recommendation, that's not an act of the body and

so, I don't mean to be a stickler. It may be a minor point but again, just for clarity of record these things...just so it's clear, I think a motion would be appropriate.

Ms. Otsuka: I understand.

Mr. Trask: Thank you.

Ms. Apisa: I move that the Planning Commission encourage a mediation between the two parties prior to the contested case hearing.

Ms. Streufert: Second.

Chair DeGracia: Commissioners, motion on the floor is encouragement of the two parties meeting for mediation purposes prior to the contested case hearing. We'll take a voice vote on this one. All in favor say, aye. Aye. (Unanimous voice vote). Opposed? Motion carries. 6:0.

Mr. Trask: Thank you. Thank you very much.

Mr. Hull: Moving on to Agenda Item F.2.e.

CLASS IV ZONING PERMIT (Z-IV-2023-9) and USE PERMIT (U-2023-6) to allow installation of security fencing, wastewater and associated site improvements at the base yard facility in Lihue, situated along the western side of Wehe Road and immediately adjacent to the County Department of Water, further identified as 4398 Pua Loke Street, Tax Map Key: (4) 3-8-005:002 and containing a total area of 7.319 acres = **State of Hawai'i, Department of Land & Natural Resources (DLNR), Division of Forestry and Wildlife (DOFAW).**

Mr. Hull: We don't have any members of the public signed up to testify. Is there members of the public in the audience that would like to testify on this agenda item? Seeing none, if the commission (inaudible) in your packet was a communication from the Department of Public Works, Wastewater asking for a minimum 90-day deferral and so we ask that this agency hearing be kept open with an open-ended deferral, quite honestly. Sorry, I can also state that the applicant's representational from Bow Engineering has submitted written testimony which we can circulate to all you folks. That states, on behalf of the Department of Land and Natural Resources, Division of Forestry and Wildlife, we are submitting this letter to the County of Kaua'i Planning Commission for the consent to waive in the timeliness pursuant to Section 8-3.1 of the County Zoning Ordinance for the Pua Loke fencing and sewer improvements projects, signed by Matthew Fujioka, so we did just recently get this this morning, and that's why again, we'll be asking for an open-ended deferral on this agency hearing.

Ms. Otsuka: To keep the agency item open?

Mr. Hull: Correct.

Ms. Otsuka: I move to keep this agency item open.

Ms. Streufert: Second.

Chair DeGracia: Commissioners, motion on the floor and it's been seconded, to keep this agenda item open. We'll take a voice vote on this one. All in favor say, aye. Aye. (Unanimous voice vote). Opposed? Hearing none, motion carries. 6:0.

Mr. Hull: Next, we move on to Agenda Item F.4.a.

### **New Public Hearing**

ZA-2023-3 - Request: County Zoning Amendment from Agriculture (A) & Open (O) Districts to University District (UNV). Location: Lihu'e, Kaua'i. The entire Kauai Community College campus as well as adjacent parcels to the west, located on the mauka side of Kaumuali'i Highway in Puhi, further identified as 3-1901 Kaumuali'i Highway and affecting a total area of 148.37 acres. Tax Map Key: (4) 3-4-007:001 (Portion), 002, and 003 = **University of Hawai'i, Kaua'i Community College.**

Mr. Hull: We don't have anybody signed up for public testimony. Is there anyone in the audience who did not sign up but would like to testify on this public hearing, if so, please approach the microphone. Seeing none, the Department would recommend closing the public hearing.

Chair DeGracia: Commissioners, I'll entertain a motion to close the public hearing on this item.

Ms. Apisa: I move to close New Public Hearing ZA-2023-3, regarding the University of Hawai'i, Kaua'i Community College.

Ms. Otsuka: Second.

Chair DeGracia: Motion has been made and seconded to close the public hearing on this item. We'll take a voice vote on this one. All in favor say, aye. Aye. (Unanimous voice vote). Opposed? Hearing none, motion carries. 6:0.

### **CONSENT CALENDAR**

Mr. Hull: Next Consent Calendar was approved with a Status Report with approval of the agenda.

### **GENERAL BUSINESS**

Mr. Hull: Next item, H. Long Range Planning Division Annual Update. Apologies, Commissioners, when I was pausing during the agenda approval, I was actually supposed to make a request to amend the agenda to reflect that at the end. Sorry about that. I ask respectfully if we could table this agenda item, as we have applicants here for several other items and the Department can give it's Long Range presentation at the end of the agenda.

Ms. Barzilai: So, that a motion to table, Chair.

Chair DeGracia: Okay. Commissioners, seeking a motion to table.

Ms. Apisa: Move to table public hearing ZA-2023-...

Ms. Barzilai: Excuse me, Commissioner, that would be item H.1.

Ms. Apisa: H.1. I'm sorry. Move to table H.1. Long Range Planning Division Annual Update.

Ms. Streufert: Second.

Chair DeGracia: Okay, motion has been made and seconded to table this agenda item for a later time. All in favor say, aye. Aye. (Unanimous voice vote). Opposed? Hearing none, motion carries. 6:0.

Mr. Hull: No Communications.

## **COMMITTEE REPORTS**

### **Subdivision Committee**

Mr. Hull: I'll turn it over to the Chair of the Subdivision Committee, Mr. Ako.

Mr. Ako: Thank you, Mr. Clerk. The Kaua'i Planning Commission Subdivision Committee did meet this morning. Present was Commissioner Apisa, as well as Commissioner Ornellas. This morning we had four items on our agenda. One was Kukui'ula Vista, LLC. on Parcel H, Lot 19. The second one was another one with Kukui'ula Vista, LLC., regarding Kukui'ula Parcel H, Lot 18. We had a request for an extension with the applicant being Stephanie Fernandez, and the fourth one that we had was a Final Subdivision Map Approval from Tower Kaua'i Lagoons. All four were approved, with a vote of 3:0. With that, the meeting was called to order at 8:31 a.m. and adjourned at 9:12 a.m. If there's any questions, Mr. Estes is right there.

Ms. Apisa: I move we approve the Subdivision Committee Report as presented.

Ms. Otsuka: Second.

Chair DeGracia: Motion has been made and seconded to approve the Subdivision Committee Report. All in favor say, aye. Aye. (Unanimous voice vote). Opposed? Hearing none, motion carries. 6:0.

## **UNFINISHED BUSINESS (For Action)**

Mr. Hull: Next, we move onto Agenda Item K. Unfinished Business for action.

In the Matter of Planning Director Kaaina S. Hull's Petition to revoke Applicant Bula Tree House LLC Use Permit U-90-38 and Class IV Zoning Permit Z-IV-90-51 (former Mark Daniells art gallery approved in 1990), and Use Permit U-19-78 and Class IV Zoning Permit Z-IV-78-28 (former Diane Daniells pre-school approved in 1978) for failure to comply with conditions of approval by the Planning Commission and Issue an Order to Show Cause and Set Hearing; Memorandum in Support of Petition; Declaration of Kaaina S. Hull; Notice of Meeting; Certificate of Service, TMK (4) 5-5-004: 23, Hanalei, Kaua'i. [Deferred 2/14/2023.]

Mr. Hull: The previous time before this was up before the commission, the applicant's representative wasn't available and asked for a deferral to this date. You folks got in this morning's packet of communications, a second communication from the property owners' representative, in which they're looking to a stipulated agreement with the Planning Department to ultimately shut the operation down by December 31<sup>st</sup> of 2023 and are willing to enter into a stipulated agreement with the Department and the Commission if the Commission sees so fit. The Department is amenable to this proposal. This is not a violation situation, where the landowners openly violating the Kaua'i County Code, they have permits to operate this art gallery, it's just that when those permits were granted, some 20 years ago, it was under the impression that this would be a temporary site as well as it was associated with a pre-school operation. The pre-school operation is no longer there and the gallery operation has been going on for 20 years now, which is why the Department issued the order to show cause request. If we go into contested case hearing

on this, this would take at least a year and a half, quite honestly, and so, with the proposal on the table from the property owner to enter into a stipulated agreement to shut down on December 31<sup>st</sup> of this year, the Department is very amenable to it, we just don't have the actual documentation from the landowners, so the landowner and the Department is agreeable, is requesting another deferral to May 9<sup>th</sup>, in order to get the documentation, first the Planning Department to review and then ultimately the Planning Commission to review at that May 9<sup>th</sup> meeting, so both the applicant and the Department are requesting a deferral of this agenda item to May 9<sup>th</sup>. I'm available for any questions if you guys have any. I don't see the landowner's representative, but I'm here if you have any questions.

Ms. Apisa: Seems reasonable that we grant the deferral.

Ms. Otsuka: You're both in agreement?

Mr. Hull: Yes.

Ms. Barzilai: Director, do you want to comment that this is going to come back to the Commission when they review the settlement agreement?

Mr. Hull: It would, so that's why I'm asking for a deferral. If there aren't any questions, maybe it would be appropriate to call for public testimony.

Chair DeGracia: Okay. Are there any members of the public who would like to testify on this agenda item? If not, Commissioners looks like they're seeking a deferral on this one to May 9<sup>th</sup>. Could I get a motion to defer?

Ms. Otsuka: I move to defer this action to the May 9<sup>th</sup> meeting.

Mr. Ornellas: Second.

Chair DeGracia: Motion on the floor is to defer this agenda item to the May 9<sup>th</sup> meeting. All in favor say, aye. Aye. (Unanimous voice vote). Opposed? Hearing none, motion carries. 6:0.

Mr. Hull: Thank you, Chair. Next up, we New Business.

### **NEW BUSINESS (For Action)**

SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2023-6) to accommodate streambank stabilization repair work involving a parcel along the Moloaa Stream, situated on the mauka side of Moloaa Road in Moloaa and further identified as 3540 A Moloaa Road, Tax Map Key: 4-9-014:020 (por.), affecting a total area of 1.641 acres= **David Houston 1997 Trust.**

Mr. Hull: And I'll also state for the record that there was testimony received on this agenda item, subsequent to publishing the agenda this past Thursday, and this was provided to the Commission this morning, as well as available to the public at the front counter. We have one piece of testimony from Ku'u lei Thronas, on a neighboring property for this agenda item. I'll turn it over to Dale for the Director's Report pertaining to this.

Staff Planner Dale Cua: Good morning, Chair, and members of the Planning Commission. At this time, I'd like to summarize the Director's report for you.

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).

Mr. Cua: At this time, this concludes the Director's Report.

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

Ms. Streufert: I think I do. Dale, in your preliminary evaluation under the General Plan, second paragraph, the proposed restoration plan of installing two rock revetments on each side of the existing Moloa'a Streambank would not increase density on the subject property nor have any significant negative impacts to Agriculture lands. What you're talking about there is the population. Is that correct?

Mr. Cua: Excuse me? Oh, the population, yes, correct.

Ms. Streufert: But on the basis of this application says that they submitted a restoration plan to Corp. of Engineers, Department of Interior, etc., etc., but it never specifies that there was any response from any of these organizations.

Mr. Cua: Yes, maybe at this point we can have the applicant address whether or not they received any comments from them at this time.

Mr. Hull: Commissioner, to be honest, Dale is pitch-hitting for Romio on all virtually all five of these upcoming applications, so the planner that intimately worked on this petition, as well as the next four, isn't on island today or for the next few weeks, so, we're definitely here for any questions that Dale can answer. To your point about not having comments back from the Army Corp. of Engineers in particular, the Department has no problem deferring this agenda item until those comments can be provided as well.

Ms. Streufert: Because if I look further on with Preliminary Recommendation it does say that, to resolve and comply with, it didn't seem to make sense to me, you either have those recommendations and you're going to comply with it or you don't have any response yet, so we can't really hold them to it till we know what the results are, I think. It would not be fair.

Mr. Cua: It would be fair.

Ms. Streufert: ... (inaudible) requirements that they don't even know about.

Mr. Hull: It's a... I was having this conversation with a commissioner the other day. It was very standard in the past for the Planning Commission to act as a clearinghouse for respective agencies, and when those conditions came in the commission would generally wait for a respective agency, Army Corp. of Engineers, the Water Department, Fire Department, what have you, for us to hold those comments as a outright condition of approval should the commission look at acting in an approving manner on the application. What has progressed over time is that to a certain degree the Department has been looking at recommending having a bit more open-ended conditions of approval to resolve the requirements of the respective agency, with that respective agency, and the reason being is that, say the Water Department as an example, in their comments states, this application should have a 12-inch water main or in this particular application, Army Corp. of Engineers says, an extra seven or eight feet of concrete shall be utilized to stabilize the streambank and then the Planning Commission imposes that as an actual hard and fast condition of approval of these permits. What we find is often times during the Planning Commission review after action has been taken, the applicant will work with the respective agencies and get a new

requirement, oh, Water Department no longer needs a 12-inch water main, oh, Army Corp. of Engineers actually doesn't necessarily need seven feet, there's another mitigating measure they can take. And they work that out and then they try to move on their merry way, and we say, sorry folks' you guys can't, although you resolved it with that agency, because the Planning Commission imposed it as a hard and fast condition of approval, you're going to have to go back to the Planning Commission to amend it and hold another separate set of public hearings. So, generally that's the way the Department looks at leveraging the conditions or requirements of the respective agency without necessarily holding it as a hard and fast condition for approval, that being said, that's the reason we do that. That doesn't mean then, should the commission want to hold some of them as hard and fast conditions of approval it absolutely has the authority, and it's just giving a little history on it, that's why I believe when Romio was drafting this, he set it up in the manner, should the commission want to take action today but again, we're not pushing or trying to request action today, I think to a certain degree may be prudent to see what those comments are from U.S. Army Corp. of Engineers as well as the Public Works Engineering Flood Division.

Ms. Streufert: And the reason for...I'm a little concerned is that the downstream effects of this has not been addressed here and we did have a comment this morning about downstream effects, and we also had a testimony in here, I presumed that would come from the Corp. of Engineer review and the Department of Water, and I don't see that in here so I'm not sure that we don't have, we might mitigate this for this particular property, which is what they want but the impact downstream or even upstream is really something that we also need to be concerned about.

Mr. Hull: Correct.

Mr. Ornellas: Along the lines of your comments, I always assumed that streams were the purview of the state and the county, specifically the Commission on Water Resource Management, I follow their agenda and often times, especially if there's a violation involved, so as long as you stay outside of the stream you're okay, the minute you enter the stream bed then you trigger a review by the Commission.

Mr. Hull: Yep.

Mr. Ornellas: So, am I mistaken?

Mr. Hull: I believe they need to get CWRM review on action on this. Whether or not CWRM requires an actual permit, I can't say and we're still waiting for comments from CWRM themselves as well.

Mr. Ornellas: Thank you.

Chair DeGracia: Commissioners, any further questions for the Department?

Ms. Otsuka: I was just curious just for my own self. Has there ever been a situation, or say if all the landowners were financially equal, has any group, like all the landowners come together to coordinate with all the agencies all at the same time. Has that happened before? It would be just this one time and it would be over with from upstream to downstream, everybody gets what they want resolved at one...

Mr. Hull: In theory it could.

Ms. Otsuka: But it's not common.

Mr. Hull: I haven't, to my knowledge I haven't seen anything specific like that come across our desk in the past 10-15 years, but it definitely could be coordinated. This request speaks to a certain degree about a

lot of the discussions we've been having about climate hazards and those impacts on the build environment and on residential dwellings in particular. For the most part building on a flood zone is not something the Department recommends but we also have to recognize their constitutional property rights, that they are able to utilize this to a certain economic utility. There's debates and discussions about the Federal Government or the county subsidizing homeowners building in hazardous areas, I think you guys have heard my own position on that over the past few years, as we grapple things like sea level rise but as far as should or could the individual property owners look at a concerted effort to manage these hazards, it absolutely is possible, getting them on the same page, I think sometimes remains to be seen but it is possible.

Ms. Otsuka: Thank you.

Chair DeGracia: Commissioners, anything further for the Department, if not I'd like to invite the applicant up, or applicants' representative for comments and discussion.

Mr. Jonathan Chun: Thank you, Mr. Chair. Good morning, Jonathan Chun on behalf of the applicant. Those are excellent questions, but I'd like to see if I can address them one by one as we go. First of all, the Army Corp. of Engineers, we have been in discussion with the Army Corp. of Engineers from the very beginning, from the SMA permit to the SMA Minor permit even today's application. This project or this design and proposal has been in front of the Army Corp. of Engineers since the very beginning, they have it. My last communication with them, and this is the issue with the Army Corp. of Engineers right now is, when this application was filed, we were covered by their existing NWP, Nationwide Permit, we were covered by it, and they acknowledged that and that's the position we've been taking, and they've agreed with that in the past. Because this application is now passed the NWP, the Nationwide Permit effective date they have asked us to come back and request either and confirm either that this can be verified as part of the old NWP, or they'll make a determination that a new NWP has to... and NWP stands for Nationwide Permit, it's permitting process in which these kinds of smaller projects, not big projects, like Waikiki but these smaller projects can be covered with the Army Corp. of Engineers, so we have a letter out there to the Army Corp. of Engineers asking them to verify that this can be a verified extension of the expired NWP, if they don't agree with that then they're just going to come back and ask us to apply for a new Nationwide Permit but in regards to the work, they've been reviewing it and it was previously covered by the older, expired Nationwide Permit and that was expired March 23, just last month, so that's the kind of time period we're talking about. We met the deadline unfortunately because of the processing (inaudible) it expired, and we knew that going on with the Army Corp. of Engineers, we knew that, so we've been in discussion with them since January about the potential of extending the Nationwide Permit or getting a new one, so their final comment to me was, write me a letter asking for them to verify that it's as a continuation of the old Nationwide Permit and they'll make a decision whether can or can't be. That's where we stand with the Army Corp. of Engineers. The second issue is related to the Army Corp. of Engineers is the Department of Health and one of the comments is, you need to comply with their requirements. We already engaged a consultant to work with the Department of Health regarding their permit, but the Department of Health is saying, well, unless the Army Corp. of Engineers says that they're going to work with the NWP, you have to let me know what permit under the Army Corp. of Engineers that we're working on, but that is in the process too, and we know we have to comply with those things, so this is just the first step, in our view the first step of the other steps that we need to take to fulfill this project, so we have no problems of having the Commission approve with the condition that we have to resolve all comments with the Army Corp. of Engineers, Department of Health, Water Commission, we've worked with them before as you know, well just to report to you. The SMA Minor, their comment basically was, if it needs the Army Corp. of Engineers permit processed then no permit is required from them. We are still talking with them regarding that, again the key is really the Army Corp. of Engineers at this point and time, and so, it kind of flows from their determination what,

well how this projects going to proceed, so we understand this permit or this request to the Commission is not the last one, in our view it is the first of many other permits, and this is not unusual, this is how it was at the SMA Minor. The SMA Minor that was issued by the Planning Department for the emergency work was just the first one and it took, I think, and Ka'aina, you might remember, but it took about a year after the SMA Minor was granted and approved by the Planning Department that we finally got all the approvals from the Department of Health and the Army Corp. of Engineers, so it's not an unusual process for following up and trying to get the SMA first and then getting the Army Corp. of Engineers inboard and then the last one, like last time was Department of Health, they were the last agency to sign off, but so it took a while, I mean to be totally honest this is not going be a situation where, if there's an approval, you're going to see bull dozers and excavators or any kind of work there within the next week or so, you're not, probably we anticipate at the earliest, very earliest, three or four months and that depends if the Army Corp. of Engineers agrees that this can be a reauthorized verification of the expired NWP, so that's how the process that we're following right now is going. Now, as far as the comments from neighbors, we heard from Mr. Hecot this morning and we've had discussions with him, our consultant had direct one-on-one communication with him, I had direct communications with him, I've had also direct communications with other neighbors in there. It is a situation, it's a situation that there's really no easy answer. I mean if, and I don't want to words in Mr. Hecot's mouth (inaudible) but in general you can kind of hear their feeling is, why don't we just put rock walls along the entire sides on both sides of the stream, and that would solve everybody's problem, however that has implications also on doing that and that is expressly against the policy of the Army Corp. of Engineers. The Army Corp. of Engineers, if you want, I can show you their comments early on, I think it was there, is they specifically stated that they want to encourage, it's the policy of the Army Corp. of Engineers to encourage bioengineering methods, so solutions as opposed to rock, hard rock walls, and that's what this application is before you. We minimized the rock walls or the (inaudible) and that is just on the two bridge and to protect the bridge heads and everything else potential mitigation is bioremediation there is a terracing, which will be planted and there's a bending weir, which is basically trying to redirect the flow of the stream away from the bank and towards the middle, so it's not a hard embankment along the streambank, in fact one of the questions raised, and this is the comment I made is, they said, why don't you just put a rock wall right there where the stream is or where the road is, and I said, well the problem with that as the Department well knows, if you do put rock walls and if you don't extend it to other properties, you have a real high potential of it being eaten away at the sides, at the ends, and so that impacts both ends of the property, and if that property and that property will have a concern, now you're impacting me, why don't you build one, and so, and I don't speak for the Army Corp. but I guess that's kind of one reason why they want bioengineered solutions to that, and so we've worked with them and our consultant has worked with them to design bioengineered solutions. The bioengineered solutions is to protect the portions of our client's property that does about the roadway and that's why you see it right there, you see the bioengineered solution there. We did not put a rock wall because of the Army Corp. of Engineers policy against it or preference against it and also, we did not want to further impact the upstream owner, which is Ms. Thronas, so that's what's going on there. Looking at the comment from Mr. Hecot, we don't disagree with him a lot what he said, for example, Mr. Hecot said, there are no physical rules to manage the waters, and that's probably correct and once you have a hundred-year flood there's very little you can do to manage that flood, once the hundred-year flood comes in and those flood waters come down, very little you can do on that, other than a total channeling of the river bank like they do in L.A. or the big cities, and again that's not the policy of the government at this point and time. He also said that, are we done with rock walls, he wanted to know are we done with rock walls, why can't, and basically raising the question, why can't we do rock walls along all the stream beds and the answer to us is, basically yes until the Army Corp. of Engineers, which does govern the stream changes their highly recommended policy against rock walls or abutments. We need to comply with the Army Corp. of Engineers policy of trying to do by engineering solutions. What does it take mean one of questions are, he questions, whether the

county needs to take action, and I'm not picking on the county, but I believe everybody is understanding or I think the ideal situation was, if there is massive project, and we agree that if there is a community project, to look at not only the stream banks along where my client lives but further upstream also, I mean that should be looked at, and so, it's not a simple solution, it's just this group of landowners that need to get together and talk about what to do in front of their property, you need to look at what's going on upstream and further upstream and decide what's the best way to control that hundred-year flood, which might or might not come every year or every two years but to look how to control it is not a simple thing as to build more walls, that's not a simple thing. It takes a community; it takes a lot of different government agencies to look at. Our client has discussed with the agencies and they've a kind of that is a situation that needs to be done but... (inaudible) this is not a priority for them either, you know. I'm not putting blame on the agency, it is, there's a lot of things that need to be done, I agree that it needs to be done, the question is, can my client on his own, because he just owns one property on the (inaudible), should he be the lead to take and get everybody else to do it, and that's another policy (inaudible). I don't know the easy answer, but we do understand, and we don't disagree with a big global flood plain review and design would be beneficial to the entire community there. How's going to do it? When will it be done, we have no answers in that. Will we participate, my client, if he was alive, he's passed away that's why we're working with a trust, but when he was living, my client was open to participate but he was frustrated as everybody else was, it's hard to get everybody else together and to agree, but what is the easy solution, there is no easy solution. What we're here to do is see what can be done, and I'm finally just focus on what we've requested, what is before you. We we're asked by Army Corp. of Engineers and I believe also the Planning Department, after we did the SMA Minor, we we're asked to look to see if there's potential downstream impacts that need to be addressed, and so we looked at that, our consultants looked at that and they identified three areas that should be looked at and their report indicated that even though they don't believe that the wall that we got permission to build from the SMA Minor had an impact, a significant impact on the rest of the downstream areas. They did say that if there were any impact, these are the impact places, they would be right before the bridge and that's why you see the terracing in there and the bending weir at that area because if there's an impact that's where it would have been, and so they designed a bioengineering solution to address that as per the Army Corp. of Engineers recommendation and they also said, if there's an impact, it would be the impact at the bridge abutments to just that's where the bridge and that's what they did, so those are the two areas in which they identified, the bridge abutments and just immediately before the bridge of what needs to be looked at. What they did is after they identified those areas, they said, okay what can be done under the Army Corp. of Engineers guidance, and they did what was required or allowed by Army Corp. of Engineers that was by Engineering Solutions and minimal rock abutments for the bridges and that's what we're requesting at this point in time, authority to work on this design, obviously it subject to the army Corp. of Engineers final approval and acceptance, it is also subject to Department of Health, Clean Water branches final approval and acceptance because they need to issue their water quality WQC, there's a water quality compliance certificate, that's required under the federal rules also. So, this is just the first step of one of many things that we need to take, and we need to go through. We are here to answer any questions that the Commission or the Department might have in regard to what was done and why it was done. And like I said, we are very sympathetic to our neighbors, it is our neighbors. We have listened to them, sat down and talked with them, they understand that they've been given all plans that we had, we gave it to them, and they've looked at it, and we don't disagree that there are floods, but how do you stop a flood, other than damming, which is another issue, so we're not going to go down that road either, but there's a lot of things that you can do, but flooding is not really easily addressed by an abutment or rock wall, that is one of the... a (inaudible) substitute to prevent flooding, in fact I don't believe the rock wall would prevent flooding, it'll just overflow it. So, we're here to answer any questions, I have our consultant here, that was open to answer any questions. We did see the email from Ms. Thronas and the consultant is available to answer any questions regarding Ms. Thronas' questions.

Chair DeGracia: Commissioners, any questions for the applicant?

Mr. Ako: I'm not expert about these things and I know very little about river floods and stuff, but I did have the opportunity of seeing how the river did destroy private property up in Hanalei, where it was destroyed and the river actually diverted back into the property owners land, and at that point in time it became a threat to the taro farmers because I think there's a valve in there where they divert water into the taro fields, so they actually went back and they repaired the whole thing. I don't know, come about another year or so later and it was gone again, with another flood out there, then they decided instead of putting round rocks they decided to put flat rocks because that would get a tougher time for the water to wash it away, come another year that thing is gone again, so when you talk about what if, what's the solution to this thing, I don't know what it is and now we're talking about climate change and more rain bombs coming down and, I think we're going to be more susceptible to floods in there. So, I think when you're talking about timeframe, what timeframe are we looking at in terms of, I mean how long can they wait because we don't know when another flood is coming, but timeframe if you had to guess.

Mr. Chun: For?

Mr. Ako: You know.

Mr. Chun: Impacts?

Mr. Ako: I mean not the impacts but from the being able to get your permit, figuring what the impact would be to your residents downstream.

Mr. Chun: Our best guess today is the fastest we could get all government approval and reviews fastest would be three to four months, and that would make my head spin, to be totally honest, it would make my head spin. A good guess would probably be a year because that's how long it took for the SMA Minor, that was issued by this Department for the original abutment work. It took about a year after that to get final Army Corp. of Engineers and Department of Health sign-off.

Mr. Ako: And then on top of that it's the construction portion.

Mr. Chun: Oh yeah, the construction itself would probably be two to three months, max. The construction time is minuscule in comparison to the government to review process.

Mr. Ako: And in the meantime, the erosion continues.

Mr. Chun: Well yeah, that's the other thing, we are encouraged by all the Departments to expedite our work as fast as we can. To be totally honest, we would have filed this application a lot sooner, probably at least three to four months earlier, then I think we filed it in January, we would've filed it in September or October of the previous year, however, unfortunately my client, Mr. Houston passed away, very unexpectedly. I think he passed away in early November, in fact we had the application ready to go just was his final approval, it was in front of him and I don't want to say that but nobody expected it, and what delayed it was really we needed to get a personal representative appointed, the trustee needed to be appointed, and the trustee and the person that needed to understand what we were doing and why, so but yes, we are aware of the need to get this done at least so that, so that at least through our normal storms that it could reduce the potential of damage to the roadway, but if we're talking about hundred-year floods, like I said I agree with what Hecot said, what are you going to do with...there's no physical rules as far as the hundred-year flood.

Mr. Ako: Thank you.

Mr. Ornellas: Mr. Chun, if you are you working with the Corp. of Engineers and the Department of Health then that satisfies any concerns I might have. I have a stream that runs through my property and my observation has been, if there's a benefit to be derived the stream, it belongs to the government, if there's a problem, it's your stream, so I understand the predicament you're in, and also, I'm confident of the fact that it's not a final solution.

Mr. Chun: It's not a final solution.

Mr. Ornellas: I've seen streams completely cut a new route right through people's properties. We saw that that happen on Kainahola Stream in 2018, so you can wake up one morning after a flood and have an entirely new stream channel, and I don't know what the final solution might be.

Mr. Chun: Thank you, and yes, we're aware. I mean, again, a design is only as good as mother nature will allow it to do.

Ms. Streufert: If I could ask a question.

Mr. Chun: Yes.

Ms. Streufert: The stream goes past or through any properties, from upstream to downstream, Thronas is upstream, and some others are downstream from you. Have you worked with these people so that they understand what the impact might be on them in terms of...?

Mr. Chun: My understanding, like for myself, I know I talked to Mr. Hecot directly. There was another landowner downstream that called me, and I sent him our application and our maps and our drawings and spent at least half an hour to maybe almost an hour going over that with him. I know other, our consultant has also talked with Mr. Hecot. I know there is a real estate agent was working on this project, he has talked to other downstream owners but I'm not aware of the names of them, oh, and another downstream owner was Mr. Wagner, Ron Wagner, who was here also this morning, but he didn't speak. He's a downstream owner and he's been aware of what's going on and I've personally talked with him also on that.

Ms. Streufert: What have been their concerns?

Mr. Chun: Their concerns, and I'm like I said, I'm not their spokesman but in general I'm not going name, names, but in general their concern is the road, because as you can see on the maps that we provided that area that we're trying to protect with the bioengineer solution, that's the closet the river gets to the road, I think Mr. Hecot said about 12 feet or something like that in his testimony. It's roughly around there depending on the flow of the river because it's also affected by tidal influences there, but that is their main concern, the road, and they asked the question to me, and I had no answer. They said, what happens if the stream under cuts the road, I said, that is something we have to sit down and talk with the county about, I mean, I don't know, I don't know an easy answer to that.

Ms. Apisa: The point being that's the only access to that area.

Mr. Chun: To that area, yes, so anybody downstream of that road, which I think Mr. Wagner is, will be impacted. The upstream guys are okay, but the downstream guys, so I don't know what the solution is. I think it would be a good idea to sit down and talk with Mr....I think Mike (inaudible) is the...no he's

not...oh, he's engineering too...yeah...they might have jurisdiction over there, but I don't know if they have any plans, and I don't know if they've thought about happens. Just like Aliomanu Road, if you're down by the ocean, Aliomanu Road is washed out and they come in with sandbags and they dump it all the time, with the proper permits, so, maybe that's their solution, but I have no answer in terms of what happens if.

Ms. Streufert: I'm not looking for hypothetical, sorry.

Mr. Chun: Oh, oh, oh.

Ms. Streufert: I'm just sort of wondering whether...

Mr. Chun: What was the concert...

Ms. Streufert: Whether you've talked to the people upstream and downstream so that everybody understands what you're trying to do and so that they can also prepare because they need to also prepare.

Mr. Chun: Right the downstream people their main issue was the road, especially that area because if it gets washed out, they probably going have to go around it and so on, and I had no answers for them. The upstream people just wanted to know whether or not it would be causing backup.

Ms. Streufert: Yes.

Mr. Chun: And our consultant can answer any of the questions, but we don't anticipate the flow being backed up, unless a tree washes down and gets caught.

Ms. Streufert: The last question I think I have is that there are burials.

Mr. Chun: Yes.

Ms. Streufert: That have been left in place.

Mr. Chun: Yes.

Ms. Streufert: But apparently, they're not very deep because some of them have been uncovered.

Mr. Chun: Yes.

Ms. Streufert: By other storms. Will this mediation or mitigation have an impact upon those burials?

Mr. Chun: The idea is, no. The burials are located behind, downstream of the bridge, immediately downstream of the bridge.

Ms. Streufert: Makai of the bridge.

Mr. Chun: Yeah, makai of the bridge. The idea behind the bioremediation, the bending weir is to direct the flows towards the middle of the bridge, which is the middle of the stream and away from that area of where the burials are located. That's the theory, my consultant can answer any questions you might have regarding, but that's the theory of that is to direct the flows towards the middle of the stream rather than have it come directly flow to the side of the stream, to that side of the bank.

Ms. Streufert: As long as you've recognized that there is a potential issue.

Mr. Chun: Oh, yes.

Ms. Streufert: And you are already thinking about that and preparing for it.

Mr. Chun: We are aware of the burial, in fact, I've talked with Nancy McMann who was the original archaeologist on that and I tried to get from her more details as to how many was reburied and how deep it was and again, if you want you can talk with our consultant but I think they are also checking with the original engineer on that, and I think it was Ron Wagner that did that one. In terms of what design of that original rock wall, protectant burials were, so the idea was not to impact that area at all.

Ms. Streufert: Thank you.

Ms. Apisa: Just a question. What are some examples of your bioengineering that's referenced?

Mr. Chun: If you, oh you don't have that picture, but I think there are pictures in there, but what it is, is you would plant, you would terrace the property and then when you put in certain indigenous plants, water plants in there that will stop some of the currents or flows directly and then redirect the flows elsewhere, so plants are what they would want. Another way of doing it is, you could put these coconut mats and plant the water plants on the coconut mats, the coconut mats would be anchored so that even if you had a really big, big storm, not a hundred-year but a significant storm, the mats would be anchored and would be there and would be enough, hopefully to redirect the flows.

Ms. Apisa: Thank you.

Chair DeGracia: I have a question for the Department. Saying that this might be an ongoing process, does this SMA cover for just this one (inaudible) of repair or is it kind of like they get more bites of the apple continuously working with the different agencies to remediate?

Mr. Hull: It would depend on if there's a new remediation proposed that's not part of this application.

Chair DeGracia: Okay.

Ms. Apisa: Effects of global warming, huh.

Mr. Hull: I think to the previous discussion, and I think Mr. Chun has been addressing many of those concerns, but I think back to the original point brought up by Commissioner Streufert, as far as the Army Corp. of Engineers requirements and standards, ultimately and this seems to be the bulk of where the commission seems to be revolving around, it's really at your discretion but the two options when talking about the Army Corp. even Department of Health, the way that the condition is set up, is if you guys take action today then they would have to meet those requirements as they come out. Now should Army Corp., Department of Health say do this one thing, do A, and they applicant decides to do B, then they'd be in violation of the Department of Health and the Army Corp. of Engineers requirements, and they can pursue their own enforcement, but they would also in violation of this permit because the Army Corp. of Engineers could turn around and say, Planning Department, your conditions say that they shall conform to our requirements, we want to put you on notice the applicant is not conforming to the requirements, to which the Planning Department would now have the authority to go in take enforcement action against the property owner. So, that's one way to say, allay any issues and concerns about how an approval can happen at this body ahead of Army Corp. reviewing, or getting their final action and notice. But on the

flip side though, should this body want to wait and say, no, we're uncomfortable as a body taking action until we can actually see what those Army Corp. of Engineers comments and requirements are going to be, that is something you can also do to wait to take action. However, it would have to be done with the consent of the applicant because that would go beyond, more than likely go beyond the timelines that we have to meet within our own rules and regulations, but those are the two options. As I see this discussion involving over the Army Corp. of Engineers requirements.

Ms. Streufert: Can we do a, like a negotiation between this and possibly look at, and I'm getting ahead of myself, I'm sorry, of recommendation No. 3, that says, that the applicant shall resolve and comply with the applicable standards and requirements set forth...with all of these different agencies prior to commence of work.

Mr. Chun: Oh yeah.

Ms. Streufert: That's intended, I think...

Mr. Hull: Oh, yeah, absolutely.

Ms. Streufert: ...it's already intended, but to make that very specifically there.

Mr. Hull: The Department would have no problems with that language.

Mr. Chun: The applicant would have no problem because that's what the intended is because if we didn't do that we would be in violation of their (inaudible), we have no intention of violating anybody's...

Ms. Streufert: But I think that would allay some my concerns that the Corp. of Engineers has been, their recommendations and suggestions have been incorporated in it.

Mr. Chun: The applicant would agree with that.

Chair DeGracia: Commissioners, are we ready for a motion?

Ms. Barzilai: Chair, would you like to hear modified language from the Department?

Chair DeGracia: Please.

Ms. Barzilai: With regard to Condition 3.

Chair DeGracia: Okay.

Mr. Hull: So, the Department could amend this recommended Condition No. 3 to state, prior to commencement of any work concerning the proposed improvements, the applicant shall resolve etc., etc., etc.

Mr. Chun: The applicant agrees that that's a reasonable condition.

Chair DeGracia: Commissioners, could I hear a motion?

Mr. Hull: Before we get into that, sorry and this is my fault, I should've called for public testimony, as this is a, technically a separate agenda item from the agency hearing that had public testimony but

technically pursuant to Sunshine Law, we do have to call for public testimony. So, we don't have any further individuals signed up to testify but is there anyone that didn't sign up for this section of the agenda concerning this permit, that would like to testify, if so, please approach the microphone. Seeing none.

Chair DeGracia: Okay. Commissioners, could I hear a motion, please?

Ms. Apisa: I move we approve the preliminary recommendation of the Department on, Special Management Use Permit (SMA(U)-2023-6) as amended on Condition No. 3.

Ms. Streufert: Second.

Chair DeGracia: Commissioners, motion on the floor is to approve with the Departments amended language to Condition 3. Could we get a roll call vote, Mr. Clerk?

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

Mr. Ako: Aye.

Mr. Hull: Commissioner Apisa?

Ms. Apisa: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Aye.

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

Mr. Chun: Thank you, Mr. Chair, Commissioners.

Mr. Hull: Moving on to.

SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2023-7) to allow construction of a new single-family dwelling unit on a parcel situated along the makai side of Pe'e Road in Po'ipu, situated approximately 400 feet south of its intersection with Pe'e Road and further identified as Lot 6 of the Makahuena Estates Subdivision, Tax Map Key: (4) 2-8-021:073, containing a total area of approximately 1.103 acres= **Makahuena-Preferred A LLC et al.**

Mr. Hull: Prior to turning it over to the planner, we don't have any individuals signed up to testify. Is there anyone in the audience who would like to testify on this agenda item? Seeing none, I'll turn it over to Dale for the report pertaining to this matter.

Mr. Cua: Okay, thank you. Actions required by Planning Commission.

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).

Mr. Cua: At this time, that concludes the Directors Report.

Chair DeGracia: Commissioners, any questions for the Department? Hearing none, if we could have the applicant or applicant's representative.

Mr. Trask: Aloha, Honorable Chair, members of the Commission. Mauna Kea Trask on behalf of the applicant. Thank you very much, as Dale said, this is another single-family residence for the Makahu'ena Subdivision and its pre-self-explanatory, we've been here before for a few lots but I just wanted to follow up a couple of things from the last meeting I was here and I believe it was Lot 4 and there's some discussion regarding the DNR SHPD concerns with regard to archaeological management, monitoring I'm sorry, as well as the potential effects to the coastline and specifically some fauna in the area, specifically the birds and turtles, and so what I did was, I followed up with a supplemental materials, although I referenced the 2015 archaeological management plan prepared by Mr. Fackler and his associates, I did include a full copy of it. We subsequently followed up per the Lot 4 issue, we clarified with DLNR and then communicated to Planning that they are okay with development at Makahu'ena as long as they follow the 2015 Fackler plan, so you'll continue to see that and see reference to it. Further I followed up with the applicant, they confirmed that they still have an agreement with Kane Wildlife, who is the private contractor that monitors and appropriate necessary measures to protect the, although not in danger, the migratory birds that are in the area. I also contacted DLNR DOFAW, like I represented to the commission prior and was able to confirm that Mr. Kaikapu is no longer with that agency, he was the lead on Kaua'i. I think it's (inaudible) is the one whose taking charge and they do want to continue the ROE, they continue to act under precious ROE that has been expired but they are still there nonetheless doing their, acting under that, it takes a little time to get another updated agreement but we're going through those channels. Again, and the applicant, so (inaudible), the applicant is a corporate entity, and numerous corporate entities, however the beneficial owners do have, I believe the patriarch did his mission in Samoa or Tonga or something like that, they've come to Hawai'i for decades. They really like Hawai'i and the Polynesian culture and so, they do want this body to know that they, the draw for them for this property was those aspects of it, so, there was the coastline, the value that provides the less developed, the minimized development as opposed to neighboring developments in the area, and so they are doing everything they can, they wanted me to tell you that they're doing everything they can to protect the environment and the flora and fauna of the area, they put up signage, they maintain the public access easement, which I would note is not necessarily very common on Kaua'i. We have a landowner that has an easement for public access, frequently they don't manage it and things can happen, I don't want to say lose the easement, but disputes can arise (inaudible) it still exists, as we've seen in other parts of the island. They maintain the gravel to provide to provide for emergency access if necessary because you can't drive along the path but they have bollards but they can be removed if fire needs to go or something like that, so they're maintaining it in the event that it is needed, and again they continue to direct public to the public parking areas and the easements because again, there are birds in the area and cats are a perennial problem, they're working with Kane and neighboring landowners with that regard and also dogs, people walk their dogs in that area frequently so their doing as best they can to manage that.

They're not aware of any takes or events but they're constantly vigilant, they just wanted you to know. So, with that, if you have any questions, I'm happy to answer them, if not we just respectfully request to you, grant the permits.

Chair DeGracia: Okay. Commissioners, any questions?

Ms. Streufert: I'm not sure if this question goes to the Department or to the applicant, but there's a statement in this particular one that says that, under Traffic Circulation; Maka Place is a private road built to county standards but not accepted by the County Council. How does that work?

Mr. Trask: If I may?

Chair DeGracia: Yes.

Mr. Trask: So, under the HRS 264-1, is what's called the Highways Act, it originated in 1892, and what it did at that time was, Hawai'i at that time had a lot of trails and roads but travel in Hawai'i was mostly by boat because there was no beast of burden, it was easier to sail a canoe to another ahupua'a than walk physically, so when you get more late 19<sup>th</sup> century, early 20<sup>th</sup> century you had roads but they were through konohiki land, they were in various areas not public, so they decreed those public roadways over time there's been a distinction what's the county roadway, what's the a state highway, all that stuff, then you got roads (inaudible), so basically what it is, is that under 264-1, state highways are state highways, everything else are public roads and throughfares, then there's county roads and highways but a county road is not such until and unless it's accepted by the County Council, if it's not but it's not a state highway then you have a road in limbo. This is private roadway, as was, required, or as provided in the subdivision permits, so we were just pointing out that it hasn't been accepted by the Council so it's not public, it is a private road and it's privately maintained because that's what it is, so if that's clear, I think that's the best it can be clarified.

Mr. Hull: And just real briefly, under the Subdivision Standards, the various agencies generally require that a thoroughfare servicing a certain number of dwelling units be built to county standards, so it's meet the county standards, the width, the pavement, curbs, gutters, etc., it's just it hasn't been given to the county for, to become a county asset, if you will, so the County Engineers office doesn't own or run this road.

Ms. Streufert: So, you'd have to privately maintain?

Mr. Trask: And I believe, correct me if I'm wrong, Director Hull is that, there wasn't a subdivision requirement to dedicate it to the county, county's not really interested in obtaining and maintaining all these roads, so in small instances like this is a cul-de-sac, services 10-lots, it's not a big thing that anyone expects Public Works to put on their inventory, so it's standard but it's not public.

Ms. Barzilai: Mr. Trask, I just want to clarify also for the Commissioner, that it was never offered either by Makahu'ena Subdivision to dedicate this to the county and therefore it wasn't accepted by Council.

Ms. Streufert: So, it wasn't...

Ms. Barzilai: It can only be accepted by Council if it's offered for dedication or mandated.

Mr. Trask: So, Makahu'ena didn't develop the subdivision, it was Ciri but the only reason why I say that as I, usually it's a subdivision condition you have to dedicate and I don't believe it was a condition, so that's all I got.

Mr. Hull: Are you saying your clients are willing to dedicate it?

Ms. Barzilai: That would be my question too. That's a great question.

Mr. Trask: Yeah, thank you.

Ms. Streufert: Could you also explain something about the bollards that are going to be put on the road?

Mr. Trask: Oh no, on the trail. So, in order to prevent people from driving along the coastal thing because they'll take their trucks.

Ms. Streufert: I thought that you meant it on the road.

Mr. Trask: Uh-uh.

Ms. Streufert: Okay.

Mr. Ako: Mr. Chair, I have a question.

Chair DeGracia: Please, Commissioner Ako.

Mr. Ako: Mr. Trask, the proposal that we have here involve the construction of a 6,446 square foot two-story single-family dwelling, under 6,446, how do we calculate that, what is included in the 6,446?

Mr. Trask: I think that's the floor, yeah, it's everything. So, it's upstairs, downstairs, garage, guesthouse, I mean it's not lot coverage, its square foot, I believe.

Mr. Ako: Right, so we including swimming pools as part of this?

Mr. Trask: Walkways, although we have permeable gravel, yeah, lot coverage, it's not lot coverage it's living area.

Mr. Ako: So, the house itself is about 6,000...

Mr. Trask: No, it can't. It's 10%, it's limited to 10% of lot coverage so it cannot be 6,000 cause it's open zoning.

Mr. Ako: Okay.

Ms. Streufert: But it comes out to 9.969% of the lot coverage.

Chair DeGracia: Commissioner Ornellas, you have a question?

Mr. Ornellas: No.

Chair DeGracia: Commissioners, any further questions? If not, I'm not sure if we took public testimony.

Mr. Hull: We asked in the beginning of this one.

Chair DeGracia: We did?

Mr. Hull: Yeah.

Chair DeGracia: Alright, Commissioners, I'll entertain a motion on this.

Mr. Ornellas: Move to approve, Special Management Use Permit (SMA(U)-2023-7) Class III Zoning Permit Z-3-2023-3.

Mr. Ako: I'll second.

Chair DeGracia: Okay. Motion has been made and seconded to approve this agenda item. If we could get a roll call vote, Mr. Clerk?

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

Mr. Ako: Aye.

Mr. Hull: Commissioner Apisa?

Ms. Apisa: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Aye.

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

Chair DeGracia: Thank you.

Mr. Hull: I just want to check in with the Commissioners, it's 12 o'clock, we've got two more substantive items we expect possible deferral by this body on another one, so we've got two more substantive items and then the Long Range Presentation. Do you folks want to take a break, 10-minute recess, a lunch break? We do have your lunches here, I believe. Did you want to power through it and have your lunches, during say, the Long Range Presentation? It's really at the Commissioners discretion. I just wanted to check with you guys. I know it's been a long day.

Ms. Apisa: Out of respect for Mauna Kea, it probably be nice to power through so he could leave for the day.

Ms. Otsuka: I agree.

Mr. Trask: If I can, just one more. I'm sure my client doesn't want to pay me anymore to be here.

Ms. Apisa: Yeah.

Mr. Hull: So, go through this...because we also have other applications with other applicants waiting. Did you guys want to...

Ms. Otsuka: Or just with Trask.

Mr. Hull: Mr. Trask has one left, we also have the University of Hawai'i application following.

Ms. Otsuka: Yeah, but it doesn't involve Mr. Trask.

Mr. Hull: No, no, no.

Ms. Otsuka: So, we're saying let Mr. Trask finish his.

Mr. Hull: Okay.

Ms. Apisa: At a minimum finish with that.

Ms. Otsuka: Yeah, yeah. So, he can leave.

Mr. Hull: Next on the agenda we have.

SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2023-8) to allow construction of a new single-family dwelling unit on a parcel situated along the makai side of Pe'e Road in Po'ipu, at the eastern terminus of a cul-de-sac, situated approximately 600 feet south of its intersection with Pe'e Road and further identified as Lot 2 of the Makahuena Estates Subdivision, Tax Map Key: (4) 2-8-021:069, containing a total area of approximately 1.027 acres= **Makahuena-Preferred A LLC et al.**

Mr. Hull: We don't have any individuals signed up to testify on this agenda item. Is there anyone in the audience or outside that would like to testify on this agenda item, if so, please approach the microphone. Seeing none, I'll turn it over to Dale for the report on this matter.

Mr. Cua: Similar to the previous application.

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

Chair DeGracia: Commissioners, any questions for the Department? If not, any comments, Mr. Trask?

Mr. Trask: Thank you, Chair. On behalf of the applicant, Mauna Kea Trask. Similar to what Mr. Cua said, I would just incorporate by reference, my comments with regard to the Lot 6 application, to this application they're effectively the same, to the extent that they are similar. Thank you.

Chair DeGracia: Thank you for clarifying that's my understanding as well (inaudible). So, with that, Commissioners, any further questions, comments, discussions, if not.

Ms. Streufert: I'd like to make a comment. I'm pretty familiar with this area but one of things is that each individual lot and each individual house, as it has been presented, still always a view from mauka to makai, when however, all of these houses are developed as they are now projected based upon the (inaudible), the mauka to makai view will be gone. That's not say that I'm going against this, it's just that it's a, one should note that the cumulative effect may not be what you see as these projects, so that when the community sees this after this is all done, there will be no view to the ocean on Pe'e Road. I'm not sure we can do anything about that but that's the fact of the way that this is going to be happening so, on the SMA permit, you're correct that there is a mauka to makai view but it's primarily along the coastline and it's not from Pe'e Road down to mauka or makai.

Mr. Trask: And on that point, that's correct, and I'm glad you brought that up, Commissioner Nogami Streufert because it's true. This is not an open space park area but at the same time, I don't want this to be taken out of context or snapshot. So, as you know or may not know a brief history, this was zoned for and entitled for, I think 25 or 26 units and it was CLDC, was a Native American corporation, got the property from the Coast Guard and they down zoned it to only ten, only nine of which are within the VDA, and if you look, if you book-end it, the Point at Po'ipu entirely can see the coast and there is no real public access, you have to go through their own parking lot. To the west, immediately west is the Makahu'ena condominiums, not only can you not see, I think they're like four stories up, not only can you not see the coast but there's no access at all, whether through it or lateral in front of it. So, Makahu'ena was specifically designed to provide not only makai access and access down there, so, mauka, makai and lateral access but also public parking lot and (inaudible) I don't want to be the false impression in that there's not going to be development there, there is, but what was there before, we think it's a much better improvement than what it could have done and further what is currently surrounding it, so I think this is the way that development along the coast on Kaua'i, but I don't want to give you the false impression that I'm here on behalf of national parks or something like that, this is a residential development on 10 lots, approximately 10 acres, total.

Chair DeGracia: Thank you. Commissioners, anything further? If not, I'll entertain a motion.

Ms. Apisa: Did we ask if there's any public input?

Mr. Hull: We did in the beginning.

Ms. Apisa: Okay. I move that we approve Special Management Area Permit (SMA(U)-2023-8) regarding Makahu'ena-Preferred A LLC et al.

Ms. Barzilai: Commissioner, I believe there's an additional permit number listed.

Ms. Apisa: Thank you. And Special Management Class III Zoning Permit Z-III-2023-4.

Mr. Ornellas: Second.

Chair DeGracia: Commissioners, a motion has been made and seconded to approve SMA Use Permit U-2023-8 and Class III Zoning Permit Z-III-2023-4. If we can get a roll call vote, Mr. Clerk?

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

Mr. Ako: Aye.

Mr. Hull: Commissioner Apisa?

Ms. Apisa: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Aye.

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

Chair DeGracia: Mr. Clerk, before moving on. Thank you.

Mr. Trask: Thank you.

Chair DeGracia: Before moving on. Commissioners, do you suggest we take a quick recess. I understand that we have the UH item afterwards and then after the UH item, do you guys want to have lunch while we hear the Long Range?

Ms. Otsuka: Save time, if they don't mind.

Chair DeGracia: Okay. I just have to take a quick recess. We'll reconvene in 10 minutes.

Commission went into recess at 12:08 p.m.  
Commission reconvened from recess at 12:20 p.m.

Chair DeGracia: The time is 12:20, I'd like to call the Commission meeting back to order.

Mr. Hull: Next up we have Agenda Item L.5.

CLASS IV ZONING PERMIT (Z-IV-2023-9) and USE PERMIT (U-2023-6) to allow installation of security fencing, wastewater and associated site improvements at the base yard facility in Lihue, situated along the western side of Wehe Road and immediately adjacent to the County Department of Water, further identified as 4398 Pua Loke Street, Tax Map Key: (4) 3-8-005:002 and containing a total area of 7.319 acres= State of Hawai'i, Department of Land & Natural Resources (DLNR), Division of Forestry and Wildlife (DOFAW).

Mr. Hull: As you folks had in your packet as part of public agenda, the Department of Public Works has asked for a 90-day minimum deferral so that they can go over the (inaudible) to the wastewater system that is being proposed as part of this application. You folks also have newly sent comments from the Housing Agency requesting also a deferral for further discussions with the Governor's office concerning the housing expansion and or improvements. So, with that, we do have Shelea Koga, our Planner on this ready to present, however the Department would be recommending a deferral of this item until July 11<sup>th</sup>, and you folks have (inaudible) the communications (inaudible) representative waiving the timeline requirements of Section 8-3.1 of the Kaua'i County Code concerning Class IV Zoning Permits. If you folks are okay, wait if you guys do have questions about the application, about the proposal, we are definitely here but understand that the applicant isn't here, and the deferral is for the likely imminent.

Chair DeGracia: Commissioners, if we don't have any questions and we don't want to open this up at this time and we're looking at deferral, I'll entertain a motion to defer.

Ms. Apisa: That was to July?

Mr. Hull: I'm so sorry, Commissioner Apisa but if you would (inaudible) for one second. We have no one signed up to testify on this agenda item. Is there anyone in the public that would like to testify on this agenda item? If so, please approach the microphone. Seeing none.

Ms. Otsuka: Motion. I move to defer this Zoning Permit Z-IV-2023-9 and Use Permit U-2023-6 until the meeting of July 11<sup>th</sup>, 2023.

Ms. Streufert: Second.

Chair DeGracia: Commissioners, motion has been made and seconded to defer this agenda item to the July 11<sup>th</sup>, 2023, meeting. Could we get a roll call vote, Mr. Clerk?

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

Mr. Ako: Aye.

Mr. Hull: Commissioner Apisa?

Ms. Apisa: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Aye.

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

Chair DeGracia: Thank you.

Mr. Hull: Next up, we have Agenda Item L.6.

ZA-2023-3 - Request: County Zoning Amendment from Agriculture (A) & Open (O) Districts to University District (UNV). Location: Lihu'e, Kaua'i. The entire Kaua'i Community College campus as well as adjacent parcels to the west, located on the mauka side of Kaumuali'i Highway in Puhī, further identified as 3-1901 Kaumuali'i Highway and affecting a total area of 148.37 acres. Tax Map Key: (4) 3-4-007:001 (Portion), 002, and 003 = **University of Hawai'i, Kaua'i Community College.**

Mr. Hull: We don't have anyone signed up for testimony. Is there anyone not representing the applicant and is a member of the public who would like to testify on this agenda item? Seeing none, I'll turn it over to Alisha for the report.

Staff Planner Alisha Summers: Good afternoon, Planning Chair and Commissioners.

Ms. Summers 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).

Ms. Summers: So, to provide more information and context about this proposed zoning amendment, I will now pass the mic over to the consultant who will be giving a brief presentation.

Mr. Hull: Before we get into the presentation. Is there any questions that the Commissioners have for the staff?

Ms. Apisa: Good job, Alisha.

Ms. Streufert: Yes, that was great.

Ms. Summers: Thank you. Sorry, for the quietness.

Ms. Streufert: Question for you. There's a 0.11-acre property, within this area that belongs to the county. Does that have to be...is that a keyhole property? Does that have to have access?

Mr. Hull: I don't know. Alisha, do you know if that property has access?

Ms. Summers: I'm not aware about that but I can look into that and get back to you about it.

Ms. Streufert: Because it's in the middle of this property but it's just .11-acres.

Ms. Summers: Yeah.

Ms. Streufert: It's kind of an interesting...

Mr. Hull: It's a remnant parcel that, if it's on the middle of state land then in theory the state has no...

Ms. Streufert: County.

Mr. Hull: ...preventions of the public accessing it. We hadn't had any discussions with Finance Department about that particular, small parcel and what to do with it. Perhaps the Housing Agency wants to (inaudible) trades for DLNR (inaudible) expansion lands, I don't know.

Chair DeGracia: Please.

Mr. Hull: Did you folks need access to the Zoom board?

Unknown Male: I think yeah. Joining now. Good afternoon, Chair and Planning Commissioners. My name is Greg Nakai, Planner with PBR Hawai'i, the consultant for the applicant. As was mentioned the petition area is 148.37 acres of a portion of the 193-acre university owned property, encompassing tax-map keys 3-4-007, a portion of parcel 001, 002, and 003. The State land use district designation is urban for the petition area, and the Kaua'i County land use designations, on the left, under the general plan, it's designated university zone, in the middle under the Līhu'e Community Plan is designated urban center, and as mentioned this County zoning is designated agriculture district and open district. So, while the campus is 193-acres, the petitionary is only for the 148.37 portion of the property, and Kaua'i CC moved to the existing campus site in 1977 on land donated by Grove Farm. Previous developments on the campus were permitted through a special permit, granted by the State Land Use Commission, however the County informed KCC that future development on the campus would not be permitted through another special permit. It was noted that campus should secure appropriate State Land Use district reclassification and rezoning for the property. A little bit of background, in 2012, a final EA was prepared for the campus with a finding of no significant impact for the project. In 2014 and 2015, the applicant commenced work on an update to the 1999, Long Range Development Plan or LRDP, the status of which is ongoing. In 2017, in being consistent with public institutions, the petition area was reclassified by the State Land Use Commission from agricultural to urban land use district. Also, in 2017 the County of Kaua'i adopted Ordinance 1013, that established a new university district zoning to accommodate areas of land that are utilized for university and campus related uses and facilities. Last year in 2022, it was determined that the project remains in compliance with Chapter 343 HRS requirements, therefore additional environmental review is not required for the rezoning of the petition area, and finally this year in February, the rezoning application and TIR were completed and submitted to the Planning Department. When the applicant commenced work on an update to the LRDP in 2014, Kaua'i CC had an Student Full-Time Equivalent or FTE of 831 students and the projected growth for the campus was to decline slightly to 814 FTE by 2020, however due to slower than anticipated growth in student population, the updated plan has reduced the target population from 3,000 FTE under the current 1999 LRDP to 1,500 FTE students under the ongoing draft of the 2035 LRDP, so essentially the target has been reduced. So, the LRDP is an ongoing effort and has been adjusted to accommodate a more realistic level of growth that may be reasonable and allow for flexibility and possible future expansion. 2035 is the long range target, but development will progress as future growth requirements and as funding becomes available for the campus. Flexibility on the citing of buildings and planning is critical due to shifting demographics and (inaudible) requirements, and funding uncertainties. The buildings are identified on the plan should be

considered place holders and further detail and citing will occur as funding and specific program needs requirements become better known. So, this is a site plan for the LRDP, it's a little hard to see here but the darker brown areas are the proposed buildings. So, the proposed development will be contained within the core of the campus. The University District Zoning, Section 8-29.1 of the Kaua'i County Code states that, university districts are intended for areas utilized for campus related activities and intended to acquire two areas for the location and expansion of universities and similar educational campus environments, and the uses and facilities that are associated with and supportive of them. So, the university district zoning designation is thus the most appropriate zoning for the campus and allows for the university and associated uses, the redesignation allows future development of the campus to move forward and allows the campus to pursue their vision mission and academic plans, and to fulfill their role within the UH system and for the betterment of the island of Kaua'i in the state of Hawai'i. This rezoning will bring the campus, which has been operating at its current location since the 1970's, in alignment with the State Land Use Commission reclassification to the urban district, the Kaua'i County General Plan, and the Līhu'e Community Plan Designations. The rezoning will also make the campus compatible with uses permitted within the university district zone and eliminate the need for special permits, as the project will no longer be zoned agriculture and open. Mahalo.

Chair DeGracia: Thank you. Commissioners, any questions, comments?

Mr. Ornellas: I have a question. The University of Hawai'i is a land grant university, is that designation extended to its community college campuses?

Mr. Nakai: I think we would need to defer to someone from...is that...

Unknown Woman: Not necessarily.

Mr. Nakai: Not necessarily. (Inaudible). Oh, Manoa is a (inaudible). She said, Manoa is a (inaudible).

Mr. Ornellas: So, does it extend to the community college with satellite campuses?

Unknown Woman: No, (inaudible).

Mr. Ornellas: Thank you.

Unknown Male: Just so you folks know, I'm Grant Murakami, I'm Senior Vice-President, I'm with PBR Hawai'i too. So, with us is Denise Yoshimori from the community college offices and Greg Tanaka, he's also with the community college, and then Calvin Shirai is from Kaua'i Community College. So, when the questions are kind of related to programming and academics, we may need to defer to them. Thank you.

Mr. Ako: Mr. Chair, if I can ask. I have two questions, one regarding to a portion of the land that is not part of the application itself, which is the cemetery over there. I know it's such a small part of the entire campus, but this Disney movie comes back to my mind, the movie Up, where that little guy who owns that little property that gets kind of squeezed out by all the buildings right around him. Are there any plans for construction around that area? Over time, we are looking ten years ahead at funding and all of that at this point.

Mr. Murakami: Right now the current plan Greg was showing you, it doesn't show any development around that area of the cemetery, we're keeping most of the development of the campus concentrated within the loop road are kind of closer to the entrance, there's one building on the other side of that loop road, of the cemetery area also, the State Historic Preservation Division did note that, you have to do a

study and if, before you do anything there's a buffer area, about a hundred feet that you need to have around that area, so, we don't have any plans for that area at this time.

Mr. Ako: The other question I had, had to deal with the traffic, the traffic survey that was done in that area. I think somebody gives them a grade, that LOS, and right now I think they're looking at it as being an LOS E or something, which is not real good in there, and I know there's only two entrants and exit points over there. I think we're also looking at somewhere in here I was looking, there's like, 500 more parking spaces that are being planned for the campus, which in my mind tells me there's going to be more cars and then student enrollment is looking to increase also. And yet with the traffic as it is, I think right now it's stated, as you are exiting on that Puhi Road, that main road and there's that merge lane or there, which creates a lot of the back up from there, and plans are there to increase it to two lanes further down, when that's going to happen, nobody knows, and then you go further down by the Humane Society that's the other backup area. So, with the level of service that is granted to them at an E level, the survey comes out to say that there's not going to be any bigger impact. I'm trying to figure out how is that going to be because I think we're anticipating more cars, more students, and we're bad already, so are they just saying that we're not going to that F level or we're going to just stay at that D level with the increase of traffic.

Mr. Murakami: Yeah, so I think there are different intersections that they survey and I think one intersection does get to that F level but the rest of them, they all kind of stay about the same, so the actual impact from the campus isn't as large as the overall impact, the traffic engineer told us that it amounts to approximately 2 to 6% of future in 2035 traffic during the a.m./p.m. peak hours, so there is an increase but they're saying it's roughly 2 to 6% with this, and we we're assuming a population of roughly 1,500 FTU, which is an equivalent of roughly a head count of 2,571 students, so that's right now there are about a thousand, a hundred students, right, so that's almost like increasing it by a thousand students, head count. So, that's based off of that analysis whether the campus grows to that amount is uncertain how quickly the campus will grow but based on those numbers they said it's roughly a 2 to 6% increase, overall.

Mr. Ako: I mean, the traffic is horrendous over there, so I'm going to assume that it's going to continue being that way, but another question I have, I don't know, this might be a staff question, as we look at the community college anticipated growth at that campus, I think we also see that Hokulei Village over there, that is planning to expand, which is going to be adding to the traffic and Līhu'e (inaudible) might probably increase too, and I think it's everybody that's adding to this traffic, so, I guess in my mind it's, as a general public I really don't care about your more dorms and whatever, I'm worried about that traffic. Who's responsible for that? Is it the school or is it Hokulei Village, who is expanding also or.... I don't know if that's a (inaudible) question or that questions.

Mr. Hull: No, no, no, it's a valid question, I think probably anybody who's watching, probably that is the (inaudible) concerns is impacts on traffic particularly as it bottlenecks at that one intersection during p.m. peak hours, it's not really that problematic a.m. peak hours, but it's problematic p.m. peak hours. Through this process improvements can be exacted if you will during the zoning amendment or even during later on actual projects that in and of themselves. This is, the particular pinch point here is primarily the State of Hawai'i highway area, there's some arguments we made that some of Puhi Road gets impacted p.m. peak hours, and so it would be really incumbent upon one of those agencies to put this body on notice that with this proposal such and such improvements should be required. We haven't gotten any communications from Public Works Engineering or DOT Highways at this point, and the Department has no problem saying, if you folks would like to wait until those comments are received before taking action on it, that is completely within your purview. To a certain extent though, to somewhat, I don't want to say taper any expectations but to set the expectations, if there's a traffic problem in an area and a new improvement is being proposed, that new improvement cannot be required to solve the traffic problems of

that area. The only amount that this body, say based off of engineering or Department of Transportation's comments can exact through this process would be what we consider a proportional nexus to the impact that the project's going to have on the area. I don't know what the numbers are, but you have 5,000 cars running through there during p.m. peak hours, what they're saying is, this will add 2 to 6% anticipate, this body could then exact what type of rough proportional improvements are necessary for that 2 to 6%. Could this body have the authority to exact three or four more lanes because this is a problem area out of this one development, it wouldn't be able to. I'll leave it at that, and again if this body wants to wait for DOT comments, the Department has no objections to that because I'm almost certain these are very similar questions that are going to come up at the County Council when this gets sent over their way.

Mr. Ornellas: According to this study they don't anticipate problems with that. I think in 20 years things are going to look a lot different than they are today, I think public transportation is going to be much more available. I think building student and faculty housing because you've got so much land, I mean it's almost a no-brainer to do that and help alleviate the real crisis we have in housing on Kaua'i, so I think we can mitigate some of those issues regarding traffic, like proper planning.

Ms. Summers: Do you mind if I add one thing to this? I was going to mention it later, if you wanted me to read some of the conditions but I think in recognition that it would add additional people in this area and cars in this region, while the general plan is not necessarily like a regulatory document but it is a direction setting document that can help guide in county decision making in reviewing this application and as well looking at the general plan, I did put within the conditions just things that the applicant can consider, also in regards to transportation and our (inaudible) goals, so one of them is to consider having coordination with our transportation agency to explore more opportunities for bus and shuttle stops in front of the student (inaudible), so that there's better and easy shuttle and bus access to the nearby amenities, such as the Hokulei Shopping Center, so again while the general plan is not a regulatory document this was something that was included as a recommendation and thinking about getting less cars on the road and alleviating some traffic concerns.

Ms. Apisa: Just to make a comment, I don't have any scientific data on this, but I have two out of five grandkids that are eligible to get a license and they have no interest in getting a license and I'm told that this is a trend with the new kids.

Ms. Otsuka: I heard that.

Ms. Apisa: That they just want to, I'm not sure, I guess they're going to rely on public transportation. I don't understand it but, I mean I can't say it a bad trend, you know it might good, it'll alleviate some of our traffic problems, and part of that issue, it doesn't make any fewer cars over there but I see a lot of, not to target trucks but I see a lot of trucks pull in by Gaylord's and pull out by Puhi Road and trying to take a short cut, it's still the same number of cars on the road but that is a common little shortcut.

Ms. Streufert: Sitting in the back of those traffic jams is not exactly great, but I want to say, I really appreciate the fact that you're looking at expanding the University of Hawai'i access to the students because we need that here, especially if you increase the number of offerings and different categories, but the idea that it's only going to increase by 2 to 6%, I think is not reasonable. When you're increasing the parking, and you're increasing the student body by over 50% from what it is now, there's no way, even if many of them don't drive, you're still going to have all of the going home traffic and that's not going to change and you're also not to going to change the fact that some of those additional students are going to have cars, so I also recognize that we're not going to have new roads, that's not going to happen anytime soon, not in my lifetime, I don't think, so the questions is really what can the university so, and the questions is whether you can also think about and obviously there's nothing that we can mandate for you

to do but think about staggering your hours, changing the way that you offer classes and many universities are offering different ways of offering classes that are hybrids that are both in class as well as distance but also that you stagger it so that you have Saturday classes, that's probably not going to go flying really well with your faculty but Saturday classes or even evening classes so that you can stagger the traffic because right now the traffic, from 3:30 to 5:30 generally goes all the way to Safeway, and that's now, and with additional people or additional cars, I've been sitting there for thirty minutes sometimes just trying to get home and I know that I'm not in as much of a hurry as people who have been working all day, who want to go home to their families, so it's rather frustrating to think that you'll have more traffic, we have to think of additional ways in addition to the traffic part of it, we have to think about ways that the university can also mitigate some of the issues, but I do appreciate the fact that you are going to be increasing your offerings to the students on Kaua'i, we really absolutely need that.

Mr. Ako: And if I can pick up from where Glenda is coming from, I think for me, I live in Līhu'e so the traffic doesn't really bother me at all, I don't even know there's traffic half the time, except when we sign holding and we get blamed for the increase in traffic but in spite of all of that, I am very grateful for the fact that KCC is looking at expanding their services because, for one, I know have been one that has been a real big beneficiary of the educational system and I don't know where I'd be today and I look around this room and I think most of us in this room probably would not be here if not for education, in one way or another, so although traffic does bother me, I think the priority really is the fact that we should be very grateful the fact that the university is trying to expand and I thank you for looking out and looking in that direction.

Ms. Streufert: But please take every opportunity to look at your schedules at the university so that we can mitigate it for everybody and make it better for everyone not just for the students here.

Mr. Hull: I'll just echo those statements, Commissioner Streufert to the applicant that coming from the County of Kaua'i when the mayor looked at having staggered work schedules, teleworking opportunities, well teleworking opportunities of course came out during Covid, but he looked at the 40-work week, part of it, yes to offer that to employees but the other part if his analysis that he was upfront about is, taking a look as one of the largest employers on the island and how our hours of operation, our employees affect traffic among other things and how staggering and changing the times in which people work while still maintaining front counter service helps to alleviate not alleviate fully but there are several workers in our office that go home, start early and now go home at say 3 o'clock and are not part of that a.m. peak traffic, contributing to some of those longer ques, and so as much as much as you folks can take a look at, and I think what Commissioner Streufert was getting at, it's not all of the classes it's just what may be done about, say classes from 3:30 or 4 o'clock to 5:30, right, just that one set of classes, possibly looking at limiting...

Ms. Streufert: They've done that in most metro areas, so the federal government actually allows you to come in at 6:30 and leave at 2 or start as late as 9 and leave at 5:30, so that you can stagger your time. As long as everybody agrees on it, but there are different ways of doing it and we had Saturday classes went I went to college.

Mr. Hull: We get the complaints too about the impact of development overall and then make no mistake, development does have impacts among other things traffic, but when all the blame gets loaded on development and "tourism" which definitely comes with those impacts, we have to look at our problem traffic times are actually really alleviated during summer and during Christmas break, when we have the highest amount of tourists on this island but our schools and our universities are on break, and it's not to say that students are the main cause of our traffic, but it's a contributing factor.

Chair DeGracia: I just have a comment. As an alumni to Kaua'i Community College, when I attended the school there a lot of us would take more so morning classes, and granted this was years ago, and what I remember is kind of like the highlight of the day after classes, we'd have lunch and then after that the campus would almost, a lot of the students would be (inaudible), and for myself when I scheduled my classes, it was just during a certain period of time and I was there at the campus for maybe a couple hours, 3 hours, maybe I had 2 classes that day, and what I noticed back then, the afternoon was slower, so it seems like, although there is still a thousand, might be up to 3,000 students moving forward, it all depends on as mentioned earlier, the schedules, and at that age, I'd rather just take morning classes because it kind of followed suit with what we did in high school. I kind of wanted to out of there around 2 o'clock anyway, and I noticed that the available classes, and at that time, and this is early 90's that that's where most of the class availabilities were scheduled, in the morning, and very less in the afternoon but I'm not quite sure if the college would like to speak as far as that, if they have any comments.

Mr. Calvin Shirai: Hi, Calvin Shirai, Kaua'i Community College. Yes, basically a lot of our students are part-time students, and the classes are usually in the mornings as you said, a lot of them like to get their classes out of the way before anything else, and a lot them work in the afternoons, so that's one of the reasons why the classes are mostly in the mornings.

Ms. Streufert: And I think when you increase your number of classes, you're not increasing the number of faculty, potentially you're not increasing the faculty proportionately, so all we're saying is that, when you look at how you're scheduling your classes or what the day hours are or the night hours, but there's some consideration to what the impact will be on the traffic at those times. That's all we're asking for, that at least you're cognizant of some of the issues that are there.

Mr. Shirai: And one of the other things is, is that our employees get out at 4:30, and we have approximately 100, and so, we don't anticipate that growing any larger.

Ms. Streufert: If there's any way of staggering that, that might help too.

Mr. Shirai: Yes.

Ms. Streufert: I guess what I'm looking at is some flexibility and how this all might fit together because we all have to work on it. They're not going to increase the number of roads, we're not going to be decreasing the number of people that are going to be going west during the afternoon hours, so anything that we can do to decrease the peak hours so it will stretch it out, would be very helpful, I think.

Mr. Shirai: I live on the west side, so I know.

Ms. Streufert: I do too. There're certain times of the day, don't get on the road.

Mr. Shirai: Yes, definitely.

Unknown Woman: So, I'm from Oahu and traffic is terrible.

Ms. Streufert: We don't want to do Oahu.

Unknown Woman: So, we have noted, I just wanted to say that we've noted, we reviewed the Directors recommendations, I've highlighted it all, and with any development, we are, we will comply with these, but you know, we are looking at continuing a lot of our online offerings, with Covid we went fully online and our student are not 100% back, and we don't necessarily anticipate going to going back to how it was,

we're trying to redefine the best way to service our students and our community, So, definitely there may be an expansion of numbers but not necessarily the physical daily occupancy on the campus itself. Another point too, is the fact that if we do proceed with student housing or workforce faculty staff housing, that would also hopefully help with traffic as well because our students are on campus, and the reason we are looking at the farther right by the Grove Farm side, is for that direct connection so that they can walk, when I was at Manoa, I dormed, I couldn't go any place because we were in Manoa and there wasn't any place to walk to, so I definitely appreciate the ability for our students to stay on campus or go across the street, be able to go to the shops and the store and come back, so we're aware of all of those things and we definitely want to be a good member of the community because we're not going anywhere, so we're definitely committed to do the right thing.

Chair DeGracia: Commissioners, any further questions, Department, applicant? Comments? Discussion? If not, I'll entertain a motion.

Ms. Otsuka: She doesn't have to do a recommendation.

Chair DeGracia: Oh, do you have the recommendation?

Ms. Summers: So, based on the foregoing evaluation and conclusion, it is recommended that Zoning Amendment ZA-2023-3 be approved, subject to the conditions that are presented to you in the Director's Report. There are a total of 6 conditions, did you want me to read those conditions to you?

Ms. Apisa: We have them.

Chair DeGracia: Not necessary.

Ms. Streufert: Unless the...the applicants, you have all the conditions.

Chair DeGracia: With that, Commissioners, I'll entertain a motion.

Ms. Streufert: I move to accept or to approve the Zoning Amendment ZA-2023-3 to amend the zoning map ZM-P400 Puhi from Agriculture to Open Districts to University District, with the following conditions that are outlined in the Director's Report.

Ms. Apisa: Second.

Chair DeGracia: Commissioners, motion on the floor is to approve this agenda item, the Departments recommendations with conditions. Could we get a roll call vote, Mr. Clerk?

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

Mr. Ako: Aye.

Mr. Hull: Commissioner Apisa?

Ms. Apisa: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Aye.

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

Ms. Summers: Thank you.

Mr. Murakami: Thank you.

Unknown Woman: Thank you.

Mr. Hull: Could we ask for a 5-minute recess? So, that Marie can, well from what I understood the Commission wanted to...move it off the table, but I'm just asking, if you guys move it off the table, if we can take a 5-minute recess for Marie to set up and we can also, my understanding is you folks want to have lunch while the presentation happens, then we can distribute lunch.

Chair DeGracia: Commissioners, before we recess shortly, could we get a motion to take from table the previously tabled agenda item.

Ms. Otsuka: Which item are you talking about?

Chair DeGracia: Item...

Ms. Barzilai: I think it's H.1.

Mr. Hull: Item H.1. It would be the Long Range Planning Division Annual Update.

Ms. Otsuka: Is it called an untable?

Ms. Barzilai: It's a motion to take from table.

Ms. Otsuka: Motion to take from the table, Item H.1.

Chair DeGracia: Could we get a second?

Mr. Ako: Second.

Chair DeGracia: Commissioners, is to take from table item H.1. We'll take a voice vote. All in favor say aye. Aye (unanimous voice vote). Oppose? Hearing none, motion carries 6:0, and we'll take a short recess for set up.

Commission went into recess at 12:58 p.m.  
Commission reconvened from recess at 1:09 p.m.

Chair DeGracia: I'd like to call the meeting back to order.

Long Range Planning Division Annual Update

Mr. Hull: Next, we have up our annual report from the Long Range Division, which I'll turn it over to Marie and her team to give that presentation.

Ms. Marie Williams: Good afternoon, Planning Commission Chair, and members. Marie Williams, Long Range Planning Program. I manage the program. I also have here with me Lea Kaiaokamalie, who is our Senior Long Range Planner, also within our division is Alisha Summers, and we also have (inaudible) Vista, who basically is a volunteer, she's been with us for over a year but it's temporary and her term will be ending in about a month or two, so we're very grateful to have her. With that, I will go into a quick update about the Long Range Planning Program. In the past we would provide a regular update to you, unfortunately with the pandemic that disrupted our annual schedules, now we're back. A lot of our projects may not make it to where we have to bring it to commission for approval and that's why we think it's important that we update you on our tasks, what we're working on, how we're moving forward, different plans, projects, (inaudible), partnerships to implement our General Plan. I do have a report that we prepared and submitted to you but if that's okay, I will go ahead into a short presentation that focuses primarily on our projects this year. And just starting with our General Plan, it's what guides the work of our program. Some of you, in fact were on the advisory committee for the General Plan or worked on the passage of the General Plan back in 2018. Of course, it has, it's a policy document that has high level goals and trickles down to more specific policies and then actions as well. And very quickly, how our Planning Program at the county works is that the General Plan does direct more specialized plans whether they're community plans or county plans, it's also meant to direct master planning and functional plans of other departments, and then taking it further it doesn't form amendments to our zoning subdivision code, or government code, or special planning areas, and also as implemented, it's meant to guide our six-year Capital Improvement Program, and I'll talk a little bit more about that as well and that ultimately is the basis for projects that the county might undertake or the work that goes on here, how you review projects and it leads to the changes we might see in our towns and in our neighborhoods. Okay, just wanted to do a quick snapshot of our divisions recently completed projects, and they are the West Kaua'i Community Plan that was back in 2020 but with that there is also a form-base code and then some zoning amendments, and then last year there was the West Kaua'i Plantation Camp form-based code that kind of took the form-based code to another level to focus primarily on the very special historic area. Moving on, and I also just wanted to quickly cover some of the partner initiatives that we continually work on and engage, disengages our time somewhat but there is coordination with other county and state projects, this is ongoing. There is also the Get Fit Kaua'i (inaudible) Environment Task Force, this is basically the Kaua'i section of the state's nutrition and physical activity coalition and they help implement the Hawai'i Healthy Communities Plan, and there's a lot of intersection with the General Plan so we do provide support to that task force, there's also a county resiliency team, this an internal agency of county staff, it's meant to be a cross-cutting, across various agencies and we primarily are working on the county's Climate Adaptation and Action Plan right now and I will cover that later on. We also represent the county on the states Community and Urban Forestry Council, and the past two years we've been engaging in a Pacific RISA, I'm so sorry I forgot what the acronym RISA stands for, but this was a pure exchange on climate adaptation, and we've done several (inaudible) changes with them. As I mentioned we have Rachel Morse, who is our Climate Ready Hawai'i Vista, this is a State level program that through the work of the State Climate Change Commission, they have a small army of Vistas that are situated not only at the County level but at the State DOT, at State DLNR for example, and these are young people

who are interested in careers in working with resiliency and climate change, so we're very happy to support that. There has also been some Department of Health quick-build projects that Lea and our Administrative Planning Officer, Clinton have been managing, and then last year something I know took up a lot of Lea's time was the Hawai'i Congress of Planning Officials Conference and we successfully completed that and had a wonderful event.

Ms. Apisa: It was great. You guys did wonderful, it was really good.

Ms. Williams: Thank you. And then we also did work with UH Sea Grant, our specialist here, Ruby Pap on completing the West Kaua'i Community Vulnerability Assessment and then there is another grant project that Ruby Pap is spearheading it's called the Build Back Better Grant, and this will develop a pre and post disaster recovery plan for the county, those are some of our partner initiatives that I wanted to highlight. If that's okey, I'll just go straight into quick highlights of our ongoing projects.

Mr. Hull: Marie, sorry, I don't mean to interject, I don't want to necessarily que this up accordingly but as Marie definitely addressed on, I want to build on a little more before she launches into the actual projects. As Marie mentioned she's runs the Long Range Division, Lea and Alan, and Alisha are all part of that division, but as many of you know this is a little bit of a refresher, is the Department is essentially made up of four divisions, the Administrative Division is just, the division really basically gears running as far as procurement and clerical duties and paperwork processing and they are gear grinders, essentially. We also have the Enforcement Division that works on essentially enforcing zoning laws, and you folks cross paths with that division when there are issues say, property owner has been enforced upon and is appealing that decision, sometimes you'll see that but you don't really see too much of the Enforcement Division unless they're appealing enforcement actions, you folks interact of course, very much so with our Regulatory Division, which is our third division. These high-level Class IV Use Permit SMA Permits, and have almost daily interactions with them, at least at the commission level but what Marie and her teams is doing today is essentially briefing you on the Long Range Division, which you folks definitely interface with them on some of their projects, like the Climate Adaptation Plan, you'll definitely be reviewing and going over. You folks as a body most recently went over the West Kaua'i Community Plan, and so those plans you guys are definitely a part of, but there's a lot of different facets, projects and programs that the Long Range Division does steer and lead, and guide, and run that ultimately, as the Planning Commissions oversight of the Planning Director and the Department has previously had an annual update for you folks to have, so that's kind of in a nut shell where this whole thing fits and just want to lay that refresher for you folks, but anyway, sorry Marie. If you guys have any questions before we launch into the actual projects. Thanks Marie.

Ms. Williams: Great. There are seven ongoing and new projects that I'm going to go over really quickly. First of all, there's our county's Climate Adaptation and Action Plan our General Plan instructed us in a policy that the county does need to prepare now for climate change and we do need to come together to develop a plan on how to proceed and so, the other purpose of this is to engage the community and have the county begin to think about adapting to climate change hazards and really assess what is our exposure, how may climate change in its many varied impacts, impact the county and our infrastructure and our ability to serve the public. We definitely are building upon related plans such as the multi-hazard mitigation and resiliency plan and the outcome will be a plan that has priority actions to be build adaptation into the county, and of course this is quite complex, some those impacts might be felt further down the road, some are happening now, so this plan will be an important first step and this picture here is of the Resiliency Team and County Staff at the Open House, we conducted several Open House events last year. I also just want to direct anyone who's interested to [kauaiadaptation.com](http://kauaiadaptation.com) this is our project website. We've conducted some, our consultant Raimi + Associates have prepared some white papers that summarize a specific climate hazards as they will impacts us and there's also an equity analysis done to

see what the social impacts, the climate change might be. There are a lot of resources at the website and we encourage people to visit the website, there is also some educational videos and other resources and with where we are now in the project, we are preparing for deep dive workshops that will start in a couple of weeks, and there will be a virtual component and then in-person deep dive workshops as well, so we look forward to announcing those and hopefully seeing a high turnout, a lot of people participating in that, and we hope to then develop a plan and then take it back to the public through another series of Open House events and finalize the plan definitely by next year, and I do want to acknowledge that the timeline shown is a little off or a little behind what we anticipated the schedule would be.

Ms. Streufert: Can I ask you a question?

Ms. Williams: Yes.

Ms. Streufert: Equity impact, could you explain a little bit more what that means?

Ms. Williams: Yes. So, part of this project, part of the scope was to really assess how climate change impacts, meaning not just sea-level rise, I know that's the big one, but also increased hazards, such as we might have higher frequency of flooding and rains, and drought, and heat, how those things might affect the population that are, what populations would be most impacted by it, and that's primarily low-income, a low-neighborhood that already, for example might not have a lot of tree cover, they might be disproportioned and be impacted by heat for example or they might not have a lot of people who have air conditioning might not widely available or there might not be a cooling center there, so what the analysis looked at was trying to see what populations would be most impacted, and therefore how we can we focus on them and making sure we address their needs, so keiki, kupuna for example. Yes, it looked at that on the social variance of our existing population.

Mr. Hull: Yeah, and looking at the vulnerability of communities not and only their situation, like always getting at to the hazards but their additional vulnerabilities given say, their age, or their social economic status, it's really easy to break down when we look at places across the country like Louisiana, where particularly vulnerable communities social economic wise, are also those that are often located, at least in that state, along the coastline and the much more susceptible sea level rise impacts. Now our granted our coastline is a little bit more different when you're talking about social economic status as a group that owns that area so, we're definitely going to have to start looking out how to bail out multi-million-dollar owners that live on the mainland and come here every two weeks, but families that may still have properties in that area that may not be able to respond to these hazards in the same manner as those that have the means to.

Ms. Streufert: It's great (inaudible) analysis.

Ms. Williams: Thank you. Moving on to the six-year Capital Improvement Program, we currently do not have a current and up to date six-year Capital Improvement Program, what this is, is kind of a mid-range project list for the county looking at six fiscal years to assess, what are the projects on the horizon that the county is planning for and typically we're very, how the county works, our budget is updated every single year, it's an annual budget so a lot can change from year to year, but this six year program is meant to be kind of like, okay, let's ignore the existing budget, but let's think about what we really need to plan for a program, and when I say projects, I mean primarily infrastructure projects, new roads, major road improvements, bridges, any major upgrades with waste water for example, so it's looking at that, and this is also a very means to implement our community plans and our county plans, which do have clear CIP projects and priorities within them, and so one of the reasons this program is within Planning Department purview is to have that connection between our community plans and our capital programming, and so our

Administrative Planning Officer, Alan Clinton will be launching that program and it's something that you can anticipate later on this year that (inaudible) to you. Great. Any questions about that?

Mr. Hull: I'll just state for Marie and the (inaudible). Sometimes there's been a disconnect between the CIP Program and the Planning Programs, and so that's essentially Marie and her team trying to right size that, and one extreme example several years ago it happened, it was the Planning Director at the time, the previous Planning Director pointed out some serious reservations about water lines being planned and proposed in areas that are not projected for any more growth, meanwhile other areas of the island have significant deficiencies in water lines was not ahead in the queue in getting those lines and working to push essentially the water agencies in his position on the board to basically figure out why is, and I think in this case it's public record, Anini getting expanded water lines when there's no expected new growth there, and (inaudible) response at the time, different water manager, not this water manager but at the time was what we have the plans and we're ready for them, and to that point is you're coordinating an infrastructure where the zoning or the plans are sending new development, especially when you're trying to address critical issues, like affordable housing in a housing crisis, so aligning the six year CIP Program with the way that the plans have been adopted is something I think is a priority of this administration and definitely with Marie's team trying to right size and align that process.

Mr. Ornellas: So, you've raised the question, what do we really need to plan for? I think something we're leaving out of the equation is energy, I mean we've left that pretty much to private sector or our cooperative here on Kaua'i but I recently read a report that, when the rail on O'ahu comes online and with the demise of internal combustion engines, we're all going to go to electric vehicles apparently, the demand for energy is going to be exponentially increased, so the entire Ewa Plain on (inaudible) is going to be covered with solar panels, I mean that's the projections, right, so Kaua'i I think we have to start planning for that, in what areas are we going to allow agricultural lands to go out of agriculture into energy production.

Ms. Williams: Energy infrastructure is not part of the county CIP, but we do have in the Office of Economic Development and energy specialist that we work on the resiliency team and that's something that we can try to factor in, yeah but we do try to work closely with KIUC on any long range plans they have.

Mr. Ornellas: I'm looking at how this factors into our job, which is planning, right, how we planning for. Things like artificial intelligence, AI, from what I'm reading it requires huge amounts of energy, and that's going to become a part of our daily life soon, so are we going to get blind-sided by this or...

Mr. Hull: So, it's a really strong point Commissioner in the necessity to prepare for the energy demands, particularly with the shift to EV, which right now (inaudible) position and it's thought that it's, oh just a really just more affluent that are driving and that's true, the new Tesla's, the new GM trucks that coming out, those are 80/90 thousand dollar vehicles, but as we're seeing the EV vehicles that are older going up to the secondary market and becoming very affordable for those that don't have higher means as well as in response to the gasoline prices being at where they're at, the stresses that it's going to put on KIUC, absolutely in reviewing these permits and making the appropriate lands available for that, say for solar, for the most part the endangered species act is preventing Kaua'i from really ever looking at wind or in many situations hydro as opportunity, so solar is pretty much our primary (inaudible) the West Kaua'i project coming up pretty soon as well. But, yeah, preparing for the new stresses, it is absolutely part of this body and part of the Long Range teams' duty and responsibility as hard as it is to anticipate and plan around. We had one report a few years ago about the eventual arrival of the (inaudible) vehicle on the primary market and most of the industry experts say it's going to change our driving habits anywhere between 5 and 90%, meaning it could change it very little or it could change it insanely drastically, I'm just not sure how we plan around that. Those comments are completely well received, I think, Commissioner.

Ms. Williams: Thank you. Very quickly, I wanted to touch on two transit-oriented development projects that are helping to implement the Līhu'e Town Corp Urban Design Plan and the General Plans goal to have more transit-oriented development within our towns, especially Līhu'e, which is our major growth center. Jodi Higuchi Sayegusa, our Deputy Director represents the county on the States Transit Oriented Development Council, and she is managing a civic center redevelopment (inaudible) project that would lead itself to supporting transit oriented development, and Alan Clinton, our Administrative Planning Officer is also managing a civic center mobility hub study, and these are just studies to see what's feasible with the State and County's space here, to support our goals of having more housing, more walkable development, more transit service. Any questions? Okay. For the East Kaua'i Community Circulation Plan, I'll turn it over to Lea, who is going to manage the project.

Ms. Lea Kaiakamalie: Good afternoon, Lea Kaiakamalie for the record. This is a little surreal, feel like we had a blip and I never thought I'd find myself again, and here I am. We're moving steadily northeast with our community plan updates. The next one on our agenda is the East Kaua'i Community and Circulation Plan, the last plan for this area was done in 1973, and really, it's a little misleading because really this will be the first regional plan for the area. The previous plan, the Kapa'a/Wailua development plan really only looked at the Kapa'a, the lower area and the coastal area, at that time I believe areas like Kapahi, for example were not included, it was still in pineapple in that time, Anahola was not part of this plan too, so it is the biggest area of course, and we will need some help in it, so we are currently going through the procurement process to contract for professional services to help us with facilitation and the community engagement program for this area. Obviously, transportation and circulation is a big component of this area, being that thoroughfare that everyone on the island needs to go through, so we will be making it a very high priority when we're looking at it. And I have to say for myself, I'm really excited as a West Kaua'i girl to not be in my area and to learn something new about an area that I don't necessarily have a lot of preconceived ideas about, so just looking forward to getting into it and we're looking to launch sometime during the summer the community engagement program, and if you have any other questions about it, I'm here to answer, but that's about it.

Ms. Williams: Okay, we're also excited to be updating County wide socioeconomic projections, basically our population and housing forecast, we did this last for the General Plan back in 2014, but another census has come and gone, and it's time to assess what the changes have been and update our forecast accordingly, the forecasts aren't only for countywide but also by planning district as well, so this will be critical information for our East Kaua'i Community Plan and our, the North Shore Community Plan update in the coming years and we'd be happy when we're done with this project to do a presentation to you if you're interested. Also, we are working on a General Plan progress report and a General Plan indicators report as well, some of you might recall in 2018 when the General Plan was passed there was definitely consensus that this is a plan that should not be kept on the shelf, should not gather dust and there was a call to see how we can ensure that and how the public can also see what the progress has been and in the four years, nearly five years that the General Plan has been adopted it has guided our work and there's been a lot of projects not just within the Planning Department but across the County and even at the State level that has directly implemented actions identified in the General Plan so we are pulling together a report to highlight what those are, from zoning amendments, changes to the subdivision code to physical infrastructure projects and plans and studies, and we will bring that to you in June, I think. With that, there will also, not in June but in the coming months we also intend to produce an indicators report, the General Plan included an indicator connected to each of the 50 objectives identified in the General Plan, meaning to, not to see if an action has been done but what the potential outcomes or impacts could be and so this will be a major effort a lot of work and so I don't want to over commit but we do acknowledge that this is something identified as an important task in the General Plan and we will prepare this report and present it to you as well. So, in terms of next steps we do want to continue this Long Range update every year so we will be back in the next fiscal year but then we will do the General Plan progress in the coming report along with an indicators

report sometime after that and I just wanted to highlight two potential new projects that we have sought to grant funding for, and if we're successful we will be launching and that is the Līhu'e mauka road, basically the bypass road, corridor plan, developing a plan to move forward this project which is identified as one of the only new roads in our General Plan that the County or State needs to move forward, and then also a county shared use path and trails master plan. Any questions?

Ms. Streufert: What about the Līhu'e mauka road, because that was also...

Mr. Hull: Sorry, Commissioner if you could speak into your...

Ms. Streufert: I'm sorry. The Līhu'e mauka road, it was also referenced in the University of Hawai'i (inaudible), where is that supposed to be?

Ms. Williams: Well, there is a network of cane haul roads that exists behind the Līhu'e area and so, a feasibility study was done about ten years ago, that showed that it would be feasible to build a road using that network but of course there isn't just one road, it's a bit of a maze of different roads and so, what this plan would do is look, examine the existing cane haul road that network but also see if there's another route that could be taken and it's not just like the terminus and the beginning point of this bypass road but also where it could connect directly into the Līhu'e area. So, it would be looking at all these options and trying to see what would the best project be for the county or the state to move forward. But basically, in terms of, sorry I wish I had a map but there is a cane haul road that runs parallel to the highway from Wailua Bridge all the way to Līhu'e, and I believe that one possible entrance for this bypass route could begin is the section across from the Kaua'i Beach Resort, so that's possibly where it could start and it would go behind the Hanamā'ulu area, continue behind KCC and then, Rapozo Crossing is one possible place that it could come out or it could come out further but this study will look at the constraints, what the cost would be, going with different options and doing a traffic impact analysis to see what the best route could and what the greatest benefit could be in terms of reducing congestion.

Ms. Streufert: That's exciting to see that there's an idea of using the cane haul roads because that's been brought up many times in planning meetings, but no one's ever really done anything about it, so that's great.

Mr. Hull: To also add to that too, that what you often hear people like, Marie or myself or Department of Transportation, or engineers talk about is there is no money available for the expansion of roadway systems, unless you can find a nexus between another lane and safety, if you cannot find that nexus, you're not getting the money from the Feds and you're not getting the money from the State, and so where this comes in is where we kind of found that nexus is that in the way that the Rice Street Project was done and reduced those lanes down to one in each direction on a turn lane, making it safe on Rice Street, which is now attracted housing developers to come and say, actually we want to put housing here now, that was done, this project after the plan is done, that nexus could be made and that the Highways Division highway that goes right here past Pizza Hut and stuff like that could be seen as a possible area for further development and needs for safety to that road, thereby creating a nexus to get funding for the expansion of a new road somewhere else because other than that you're going to hear us saying, there's no money for a new roads, I know people are like, wait, wait, they said there's no money what are you guys doing going after a new road, and it's because we've been able to tie it to a safety nexus.

Mr. Ornellas: I can make that nexus. What we really need to do is to revise the old Loop Road plan.

Mr. Hull: Oh the...

Mr. Ornellas: Which is goes back to Senator Fernandes, many, many years ago. We have to have a way of getting around Wailua Bridge.

Mr. Hull: Yep.

Mr. Ornellas: Because if those bridges go down it would cut the link to Līhu'e.

Mr. Hull: No, yeah, and I know that came up as a point of discussion.

Mr. Ornellas: We've discussed that many, many times. ADC took over all that land in Kalepa, we need to engage the State in this one because there is a route, and it goes from Kapaia, then you come out in Wailua, upper Wailua, so I'm astounded that we haven't pursued this because if we have a tsunami and those bridges are compromised, I don't know what we'll do.

Mr. Hull: No absolutely, and that's been coming out more and more, and I only learned about that in discussions of this application for a grant for the Līhu'e bypass roads, so definitely, Commissioner Ornellas.

Ms. Apisa: But that Kapa'a Bypass is an old cane haul road, isn't it?

Mr. Ornellas: That's correct, the one that runs through the middle of the property.

Ms. Apisa: Right.

Mr. Hull: Oh, right.

Mr. Ornellas: That was purchased by the State from the Midler Trust. I don't know if you remember John Souza, he was old plantation retiree, then he was a perennial mayoral candidate. He'd run every election against whoever was the mayor, and everybody laughed at him, because he said, we got all this cane haul roads and at the time the plantation was still operating, said they're going to close soon, let's encumber those roads and use them because you can go from Wailua to the tunnel of trees.

Mr. Hull: Yep.

Ms. Otsuka: Oh yeah...

Mr. Ornellas: And bypass all of these towns, so anyway...

Mr. Hull: Definitely.

Ms. Williams: Alright, that concludes our Long Range Division Update. If there aren't any questions, thank you so much.

Mr. Ako: If I can add, Chair. I know as much as I understand there's a whole bunch of different people and division that comes and putting these projects together, I just want to say, thanks to Marie because it came to me when, you know when you folks were doing the Līhu'e, that Tiger Grant and that Līhu'e update, I had no idea what they were doing, there's so much traffic in front of Līhu'e Post Office, there's four lanes and she's telling me they're going to cut it down to three, which doesn't make sense at all to me, and then when you go in by Wilcox Elementary School, they're making those roads so narrow over there and I'm complaining because you only can go so fast now because the roads are so narrow, and Marie goes, mission

accomplished, and today, I guess when I look at Līhu'e, I mean what a big difference that it has made over there, so just wanted to thank you for doing that. So, you are held in the highest confidence in my mind.

Ms. Williams: Thank you.

Ms. Apisa: I'll second that. Great job, Marie.

Ms. Streufert: Thank you very much.

Chair DeGracia: Thank you.

Mr. Hull: And for some of the Commissioners, I don't think most of the Commissioners know this, but for some they may not be aware of this is that, the General Plan that is essentially the primary platform from which all of our policies and strategies are based upon and will be for the next, more like decade, is an item document and it came from the community, it was vetted ad nauseum through the community process. Many are part of it, some of you definitely on the committees or perhaps on the commission when it was recommended to be moved to council, and so I want (inaudible) about the fact that, or I want to (inaudible) that this is a community document but Marie, Lea, and Marisa who are the Long Range Planners at the time really steered that document through the process and got it to the finish line and some are aware and some may not be, and that it is a wonderful piece of policy guidance that we turn to regularly but it (inaudible) always or at this point, recognize that at the national level, at the American Planning Association, like you have the American Architect, Institute of Architects, the American (inaudible) in various groups, the planning industry has a self-regulating association that is at national level of certification and in 2018, looked at the Kaua'i Plan that these ladies essentially managed and ran through the process, and recognized it as the penultimate or highest level of planning document you can excel to, won an award at the highest level of accolades at the 2018 Planning Conference and it was little Kaua'i with Marie, Lea, and Marisa running the process that it essentially came down to Kaua'i and Chicago, and the judges ultimately felt that the Kaua'i document was at the highest level (inaudible), so congratulations to them. And we have high expectations for the next years of documents.

Ms. Williams: Thank you.

Mr. Hull: With that, we have no further agenda items. Again, (inaudible) my correction that the next scheduled Planning Commission meeting will be held at 9 a.m. or shortly thereafter on May 9-2023, here in the Moikeha Building at the Lihue Civic Center, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Hawaii 96766.

Ms. Otsuka: What about a second meeting in April?

Mr. Hull: There'll be no second meeting in April. Up on the agenda will be, of course we have one deferred item from today. We have another Special Management Area application and then we also have as was requested previously the presentation by the Housing Director, so not too full of an agenda but some important stuff, nonetheless. With that, we have no further business.

Ms. Apisa: I will make a comment, I will not be here May 9. Hopefully, the other six will be. I'll be in Seattle for a conference.

Ms. Streufert: I move to adjourn.

Ms. Otsuka: Second.

Chair DeGracia: Motion on the floor is to adjourn. All in favor say, aye. Aye (unanimous voice vote). Oppose? Motion carries. 6:0. This meeting is adjourned.

Chair DeGracia adjourned the meeting at 1:49 p.m.

Respectfully submitted by:

*Lisa Oyama*

Lisa Oyama,  
Commission Support Clerk

Approved as circulated (July 11, 2023).

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