

KAUA'I PLANNING COMMISSION
REGULAR MEETING
August 13, 2024

The regular meeting of the Planning Commission of the County of Kaua'i was called to order by Chair Donna Apisa at 9:09 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, Staff Planner Kenny Estes, Dale Cua, Romio Idica; Planning Secretary Shanlee Jimenez; Office of the County Attorney - Deputy County Attorney Laura Barzilai, Office of Boards and Commissions - Support Clerk Lisa Oyama.

Discussion of the meeting, in effect, ensued:

CALL TO ORDER

Chair Donna Apisa: Call the meeting to order and we're going to take a 10-minute break.

Planning Department Director Ka'aina Hull: You may want to go through roll call.

Chair Apisa: Oh okay. We'll go through a roll call then we'll take a 10-minute break. We've got some new information that was received last minute.

ROLL CALL

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

Commissioner Gerald Ako: Here.

Mr. Hull: Commissioner Cox, oh excuse me, Commissioner Cox is excused.

Mr. Hull: Commissioner DeGracia?

Commissioner Francis DeGracia: Here.

Mr. Hull: Commissioner Ornellas?

Commissioner Jerry Ornellas: Here.

Mr. Hull: Commissioner Otsuka?

Commissioner Lori Otsuka: Here.

Mr. Hull: Commissioner Streufert?

Commissioner Glenda Nogami Streufert: Here.

Mr. Hull: Chair Apisa?

Chair Apisa: Here.

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

APPROVAL OF AGENDA

Mr. Hull: Next up would be review and Approval of the Agenda. The department doesn't have any proposed changes to the agenda.

Chair Apisa: a motion to approve the agenda, please.

Ms. Streufert: I move to approve the agenda.

Ms. Otsuka: Second.

Chair Apisa: We have a motion to approve the agenda. All in favor? Aye (unanimous voice vote). Any opposed/abstain. Motion carried. 6:0.

MINUTES OF THE MEETING(S) OF THE PLANNING COMMISSION

Mr. Hull: Next up would be the minutes for the meeting of July 9, 2024.

Mr. DeGracia: I move to approve the minutes for July 9, 2024.

Mr. Ako: Second.

Chair Apisa: Any discussion? All in favor. Aye (unanimous voice vote). Any opposed/abstention. Motion carried. 6:0.

RECEIPT OF ITEMS FOR THE RECORD (None)

Mr. Hull: Next up, we have no listed Receipt of Items for the Record. However, as you spoke to earlier, Chair, we have received communications from a number of members of the public after the posting agenda, which the Commissioners did not get to see. So, we recommend taking a five-to-ten-minute recess to review the documents that were brought in.

Chair Apisa: We will take a 10-minute break. We have some documents here to review.

The Commission went into recess at 9:10 a.m.
The Commission reconvened from recess at 9:24 a.m.

Chair Apisa: (Inaudible) I call the meeting back to order.

HEARINGS AND PUBLIC COMMENT

Continued Agency Hearing

SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2024-10) to allow construction of a new single-family residence within Lot 79-A of the Wainiha Hui Partition in Wainiha, involving a parcel situated on the makai side of Kuhio Highway, approximately 200 feet west of the Kuhio Highway/Alamihi Road intersection, further identified as 5-7070 Kuhio Highway, Tax Map Key: (4) 5-8-011:049 containing a total area of 22,736 square feet = **BRUCE HOLDINGS LLC.** [Director's Report received and Agency Hearing Deferred, July 9, 2024.]

1. Transmittal of public testimony to Planning Commission.
2. Transmittal of Supplemental #2 to Planning Commission.
3. Supplement to Director's Report pertaining to this matter.

Mr. Hull: I didn't have anybody signed up, but would like anybody in the audience like to testify on this agenda item. If so, please approach the microphone.

Ms. Caren Diamond: Good morning, commissioners. Caren Diamond, thank you for adding conditions to this permit it does help, and I support the added conditions. I do still have a few other concerns. One of them is the size, in the supplemental papers that were given to you it still says the house is 1,650 square feet. The house is more than 4,000 square feet, and so, that really needs to be corrected in everywhere, because there's a substantial difference between a 1,650 square foot house, and a house that's more than 4,000 square feet. Which is way large for the neighborhood, way large for the location and which brings me to, you know, the reason this is an SMA permit and the reason that the landowner is going through the permitting is because it's the second house on that lot of record, and I do believe therefore, it is correct that you make conditions on that first house being removed when the ocean or the shoreline reaches the house. That whole area in that whole stretch of Wainiha is really close to the ocean. There's a lot of old structures, including that one, that are very close to the ocean and planning, and owners are going to have to figure out how retreat is going to happen and when retreat is going to happen, but because they're putting a second structure on this lot, there will be no room for that first structure to retreat when it is time, and so I do think it is a good idea to require that first structure to retreat when the shoreline reaches it and the ocean reaches it before then and that be a condition of this permit. The other thing I want to address is the view plain and you know next

door to this lot is another old house that had been there for a very long time. It never had a fence. Recently the county gave them an SMA minor permit and the whole property was fenced off and our coastal views would have fenced off. And so now this property is saying, well, there are no views because of that fence. Well, fences, I don't know why planning forgot about our coastal view plain needing protection and allowed a fence to do that, but a fence is a quick thing that can come down, and house is not a quick thing, and so when you have a house that is saying that, well, we're not blocking any coastal views because they're already blocked, but they're only blocked by a fence. And I do urge you to downsize, require them to downsize this house, not block coastal views and as well as planning to address the next-door fence and why that is up there blocking our views. But I do thank you for your consideration and it building between the ocean and the highway on these high risk lots is high risk and I do believe that they should also be required to submit a coastal hazard...

Mr. Hull: Three minutes, Madam Chair.

Ms. Diamond: ...disclosure form so that the county is protected. Thank you.

Chair Apisa: Thank you very much.

Mr. Hull: Thanks, Caren. Is anyone else in the audience that like to testify in this agenda item? Seeing none, the department would recommend closing the agency hearing.

Chair Apisa: Motion to close the agency hearing, please.

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

Ms. Otsuka: Second.

Chair Apisa: We have a motion on the floor to close the agency hearing. All in favor? Aye (unanimous voice vote). Any opposed? Abstentions? Motion carried. 6:0.

New Agency Hearing (None)

Mr. Hull: Next, we would have Continued Public Hearing.

ZA-2024-3: A bill (2919) for an ordinance amending Chapter 8, Kaua'i County Code 1987, as amended, relating to the Comprehensive Zoning Ordinance (CZO). The purpose of this Ordinance is to expand the permissiveness of guest houses in zoning districts Residential (R-1 to R-6 and R-10 to R-20), Neighborhood Commercial (C-N), General Commercial (C-G), Agriculture (A), Open (O), and University (UNV), and make other technical edits = KAUAI COUNTY COUNCIL. [Director's Report received and Public Hearing Deferred, June 4, 2024.]

1. Transmittal of public testimony to Planning Commission.
2. Transmittal of agency comments to Planning Commission.
3. Supplement #1 to Director's Report pertaining to this matter.

Mr. Hull: I don't have anybody signed up to testify on this agenda item, but does anybody in the audience that would like to testify on this agenda item? If so, please approach the microphone.

Ms. Diamond: Good morning, Caren Diamond. Again, I support this amendment. I do believe it is a good thing to limit the density along the SMA and that's a very good addition to this. I also think flood land should not be at, we shouldn't be increasing density in flood land. Mālama Kua'āina recently did a Wainiha flood vulnerability assessment and shows the pretty incredible hazards that exist along the streams and rivers and and other portions of Wainiha, and I do believe that it would be prudent to also omit flood land from this and one easy solution would be to not allow any increased density west of the Hanalei Bridge and both because there is no safe evacuation, there's only one lane road that goes the distance is often flooded and there is nowhere for people to evacuate so, increasing the density in this area is probably not the smartest thing to do and thank you for...

Chair Apisa: Thank you, Caren.

Mr. Hull: Is there anyone else in the, excuse me, in the audience that would like to testify on this agenda item? Seeing none, I would recommend closing the public hearing.

Chair Apisa: Motion to close the public hearing, please.

Ms. Otsuka: I move to close the ZA-2024-3.

Mr. Ornellas: Second.

Chair Apisa: We have a motion on the floor. All in favor, please. Aye (unanimous voice vote). Any opposed/abstentions. Motion is carried. 6:0.

New Public Hearing (None)

CONSENT CALENDAR (None)

Status Reports (None)

Director's Report for Project(s) Scheduled for Agency Hearing (None)

Class III Zoning Permits (None)

GENERAL BUSINESS MATTERS

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

Status Report and request to amend Condition No. 10 of Class IV Zoning Permit Z-IV-2015-10, Use Permit U-2015-9, and Special Permit SP-2015-1 involving a parcel situated at 5730 Oloheua Road, further identified as Tax Map Key: (4) 4-4-003:045, CPR Unit 3, Kapaa Homesteads = **Steelgrass Farm LLC.**

- a. Transmittal of public testimony to Planning Commission.

b. Director's Report pertaining to this matter.

Mr. Hull: We have a transmittable public testimony to the Planning Commission and the Director's Report pertaining to this matter. I do have a list of signed up testifiers. First, we have Judy Arrigo.

Ms. Judy Arrigo: Good morning. I live at 5700 Olohena and we are at the bottom of the hill and we're here to file a complaint against the Steelgrass Farms for traffic going... we're not against the tours, we're not against the farm, but the traffic going up a very small road in a small subdivision has gotten to be quite extensive, and I found out just recently that one of the attachments that we sent to you, you were not able to open up and it had our traffic survey in it. I do have copies of it, which I would be happy to give to everyone. But I want to explain a couple of things on the traffic survey and one other complaint that's in that attachment that you did not get. We conducted a traffic survey by using some students for a series of weeks in July, June, July and August or June and July, and we had people at the bottom of the hill and folks going up looking at where people actually entered into the farm so that we knew not just how many people were going up the road, but how many were actually going into the farm, and we found that there were an average of a couple hundred, a hundred or so cars that would go up in a weeks period of time, so a round trip, two hundred and some in a month, for four to eight hundred additional cars on a small road. And we've talked to the owner of Steelgrass Farms suggested that they either have people coming off of Waipolui Road where he's got additional acreage that actually connects to his property and that's on a public road so that it's a little easier to work for people to go up and down or to bus people in to have them actually park someplace down in Kapa'a and bus them up so that we will only have one or two buses coming up. This has been a problem for a couple of years where we have actually notified the Board of Directors, (inaudible) condominium association and we've notified the Board of Directors that there is a problem that we're complaining about the traffic going up the hill. It's never been discussed, at least not publicly. It may have been discussed at board meetings, but we don't get meetings, we don't get minutes of the meeting, so we don't know whether it actually is, was discussed. We found, we found out about the extension on the number of tours, so that it's now five tours or five days a week, four tours a day, unlimited number of people. He since has opened up a gift shop downtown Kapa'a, and on the door is a place where they can actually get registered to take a tour, so the tours are may have eliminated the number of people that came for the gift shop itself, but the tours are still there, and they're still averaging anything from ten to maybe more, and that's just cars there maybe four or five people in the car. So, we're complaining about the traffic, not about the tours, not about the the farm itself, have no problem with them doing farming, we have no problem with them doing tours. We just don't want it in a very small road that goes up, that's maintained by the people in the association. The association is made-up of eighteen units. Everybody pays 1/18th for maintenance of the road, and that's our major, it's actually the only thing that we have reserves for is the road maintenance. The Steelgrass Farms actually has more traffic on that road than all the rest of us do, and so, but they still only pay 1/18th of the fee for the maintenance of the road, so our problem, as I said, is not with the tours itself, it's with the traffic that goes there.

Mr. Hull: Thank you for your testimony.

Chair Apisa: Could I just ask you a question...

Ms. Arrigo: Yeah.

Chair Apisa: ...like of your 18 CPR owners, correct?

Ms. Arrigo: Uh-huh.

Chair Apisa: Like do you have a very active board, or you have any meetings to discuss this?

Ms. Arrigo: No. We don't, we don't know. I can't say I don't know for sure. They don't publish meetings if they do have board meetings, it's not published anywhere. The only thing we've ever seen is that an annual meeting, which is basically a, you know, pass the budget and take the reserves and put it in all that kind of stuff. And then there's an owners forum afterwards, where we've been able to bring up problems. Problem is that nobody attends them and so if they're required, supposedly to have four meetings a year including the annual meeting. As far as we know, they only have one, but if they do have more, they don't notify us.

Chair Apisa: When you say they, you're referring to the...

Ms. Arrigo: The board.

Chair Apisa: ...CPR Association.

Ms. Arrigo: Yeah.

Chair Apisa: So, how did you become aware of, I guess, just from the traffic that...

Ms. Arrigo: Well, we became aware of the approval of the last permit that got them up to five days a week, four tours a day and unlimited capacity. And I think it was through, I think my brother actually got up a notice from the Planning Department that said that that was, that that was happening. We've noticed the traffic, I mean the traffic has increased over the couple of years that he's been doing tours. The traffic has increased quite substantially and the two people that are right on the corner where the where the road goes up the hill are the ones that are most impacted with the traffic noise. The rest of us are impacted with the fact that the tourists come down the hill, they don't necessarily look in either direction. I've become close to being broadsided a couple of times for somebody that's just flying down the hill and doesn't look when I'm going this way. So, we found out through the traffic in from notice from the Planning Department.

Chair Apisa: Thank you very much.

Ms. Arrigo: You're welcome.

Chair Apisa: Thank you.

Mr. Hull: Next, we have Rosalind Lwin. If you can just state your name for the record.

Ms. Rosalind Lwin: Rosalind Lwin. Aloha, commissioners. Thank you for taking the time to hear our plea. My name is Rosalind, and I have in full disclosure, I'm relatively new to Kaua'i. We

moved to Kaua'i about 18 months ago. I'm an immigrant from Myanmar, formerly known as Burma, and you might know what's happening in my home country there. We moved from around Oakland, California and you kind of probably have heard about some of the things happening there. This is the first place I've ever felt at home in my life, and even though I'm new here, I'm invested in my home, I'm invested in my neighborhood, I'm invested in my community and in this island. I'm still learning, and I come with you, to you with the utmost humility. But I have some concerns about what's happening here and about what this might mean for the future of our neighborhood and what precedent it might set for our community at large. And so, one of the concerns that I have is this permit that was issued for unlimited tours and unlimited number of participants for these tours. So yes, we have this traffic survey that has been shared with you and I know some of the numbers might be a little bit confusing. So, you'd have to look at it a bit more carefully. And yes, there might be a disagreement between our party and the farms party around what those numbers are, but once you have unlimited, no limitations, whatever it is now, it could very well get worse, even though there have been appreciated efforts to open up the gift shop in town, we don't know what that means, yet it's too soon to tell, and we also know that the farm rightfully wants to grow their business. They should be able to do that. It just shouldn't be at the expense of our neighborhood. We hope to be able to reach some kind of compromise like I, but it's not that we don't want the farm to succeed or do well in any way, we've met some of the people who work there. They're beautiful, lovely, wonderful people. We want them to do well, but our concern is that if you approve no limitations on this, what precedent does that sound. Already we feel like we don't have enough of a voice in this community. As Judy had mentioned, we pay 1/18th of the HOA. Everybody pays the same amount including the farm, and yet what happens on these roads? What happens in the neighborhood? We don't feel like we have equal voice for a number of different reasons. The, Mr. Lydgate not only operates the farm, but he's also the President of the HOA and he has a lot of influence there. And so, we, our only recourse is to hope that you might be able to support us in working things out. I welcome any questions that you have, but I know that was my three minutes.

Chair Apisa: Thank you.

Ms. Lwin: Thank you.

Mr. Hull: Thanks. Next, we have signed up is Bidyut Bose. I might have butchered that, I apologize.

Ms. Lwin: He's hard of hearing, so if it's okay if I sit next to him, in case...

Mr. Hull: Yeah.

Mr. Bidyut Bose: I'm hearing impaired. Thank you. Aloha and good morning. Along with Ros, I'm one of the co-owners of one of the 18 units in the Lydgate Rise CPR...

Chair Apisa: If you could please...

Mr. Bose: ...and you've already heard that...

Chair Apisa: I'm sorry. Could you just state your name for the record and then you have three minutes. Thank you.

Mr. Bose: Sure. Bidyut Bose. And so, one of the co-owners of one of the 18 units. The traffic you've already heard about in the Director's Report from March 8, 2022, there are three things that stood out to me. One, that the report said that it should not impact the quality of life of the community. It also, the approval was conditional, this unlimited capacity was conditional to ensure that the community wasn't disturbed, the peace, the quiet, etcetera, etcetera and that is written into the Director's Report two weeks after the permit was given, all right, unlimited tours, unlimited capacities for two years. The problem of course is air pollution, noise pollution, impact on privacy, the safety of people walking their dogs or children playing and so on and so forth. But the other part of this is that how it was done. I appreciated Chair Apisa's question that you have board meetings, do you discuss this? Small number of people on the board, violating all kinds of you know, you know clauses in the bylaws where there's no elections, there's no discussion, no for (inaudible) annual general meeting. And so, we are struggling to find out when these applications were made over several years to try to get this conditional approval, it doesn't feel right. In February, before we filed our complaint, Ros and I wrote to Will, in the spirit of good neighborliness, that look the traffic is out of control. What is happening here? This is not quite right. Will didn't bother to respond to us in six months. Additionally, one of the people that also brought this up with Will is one of the residents, he was past board member, and he said this is what Will told him, you can't stop me, I have friends in high places, as I heard this, to me it felt like this was not just about an old man with lung issues and heart issues, it was an insult to every single one of you in this panel and an insult to every leader in the county, County of Kaua'i's government. A rich white man using his power and his influence to basically do whatever he wants is simply not right. It is wrong. We have no issue with the farm members. They're sweet, they're kind, they're polite, they're helpful, but this is what is happening here unlimited today. What does that mean? More tours, more often. More cars? Already we're talking about a hundred cars a week. And that's, you know, hundred cars in four trips, about 20 or 25, you know, per two or four tours. That's about a hundred cars a day. That is...

Mr. Hull: Three minutes, Madam Chair.

Mr. Bose: ...two hundred round trips a week, that is, you know, heading towards a thousand trips in a week.

Chair Apisa: If you could wrap it up.

Mr. Bose: Yes, I just...I'm requesting you respectfully to look at this and to possibly consider three things, one, limit the number of tours and the number of people in the in the tours, you know, propose like we have done to Will multiple times. There's a county road, Waipouli Road that comes right to the farm, use that, why this tiny little private easement for commercial purposes and the third thing is in future, let us make sure that we are all in communication. We are all co-owners of an 18-unit CPR. Thank you. Mahalo.

Chair Apisa: Thank you very much for your testimony.

Mr. Hull: Thank you.

Chair Apisa: Jerry. One of our Commissioners may have a question.

Mr. Hull: One of the commissioners has a question for you folks.

Chair Apisa: Yes, please come. Thank you.

Mr. Ornellas: Thank you for your testimony. I'm just curious those homes in that CPR are all farm dwellings, is that correct?

Ms. Lwin: It's all in the agricultural zone, yes.

Mr. Ornellas: How many people there actually farm?

Ms. Lwin: They are. We are starting a little micro food forest there and then there are a few, a few other areas that are growing some fruits and vegetables, I don't know that it would be considered (inaudible).

Mr. Ornellas: Thank you.

Mr. Bose: Any other questions?

Chair Apisa: No, thank you.

Mr. Hull: Thank you.

Mr. Bose: Thank you.

Mr. Hull: Next, we have, apologize, not quite legible, Kailey Carlson.

Ms. Kailey Carlson: Hello, I'm Kailey Carlson and I'm here to testify in support of Lydgate Farms. I'm the farm manager. Been working there for about three and a half. I've watched this grow from we had about 13 employees when I started and now, we have about 27, so we've grown a ton in the last few years. I will say agritourism is the only reason we've been able to grow as a farm. As you can see on Hawai'i, in Hawai'i in general, ag is very difficult to sustain and agritourism is the only way to really do that. Yes, that involves some traffic, hundred cars a week in my opinion is not that much, especially when we also have 27 employees, so think about how many cars are also employees. The agritourism has funded a lot of the ag research that we're doing at the farm, which is really cool. We're doing some vanilla stuff, we're working with (inaudible) on variety trials, we've been able to do a ton and a lot of it is because of the tourism that this provides. And yes, I understand that there is traffic, but it is frustrating when all of these leases are on the ag land and no one else is doing agriculture and to attack the farm, who's actually doing ag is a bit unwarranted. And yeah, I mean, there are a few alternatives we could look into, but most of them are not feasible for the farm. So yeah, I just want to say that if you do want to support Hawai'i ag, you should be standing with the farm. Our tours just inspire a lot of people to recognize the importance of knowing where your food comes from and Lydgate Farms is one of the few ag businesses that is actually thriving right now. I know a lot of other farms that can't support 27 employees, so Lydgate Farms is just, it serves as a model and I think if you're going to limit tours to a farm when all these properties are on ag lease land then we need to look more so at who's coming at us rather than the ag itself.

Chair Apisa: Thank you for your testimony.

Ms. Streufert: Could I ask a question?

Mr. Hull: Oh, sorry, Kailey we might have a question for you.

Ms. Carlson: Yeah.

Ms. Streufert: You said that there were alternate routes. You said that there is there were alternate routes to the farm, but they were not feasible, could you explain what that means?

Ms. Carlson: Yeah, there's one route that was proposed that is not actually on our land. So, we lease a back property of 46 acres. We can't put a road on that to have tourists come through and yeah, that was the main one that they proposed, but that's not feasible for us.

Chair Apisa: I heard talk about maybe an access off of a county road, Waipouli road, is that...

Ms. Carlson: I don't think that turn off is feasible and also yeah, the...there isn't a road there right now, so it would involve. I don't think we have, I don't think it butts up to the to the actual road. There's like a big ditch in there too, so...

Ms. Streufert: There was a comment in one of those about safety on the road. Can you comment on that?

Ms. Carlson: Yeah. I mean, we have tons of slow down signs. Yes, we can't control the way tourists always drive, (inaudible) our staff are well trained. None of us go fast on that road. There's a corner that they're discussing. It's not a blind corner. You can see people coming down the hill. Tourists sometimes do drive quicker, but there are probably ten signs that say slow down, speed limit five, drive slow that also direct traffic from getting confused and stopping at the wrong places. I know that was an issue before, but we put in signs. And another thing that they were discussing was the 1/18th that they pay for the road, which does not include like the farm team is, especially during rainy weather out there patching potholes with gravel every week. So, we spend probably five hours in the winter, every week, patching potholes and maintaining the roads so they're not including that in their 1/18th. Yes, we're paying the equal share, but we're also doing a lot of work for the road as well maintenance.

Chair Apisa: Any other questions? Thank you very much.

Mr. Hull: Next, we have signed up is Suzanne, I believe last name is Gold, Gold.

Ms. Suzanne Gold: Hi, this is Anne Gold. I live up in the farm. I've been there for 20 years. Will, I've known him that length of time. He's a wonderful neighbor. Large portion of my land, I think there's two of us that, we have the largest portion, probably the tourist drive along, and I've had no problem. You know, speeding. However, we have some heavy-footed residents who do. So, but the tourists haven't, nice people. And I've noticed since they opened the store, there's been a kind of decrease in the traffic going past, but I have no complaints about the traffic going and the farm gives jobs to local people and their chocolate is awesome, that's good. As far as she was mentioning about the potholes, most of them are in front of my place. They're really good about coming and they're putting gravel in and kind of filling it in. But like I said, a large part of the

traffic travels my yard, and I have no problem with them. Or do I with, you know, the farm. And any questions?

Chair Apisa: I believe not but thank you very much for your testimony.

Ms. Gold: Okay.

Mr. Hull: Lastly, we have signed up Melanie Cameron.

Ms. Melanie Cameron: Good morning. Can you hear me?

Chair Apisa: Yes.

Mr. Hull: Yeah.

Ms. Cameron: Okay. I'm Melanie Cameron. Thank you for hearing me. I have owned our home well; my husband and I have owned our home in Lydgate Rise for nine years. We support the farm and all of Will's endeavors. We are small business owners of our own. So, we always support small business and especially local business. We have been up to the farm for tours, for harvest, all kinds of different things. We've had great experiences. Everyone there working at the farm is very friendly, very nice. As far as the traffic goes, we see the traffic, it doesn't bother us. And I wouldn't even call it traffic. There's just cars and I, it, that doesn't bother me in the least. What does concern me is in the nine years that we've owned our home, I've seen a lot of contention, one sided contention. I, let me just explain. I like people I can get along with most people. We have had time and time again, phone, not phone calls, texts, emails, complaining about, you name it everything under the sun, with us personally, and on the other hand we've had kindness and support from Will Lydgate. It's just a tough thing to have such contention. I, that's very hard for me. I don't have a problem with the traffic. I know this is about the traffic, what I do have a problem is that we're not, some of us aren't extending grace to each other and trying to form a friendly, loving, supportive neighborhood. All I, all I think that we need to do is just extend a little grace to each other. I think that's all I have to say. Do you have any questions for me?

Chair Apisa: Seeing none, thank you very much for your testimony.

Ms. Cameron: Thank you.

Mr. Hull: That completes the list of those who signed up. Is there anyone in the audience who didn't sign up or would like to testify on this agenda item? Seeing none, this isn't, this is an amendment to the existing zoning permit, so the proceedings fall directly into, follow directly into the report. So, I'll turn this over to Dale for the report, the department's report pertaining to this matter.

Staff Planner Dale Cua: Good morning, Chair and members of the Commission. It's a relatively short report, so I'll just kind of briefly go right through the Director's Report.

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).

Ms. Streufert: Could I ask a question?

Mr. Cua: So, that concludes the Director's Report.

Chair Apisa: Thank you, Dale.

Deputy County Attorney Laura Barzilai: Dale, you have a question.

Ms. Streufert: Could I ask (inaudible)?

Ms. Barzilai: Commissioner Streufert.

Ms. Streufert: Have you seen this report? That we were given today.

Mr. Cua: Yeah, I kind of briefly went through it and the total numbers that I saw in the week was less than the stated 200 that was initially mentioned in the testimony. So, I just went off 200.

Ms. Streufert: Okay, because I was not able to, I've been trying to calculate...

(Multiple people speaking at once)

Mr. Cua: I did it.

Ms. Streufert: Doesn't quite make it.

Mr. Cua: Yeah, yeah.

Ms. Streufert: So, I'm not quite sure what this tells me, and I was just wondering what you (inaudible), what yours (inaudible).

Mr. Cua: What I saw is, you know, I think the numbers on the far-right column depicts the number of trips or cars in that week, but from what I saw, none of them reached the 200.

Ms. Streufert: So, it's 468 per month if I'm reading this correctly on the right-hand column. Which divided by four, just assuming it's...

Mr. Cua: Right, so it's a hundred...

Ms. Streufert: ...it's about a hundred cars a day.

Mr. Cua: Right, and the quick assessment I did was 200, worst case scenario, 200 per week.

Ms. Streufert: And of those 200, if there are 27 employees...

Mr. Cua: Probably less.

Ms. Streufert: I'm assuming, let's say, fifteen cars...

Mr. Cua: Hard to say, yeah.

Ms. Streufert: ...give or take ten to fifteen cars.

Mr. Cua: Right.

Mr. DeGracia: I have a question for the department. Question relating to Condition 10. Has the department received any or recorded any grievances concerning the project since 2022, March 2022?

Mr. Cua: Yeah, the more recent grievances received, I think I noted my report was received in February. So, I can confirm that and receiving the grievance members of our enforcement staff didn't go out to the site and essentially their purpose was to observe the number of cars, and their comment was there's a bunch of cars, but, and it's pretty consistent what, with what the numbers that was provided to us so...

Mr. DeGracia: Okay. But no grievances recorded for 2022 or 2023?

Mr. Cua: Since the amendment in 2022...

Mr. DeGracia: Yeah.

Mr. Cua: ...none that I know of in '23. Just early 2024.

Mr. DeGracia: Okay, thank you.

Chair Apisa: Further questions for the planner.

Mr. Ako: I have a question, Madam Chair. I just wanted to follow up on Commissioner Ornellas' question about, you know, whether they do farming. The 18 residents that are there, what is, I mean, are they supposed to be farming or is this like an ordinary community where it's just the residential home?

Mr. Cua: It is an agricultural. It is an agricultural subdivision, and you know, they're zoned for agricultural activities as far as whether each resident is farming, we can't confirm if all 18 is confirmed (inaudible).

Mr. Ako: Okay.

Chair Apisa: Just a...based on my experience, it's a pretty typical ag CPR.

Mr. Hull: Yeah. So, just for clarity, and I think Commissioner Ornellas is going to when he asked a specific question about farm dwellings, so pursuant to Hawai'i State Revised Statutes, agricultural lands can have dwelling on them, but they have to be only farm dwellings, meaning any dwelling on agricultural lands needs to be connected to a farm. The issue that's risen, though, and there's a constant battle around Hawai'i, is the definition of farm is really you (inaudible) need it with a couple of papaya trees or a couple kalo plants, and so, this whole distinction between genuine farming and disingenuous farming is always, you know, a contentious issue in

Hawai'i, and the more, there been several attempts to shore up the definition of farming, but because of placing farming into a box in one category and boxing out what could be farmers, in another category so far, it's generally been left fairly loose.

Mr. Ako: Yeah. Knowing that, I mean, you know, I'm not really into the intent of whether they're farmers or not, but knowing that it's an agricultural lot, do we treat it differently than we, the effects I guess that's going on in that one community there, do we treat that differently than if it's a residential area?

Mr. Hull: Generally, yes, now granted, farm, agricultural lots have the outright ability to retail their product. So, there's no way from a discretionary review process, this body can really regulate the retail aspects of a farm operation insofar as those retail aspects are kept within a certain square footage. But the ability to do agricultural tours is somewhat of an increased intensity pursuant to articles of agriculture use that requires a use permit and so, this body does regulate the intensity and mitigation measures that can be placed on an operation for agricultural tourists, but somewhat going off of the phrase you used, commissioner, of the law, and it's, I just offer this for your consideration because it's kind of where do you go with this. I can definitely appreciate the frustrations that some of the members of the public spoke about having to deal with traffic impacts, but I think one of the members also brought up, you know, and they did as far as condominium property regimes. This is actually one entire lot of record that all these parties co owned together. So, if they're on this property, there's a lot of record actually has the entitlement for farm tours, the entire lot of record. And so, some of the testimony you received today is from co-owners of this lot. And when you look at compatibility issues laid out in the use permit process, it is within a neighborhood or region or area, generally speaking, from a planning approach to it, is that's for the neighbors of other lots around the area and how say the impacts of a proposed use would have on, say, public infrastructure in the area, the road itself, I'm sorry, the county road or a park or a school or what have you, what we have in this situation and is co-owners that have a driveway that they all share that is being impacted by the operation of another co-owner. So, to a certain degree, I would say, planning looks at this, you know, as a civil matter in that we understand this frustrations, but some of this needs to be vetted out and netted out civilly through the condominium association itself and I think there's some mention that bylaws are being violated, and if they're being violated, they need to be, you know, rectified, but they need to be rectified civilly through that process and not necessarily through this body and this particular arena, if you will. Now that's, I'll say the Planning Departments position, I can see where some commissioners say no, no, no, we want to get involved in how this driveway is handled between these co owning parties and I'm not saying legally you cannot do that. I'm just saying our position looks as like, this is an entire lot of record but, I think if the commission wants to intervene on this, it has that authority, but from the department's position, much of the contention needs to be resolved civilly within the condominium itself. I'll leave it at that.

Ms. Otsuka: So, I wanted to discuss regarding the traffic. As shown on Exhibit C, if there's 468 per month, that's a little over a hundred per week. I'm thinking the tours is from morning to afternoon, and because to me traffic is a hundred or 25 cars, all at the same time, but I see this because it's from morning, tours are morning to afternoon. There won't be an influx of constant traffic all at once. I see like at eight o'clock they have a few cars for the first tour, and so in my mind I feel for the other residents, but I don't see it's a huge traffic problem because it's not all at

the same time. Does that make sense, yeah. So yeah, I feel for the other residents and yet...yeah...

Mr. Hull: Well, I think it's also there are questions (inaudible) for staff. I just want to say if there's other questions for staff or myself, we're definitely going to answer them, but also like they know the applicant themselves have presented.

Mr. Ako: Yeah, I have another question here. So, because this is a CPR, I guess lot that's there and, is it a (inaudible) statement to make that we cannot control the traffic that goes within the property there, but we're able to control the tours, the number of tours that they have?

Ms. Barzilai: It's not a county (inaudible).

Mr. Hull: That's (inaudible) accurate.

Unknown Commissioner: That's correct.

Mr. Hull: Yeah. I'd say that's an accurate statement. We're (inaudible) yeah this body does not authority to restrict specific traffic measures, but you do in fact have the ability to set a threshold for tours.

Ms. Otsuka: Which then should kind of control the traffic.

Mr. Hull: In theory.

Ms. Otsuka: Control the tours.

Ms. Streufert: Could I ask Kailey Carlson, I think.

Chair Apisa: One of the testifiers?

Ms. Streufert: Yes, but she's the farm manager.

Ms. Otsuka: Farm manager.

Ms. Streufert: How large are your groups in your tours?

Ms. Carlson: The tours can be anywhere from five to about twenty people.

Ms. Streufert: And so, twenty is your maximum or...

Ms. Carlson: Yeah, twenty to twenty-five.

Ms. Streufert: Are you intending to increase that number?

Ms. Carlson: No, I think that's the max number of people per tour. Just as far as like our capacity like our lanai, we can't sit more than that many people at once.

Ms. Streufert: And how many tours would be the maximum that you could do right now? You've got from nine, ten, eleven, twelve and maybe one.

Ms. Carlson: I think maximum we could do five tours a day, but no more than that.

Ms. Streufert: That's what you're doing right now.

Ms. Carlson: No. We're doing anywhere from two to four or three. Yeah, it, usually they're not full, so...

Ms. Streufert: Okay, so the nine, ten, eleven, twelve, and one that you have here is...is

Ms. Carlson: Nine. Yes, that is max right now, yeah.

Ms. Streufert: So, if that's the case, then would you, and you've got 27 employees?

Ms. Carlson: Uh-huh.

Mr. Hull: Commissioner, (inaudible). I hate to interjecting, and I think that going down a good line of questioning, but Kailey was testifying earlier as a member of the public granted...

Ms. Carlson: Yeah.

Mr. Hull: ...employees of the company can absolutely testify during times for members of the public, but also say that the...

Ms. Streufert: Representing.

Mr. Hull: ...applicant is going to present, and it might be better to get into details with them at that time.

Ms. Carlson: Yeah.

Ms. Streufert: Okay, okay.

Ms. Carlson: Sorry.

Ms. Streufert: Sorry since you were the manager, I thought you were (inaudible).

Chair Apisa: Do we have any other questions of the department or the planner? If not, I think we're ready to call up the applicant.

Ms. Janeen Olds: Just checking. Good morning. My name is Janeen Olds, and I'm legal counsel to Lydgate Farms. Mahalo for allowing us to, we'll keep it short, our presentation this morning. We are here to request that all conditions of the use permit relating to time and dates. Specifically in Condition 2, and monitoring and Condition 10 be removed from the permit. By way of background, Lydgate Farms right now is part of researching agricultural ecosystem in Kaua'i. Agriculture has always been one of the backbones of Kaua'i. The reliance on shipping is risky, goods having to come from the continent and into O'ahu, and then to finally Kaua'i means that,

Kaua'i is one natural disaster or labor disturbance away from jeopardizing its food security, so agriculture remains very vital to our community here, consistent with its own key policies, Kaua'i Kākou, the Kaua'i Destination Management Action Plan and Bill No. 2804, in 2021, regarding agriculture retail stands, are all consistent with what Lydgate Farms is doing now. The farm tours themselves supplement the core farming production business, which has increased by double digits each year since, probably over the last five years and allows Lydgate Farms to practice ethical and sustainable farming. A more expensive but needed component of farming. In addition to the production of award-winning cacao, Lydgate Farm operates three to four agricultural farm tours per day, up to five days a week. Tourists are by reservation only. It is not people just dropping in. They must have a reservation to go on the tour. The revenue from the farm tours also helped to support Lydgate Farms, professional and skilled positions with a living wage plus full benefits. Staffing has doubled since 2022, actually I think even from just last year to what Kailey had said is 27 employees. So, and the farm tours also allow Lydgate Farms to provide almost on a not quite weekly basis, but to provide education and community related tours, introducing our haumana of all ages, from elementary to high school, to have an authentic farm experience where they see firsthand food production, land stewardship and the history of our 'aina, all part of best management practices in agritourism. The future plan just really briefly is continued growth of farm production and diversifying the value added and retail operations review, and also reviewing the relocation of its warehouse facilities so that there's even more space on the farm for farm production and operations. Just some facts that I want to highlight because we did submit a letter on behalf of Lydgate Farms, we need to really appreciate that this neighborhood is an agricultural neighborhood, not a, what's been referred to as a residentially zoned neighborhood. It is an agriculturally zoned neighborhood of which it is encumbered, each CPR lot in there is encumbered by a farm dwelling agreement, and that's what was discussed earlier. And whether you are a continuing original owner or you subsequently acquired the property, since I think the early 2000's when the property was originally CPR. You are subject to, you were made aware of the farm dealing agreement when you purchase your lot, so this should, this is not a surprise as to what can occur within this area. And as was mentioned by the Planning Department, this review today is about the agricultural tours. In 2021, when Mayor Kawakami passed oh, I'm sorry, the City Council as well as Mayor Kawakami, signed on to the bill allowing agricultural retail stands are essentially what's being referred to as our gift shop that's lawfully permitted. So, we're not looking at the traffic. Necessarily impacts there also, but though I'd like to discuss them, and this is also not about farming, because that's a permissible activity. In fact it's supposed to be shared by all the residents who are there. Now the concerns that have been expressed by the residents or a few neighbors involves really four areas which we outlined in our letter, just very briefly. One is about no notification of a March 22nd amendment request. Another had to do with the increased traffic. Another had to do with health and well-being concerns and the other, something that's been discussed is about alternative access to Lydgate Farms. These have been addressed in our submittal and we're more than happy to answer any further questions that you have. I would just like to specifically address what I think is the key topic here today and that's the vehicle traffic, which appears to be the primary focus, so again the use permit really considers the agricultural tour traffic, but I will say that out of that traffic, that is generally, that is going up to Lydgate Farms, about fifty percent of it had been generated or was being generated by the actual agricultural retail stand, the gift shop, a lawfully permitted activity on the farm, adds value to the farm, allows the farm to be able to be sustainable and viable from an economic ecosystem. This use permit does not monitor or limit the traffic from the farm staff,

which may not actually appear in the traffic assessment because they actually get there earlier than eight o'clock. So that's why when you go and you start taking it down, it almost seems like geez, there's only ten cars (inaudible) really coming for the tours. I just want to correct that because our staff gets there fairly early you may see a little bit of traffic if they are having business that has to go outside of the farm, but other than that, they've probably already been on the farm before any, even our own traffic assessment was conducted. The agricultural farm tours themselves have very low impact on the agricultural activity of use, and really they sustain the operations of the farm. Traditional farm vehicles and equipment such as tractors and backhoes and things like that actually would have a much higher impact on this piece of property if they were continually going over that road. Another thing is, is there's mention about being able to bus in, actually the driveway won't permit big buses to come through there. So, the big tour buses cannot come through, vans, perhaps up to about the sprinter vans could fit up into the actual driveway themselves, and quite frankly, some of the increase that might have occurred since especially 2021, and maybe not felt until after the 2022 amendment is due in part to the agricultural retail stand bill that passed, but also just the organic growth which is positive for Kaua'i of Lydgate Farms. So yes, you have more employees, you have more businesses having business with the farm also traveling up to the farm. You know, our traffic assessments were all done by independent third parties professionals and the conclusion that came to there was that the traffic generated by the tours is far below the per hour fee hit (inaudible) traffic to raise any kind of traffic operational concerns. And until today, and we're not, we haven't really had a chance, but it almost sounds like we may have actually consistent data from what was being offered today by one of the other residents. Now just real quickly to talk about a little bit of mitigation that isn't required but which Lydgate Farms is a good neighbor. There's discussion earlier about this being able to hopefully be a cohesive neighborhood is they have addressed mitigation efforts. There's been improvements to the roadway, which we're not at charged to the (inaudible) or the association, and as Kailey talked about, there's been regravelling when necessary, there's been refilling of the potholes when necessary. The times established for visitation and even farming are consistent with what I think many of us see as our normal work day. We're not, you know, most farmers you're, they're sun up to sundown. That's not necessary, that's not happening here. It's business working hours. And then I think the other thing is Kailey mentioned was the signage along the access roadway for traffic easing. There's directional signage, you know, point you to exactly where Lydgate Farms is. There's signage regarding speed, you know, slow down. There's even a mirror that was installed down where we were talking about a blind corner. So, there are mitigation efforts. There is an effort to listen to the community and to take action. There's been other efforts, but I want to respect the time here and so, you know, we're really looking at that the relocation of the agricultural retail stand approximately a month ago, actually almost to the day. First of all, that was a strategic business decision, it was made a year or two ago because, quite frankly, the farm wanted more room to farm. And so that decision was made, the lease was entered into last year with the improvements now taking approximately the first half of this year. So, we knew that it would come with mitigation impacts, that was a positive, but the move itself was a strategic business move just like the review that's now going on with respect to the warehouse facilities that are up there as well, and this was again done with full disclosure to the neighbors. So, consistent with the intent of both the state and the county to promote agritourism, Lydgate Farms has demonstrated its stewardship and its agricultural lands and toward agritourism, and it respectfully requested all of the conditions relating to time, dates and monitoring and the use permit be eliminated and that

and that's what we, we will also answer questions, but if you could, if I could just beg for your patience a little bit longer. I have next to me, Mr. Will Lydgate, who is the owner and operator of Lydgate Farms, and he just wanted to shortly address the commission and then we are more than happy to answer any questions.

Mr. Will Lydgate: Aloha, Will Lydgate, aloha to the Commission and the Planning Director. I just want to thank this commission. Some of you were there two years ago. We're pioneering a new model for agriculture and actually we saw the mayor two days ago, he called us the farm (inaudible) now. You're either mechanized and forty thousand acres, or you're, there's no more middle-sized farms anymore. There's no more thirty-to-fifty-acre people anymore except us. And you know, I really want to thank the commission. You've understood what we're trying to do. I've been before you several times and it's really helped. I have incredible people I've been able to hire, we got Cocoa of Excellence Gold award in Europe, top awards in the world for Kaua'i, you know, and not for surfing, right. And it I didn't do it, it's not me anymore, it's my team and I'd like to apologize, I think there was some confusion, Kailey's our farm manager, who manages all the farm outdoor operations. I have general manager. So, she just, yeah, she doesn't do any of the tour operations, so that might have been the miscommunication, but she did a really good job. Thanks Kailey. Anyway, just mahalo to the commission. I know, you know, we're kind of first out of the gate of this, but you know, I really think that cacao, vanilla, other crops can be those really high value direct sale replacements and you know responsible ag tourism done right. I mean if we're going to keep doing ag, this has to be something that we do and we got to, you know solve these things and make these things work and you know find ways to do it and you know, just trying to do ag on ag zoned land and I really appreciate your consideration and just appreciate your support.

Chair Apisa: Thank you. Commissioners, do you have questions of the applicant?

Mr. Ornellas: I have a question. So, if these conditions are dropped, you will continue to do weekday tours, but not weekend tours, is that correct?

Mr. Lydgate: We don't have any imminent plans to do weekend tours. I mean, if we did maybe something like a kama'āina, kama'āina day. An issue is that local people can only come on holidays, so you know, we feel like we've demonstrated responsible stewardship, and we just want the ability to be able to make our own decisions regarding the market. I mean, we can't necessarily sell out tours. There is a market, and we just wanting the flexibility.

Mr. Ornellas: And your hours of operation won't change?

Mr. Lydgate: I'm not planning on, there's no plans to make any changes.

Mr. Ornellas: Thank you.

Ms. Olds: And just a just a slight correction from what Kailey had said earlier is that actually the maximum number of participants generally is or will be up to about 25 and that is purely just to provide a quality tour because after that the different models have been tried it, it just does not provide the quality that Lydgate Farms wants. So, it's kind of a little bit imposed, self-imposed by that, as well as the number of tours themselves, I mean, there's only certain amount of hours

that actually they want to run the tours and the tours are three hours in length, and so, you know, there's only going to be so many. And right now it is at three to four tours a day.

Mr. Ornellas: It's a nice gesture not to work the weekends, and I appreciate you doing that, although you don't necessarily have to.

Mr. Lydgate: And we don't weed whack move back before 8 a.m.

Ms. Streufert: I have a question. If this if this condition were to be revised, so that there would be another review in two years, but there would be no limitation on the number of tours or the number of days, I mean all those other limitations were to be taken off, but it would be revisited in two years. Would that be something that you could, you could accept?

Ms. Olds: I believe that's what we have currently.

Ms. Streufert: Right.

Ms. Olds: So, you're, you're suggesting that it remain as is.

Ms. Streufert: Well, I'm. I'm just wondering why is the, is it the two-year review that you're opposing in this because there are no conditions on the number of tours or the number of people that are on each tour right now. There's nothing about the days of the week. There's nothing about the number of tours.

Mr. Lydgate: If I could speak to that?

Ms. Streufert: For people.

Mr. Lydgate: I think the, the way we have it set up now with the legal structure of agtourism is under this use permit, which I believe at any time there's the ability for, you know, we operate at the commission's pleasure. So, I think removing that is just making it so we don't have to come in. But I think at any time we could, that could be triggered. The Planning Director could say, hey, come let's talk about this. So, it already feels like we're walking on eggshells and so, but whatever the commission decides today, we're going to, we're going to work with and do our best to keep doing ag. But we prefer to (inaudible).

Chair Apisa: Our counsel may have some comment.

Ms. Barzilai: The director would like to comment on that, but it would result from a complaint or an enforcement action if Mr. Lydgate were to be called back in.

Chair Apisa: So, a complaint or an enforcement action could trigger a call back in.

Ms. Barzilai: And he would continue to appear for his annual status report. There's a status report requirement?

Chair Apisa: Annual?

Ms. Streufert: That's what they would like to get rid of.

Ms. Barzilai: No, just a general status report. There's no general status report requirement? No, okay. Thank you.

Ms. Streufert: We applaud, well, I applaud you're, you're using agricultural land for agriculture. I really do. I'm just trying to find a way to, and a lot, a lot of the issues that have been coming up I think are civil, and they are not anything that we have anything to do with, but the number of, so the only thing that I can imagine that would be somewhere in between is to keep the requirement for a two-year or three-year review, but leave all the other conditions the same as if it is right now, which is no limit on tours, no limit on the people in each tour and on the days of the week, because that is not there in here to begin with anyway, it's just a review every two-years. Is that correct?

Ms. Barzilai: Maybe Commissioner is asking for a status report.

Ms. Otsuka: Yeah, I think that he would appreciate not having to come back.

Ms. Streufert: Right, that's (inaudible).

Ms. Otsuka: In a way, for me, I think it's, it's, I would not, I would feel like I had shackles on. If I had to come back, you know, every two-years, go through the whole process again, hire an attorney. Yeah, I would still feel like I had shackles, and he wants the shackles?

Chair Apisa: So, what you're saying is just the threat of a public complaint, could bring you before the County...

Ms. Otsuka: Yeah.

Chair Apisa: ...Department or Commission, so that alone would keep you...

Ms. Otsuka: Yeah. Keep him on his toes.

Ms. Olds: And I think the other consideration that we have too is that first of all, as Mr. Lydgate said, that we will be compliant with, because this is necessary for the sustainability of the farm, however because there are already regulations and rules in place, I think the other thing that that we think of as much broader also is that to the extent that it perhaps represents precedent to how others who may come in requesting a use permit for agritourism. I think that's also just something that we are trying to, to encourage others to do as well. And I think some of the comments that that were made as to it, it's not shackles, but it is showing good stewardship. I, you know showing the, what happens when you have growing pains and how you address it and I think that's what we've come forth today to try to provide examples of how that has been accomplished by Lydgate Farms.

Chair Apisa: So, just for clarity, the access which has been, I think referenced as a road is really your driveway or CPR driveway, a shared driveway?

Mr. Lydgate: It's an easement, partially covered with concrete, partially covered with gravel, at least 30 foot wide.

Chair Apisa: But it's all within, it's in common element of the CPR.

Mr. Lydgate: It's not a common element, it's not listed as a common element. We had a lot of fights about this. What the definition of it is, an easement which has an easement cover that a certain portion of which just the very bottom portion people pay to repair, and the rest is taken care of by the owners who are beneficiaries as smaller huis outside of the governing body of the (inaudible).

Chair Apisa: Okay. So, it's an easement within the CPR.

Ms. Olds: Easement is within the driveway.

Ms. Barzilai: Referred to as a driveway.

Mr. Hull: Yeah, I'll (inaudible). We use the driveway, right, generally when speaking of a roadway that doesn't meet the county the standard roadway standards, but it's used for access purposes.

Ms. Olds: Yeah.

Ms. Barzilai: In other words, it's internal to your CPR.

Mr. Lydgate: Correct.

Ms. Olds: Yeah.

Chair Apisa: Right. Yes, thank you. I mean that was all I was trying to clarify. Thank you.

Mr. Ako: Madam Chair, I got a question. Let me just start by saying that I, you know, I haven't heard anything to say that in anybody is against ag, you know, and neither am I. I also want to come up to say that, you know, I just want to thank everybody for making their presentation so clear and concise. So, for my mind anyway, it makes it very understandable in terms of where both positions are coming from at the same time, because it's so clear. I mean, there is a (inaudible), yeah, between the two positions that are being taken here. And thirdly, I just wanted to say that, I think there's a lot of courage that's in this application itself, because we're not talking about the community of Līhu'e out there, where people can just testify and pretty much you're the unknown that comes in here, yeah, we're talking about neighbors over here that kind of live together. So, I appreciate that. And then I think in spite of all of that, I think the main issue that we're dealing with over here is the, what we going call traffic, yeah, whether it's all at one time whether it comes sporadically, it comes down and the study that was done to make the determination, yeah, I think what confuses me is the fact that we use a study that is used by standards of the federal level as well as the City and County of Honolulu out there, which we're talking about 1400 cars per hour that passes, and we're using that same standard, which I'm looking at it like, 1400 cars an hour for Olohena Road, that same standard is being applied to this little driveway that goes up the road. And in my mind that's being taken out of context over there. You know, and obviously I think we're looking at 1400 cars an hour that's going up that driveway is, I mean, in my mind anyway, that's, you know, that will not happen and that cannot happen. And yet when you're talking about the numbers, I think that we've been looking at, I think I kind

of question about the validity of the data, but it kind of comes out about the same, yeah, I mean we're not way, way off on this. I think the one that we have here is talking about data that's coming from several dates that has been looked upon as opposed to the federal one, but a study that was done which was only a, one day, it was just a photographing time that was done, so, I'm not sure whether that was really reflective, but how would you respond to the fact that you rely upon that survey that is done by the Federal and City and County of Honolulu, those standards, which in my mind, yeah, doesn't really apply to the driveway situation.

Ms. Olds: So, we actually question on some Austin Tsutsumi, who was the consultant who conducted the traffic study, about trying to find something that was more comparable closer to the actual access, the roadway access itself and they couldn't find a standard for that. So, it's not that those, that was the, that was the closest that could be found. It was questioned and asked because, we asked that ourselves too. I think what's important to remember is I have not seen what was presented by the neighbor, but it sounded, and then from the calculations that were done by the Planning Department to be fairly consistent, I think what we also have to remember is I'm not sure the dates on those because I know ours and you are correct, it was it was one day. Ours are reflective of before the relocation of the gift shop to Kapa'a Town. So, we're already looking at about a 40-50% drop in that whatever those numbers are, because as of, I think this past week, maybe there are a handful single digit number of cars that we need that are coming up to the farm that we redirect because they really just wanted to go to the gift shop, so, those numbers themselves, depending on the date of when it was taken, may also actually now have a significant rejection just by the relocation.

Chair Apisa: Would the Commissioners like to entertain an executive session? If you have any questions that you need clarify on what's a CPR and what's open or...

Ms. Barzilai: There doesn't appear to be interest, Madam Chair.

Chair Apisa: Okay. Thank you.

Ms. Barzilai: Looks like Commissioners are okay with what they've heard so far. I can comment on any of it as needed in open if we have to.

Chair Apisa: Alright. Thank you.

Mr. Lydgate: Chair, can I add something? Pursuant to what Janeen was saying, you know, we have some sort of after relocation, we moved our agricultural retail stand down to Kapa'a, right. And we prefer to do tours, you know, it's easier for us to know when they're going to come and then they have directions, right, as opposed to drop in, which we can't control. So, this week, and one day was 27 cars came for the tour. I mean, so, you know, there's the word traffic which I think has a definition both of cars on the road, and also stuck you know, but I really feel like Mr. Cua was saying, you know, you're really divided and you look at this is, you know, maybe three cars are in the driveway at the same time, and there's nothing for ten minutes, I mean, saying it's traffic and it's detrimental to, you know, this and this, it's, you go out to the drive, which I imagine the inspectors did, like this hold on nothing for most of the day, so 40 cars over an eight hour period, I mean, so it's really I think this is different, things (inaudible) discuss. If you don't look at the roadway, you can't them.

Chair Apisa: Well, I think with traffic, as with most things, its noise, it's everything. It's what you're used to and what your expectation is. What bothers one person doesn't bother another.

Mr. Ako: Is the gift shop still in operation up there?

Ms. Olds: No.

Mr. Ako: No.

Ms. Olds: No. It closed...

Mr. Lydgate: July 15th.

Ms. Olds: July 15th.

Mr. Ako: So, I know there was a statement that was made that the retail store is pretty much is getting their income now from the tours. What does that mean?

Mr. Lydgate: (Inaudible). So, if you come on a farm tour, there's a special gift shop just for you, where there's items that you can only get if you come on our farm tour, especial stuff and then if you just want to buy chocolate, you go to Kapa'a.

Ms. Olds: Yeah.

Mr. Lydgate: And we have an online store. That's, online store's been moved down to (inaudible) Street, ocean side where we lease the warehouse.

Ms. Olds: So, the gift shop closed for drop ins, that, maybe I should clarify that, July 15th. The only people who can actually buy product on the farm itself are those who participate in the farm tour, at the end of their tour.

Chair Apisa: And like what type of products are, like you said, you can only buy the T-shirts or...

Mr. Lydgate: Chocolate, Special Bars, Reserve bars, we do have some logo wear at that shop, and this was the original gift shop that was conceived in the first tour permit, and people just started dropping in and say, hey, can I buy chocolate. And so, this whole business line evolved under the permit and then now as an outright permitted use and that was when we decided to move because we have control over the growth of that.

Chair Apisa: Chocolate, right.

Mr. Lydgate: We wanted to, I'd rather have fewer people, you can make more money and have fewer people on their property with tours, which makes much more sense.

Chair Apisa: How, a question on the driveway and the landscape. How is the driveway landscaped? Is it lots of trees? Hedges?

Mr. Lydgate: In very various ways certain yards are very exposed. And I think those are the people I tend to notice here about traffic, some are completely blocked, they can't see the

roadway at all. Each lot (inaudible) does its own landscaping and there's no common elements, so, there's not like a (inaudible) to maintain. It's a fair amount of areca palms on certain lots, some lots have everything chopped down, and you have full view of the road.

Ms. Otsuka: So, you plan to maintain two retail shops at all times? I just assumed the retail shop and Kapa'a Town you're going to close the one at the farm.

Mr. Lydgate: Well, we still want the one for the tours. I mean, if you wanna, you know, open up the playbook here, if you look at a place like Napa Valley, you know, the special stuff you can't produce that much of it and you want to be able to sell it to a more high-end customer. So, if you go to a winery (inaudible) the reserve stuff, and so when you take your best stuff and that that's the premium product and then you have a place to put all of your different grades and products, it's a very old strategy comes from Porto in Portugal, champagne, it's the same strategy. So, we want to make coming to the farm very high value, lower volume, business line for us and then there's people who maybe aren't interested in that kind of high value kind of more scarce product and maybe they want to go to a (inaudible) business line that has more volume, place in Kapa'a, placed on the side of the road. So, that's a little bit of my playbook there.

Ms. Olds: So, the answer is yes that we will have, we will continue to have a retail store that is going to be only available to those on the tours and it's actually situated on the farm and then in Kapa'a Town itself.

Chair Apisa: So, the one on site is limited to people on the tour.

Ms. Olds: Yes.

Chair Apisa: Thank you.

Ms. Otsuka: So, being that the store just opened about a month ago, how, what are your intentions, how will you be able to get the people who don't plan on going to the tour, know not to go up to the farm?

Ms. Olds: So, since...

Ms. Otsuka: Is it...

Ms. Olds: ...several months before relocating, there's been marketing efforts, as well as mail out efforts based on customer list and when they approach the farm, they're asked if they're going to be joining, you know, if they reserved a spot on the tour, and if not, then they'll redirect, but those re...what we call redirects have really started to fall since we have moved the retail store down to down to the town area. So, there has been concerted advanced marketing efforts to let people know about where to go to shop purely for a chocolate tasting, as well as shopping without the farm tour itself.

Ms. Otsuka: So, it's going to be even shown on the website, the farm website?

Ms. Olds: Yeah.

Mr. Lydgate: Yeah. In fact, we also, Commissioner, changed the names, it's Lydgate Farms Estate Tours and then the Lydgate Chocolate Tasting Room...

Ms. Otsuka: Oh, okay.

Mr. Lydgate: ...is the name of Kapa'a. So yeah, we did a whole sweep of our online thing. There was a big campaign. And it's been effective.

Ms. Otsuka: Okay. Yeah. It just concerned me because if the people who just wanted product didn't know it, they would all still continue driving up to the farm and then this would not, this would still be an issue.

Mr. Lydgate: Yeah, we've never had a sign on the side of the road that says, free chocolate today or anything like that, even though we absolutely could've. So, it's, most people find this online and then hopefully get that information and get directed to the correct business line.

Chair Apisa: Thank you.

Ms. Otsuka: Thank you.

Chair Apisa: Gerald?

Mr. Ako: If I can just add again. Yeah, I think on this issue here, my real big concern is the fact that I remember you coming here, Mr. Lydgate, about two years ago, right in 2022, I had no idea who you were. I had no idea about Lydgate Chocolates or anything. Today I know, today I know, and I think a lot of us today know that, you know, you folks have just a superior level of chocolate that, you know, that you make. And I don't think anybody here wants to hurt that business there. A statement that was made in here was that if there is an adverse effect about limiting the tours that come to the farm with supplements, I guess the farm activities there that you may go into now the floral side, or which would bring in the bigger tractors and the bigger trucks into the, I guess now going down the roads and all of this here. How much revenue do you generate from the gift shop and the tours as compared to the manufacturing of your chocolates itself?

Mr. Lydgate: (Inaudible) percentage.

Ms. Olds: Okay.

Mr. Lydgate: Yeah. With the online store and the past model, it was about 50% was generated from the tours, and 50% generated through the substantial chocolate sales. I don't know what the calculation is now because that Kapa'a store is moving more volume so, ...

Mr. Ako: I'm sorry. What was that again, 50% percent comes from the...

Mr. Lydgate: Tours...

Mr. Ako: The tours?

Mr. Lydgate: ...and 50% comes from product sales at wholesale.

Mr. Ako: And the rest comes from the...

Mr. Lydgate: Product sales.

Chair Apisa: I would imagine they're somewhat related because the more tours, more tours, people go on, the more they're aware of it and the more they're going to buy more chocolate. So, there's definitely a marketing correlation.

Mr. Lydgate: There's very much a correlation. Thank you. The (inaudible) correlation, and so, after you come on the tour of like it, we'll get your e-mail and then there's an e-mail marketing campaign and so and people buy it as a souvenir of this place just like you would have a relationship with a winery.

Chair Apisa: Right.

Mr. Lydgate: (Inaudible) more wine from them (inaudible).

Mr. Ako: I think I'm confused. If we eliminate the tours totally, that would be 50% of your, of your business or your entire...

Mr. Lydgate: (Inaudible) eliminate the on-farm gift shop, so as the Chair mentions, it would be a devastating blow to the business, yeah.

Mr. Ako: Wow. So, if we cannot deal with the traffic, but we can deal with the tours, then that in return could have a significant impact upon the existence of Lydgate Farms?

Ms. Olds: Yes.

Mr. Ako: Really?

Chair Apisa: I believe that a couple of years ago maybe, I mean, it was established that, and Ka'aina correct me if I'm going off the deep end here, but that there can be farm stands to support agricultural activity, I think Kaneshiro and I don't know if others have come with that position and saying how that was needed to substantiate and make the farming viable. So, I think there is a precedent and some laws regarding being able to sell your products on agricultural land.

Mr. Ako: Well, no, I'm not concerned about whether, where you sell them or whatever. I'm just surprised that the tours are that significant of a part of the chocolate business.

Mr. Hull: The, I can just add Commissioner Ako, I'd say the department, the Commission gets to see about maybe 10% of potential applicants that come in to the Planning Department looking to get a use permit. We have a number of applications every year for farm tours. The vast majority of them, we explain to them, you absolutely have the right to apply, but the Planning Department will not be supporting a petition because you don't have enough real genuine agricultural occurring. You know, they're yoga retreats and, you know, papaya is going to be a part of it, so, the potential for tours generating a revenue is always there on, in Hawai'i because of the

landscape we have. But to really use it and fold it into an actual bona fide agricultural model, I think it's becoming part and parcel, part of the picture statewide.

Mr. Lydgate: If I could add a comment. Think of the ag like the asset and the tours of the investment. So, countries take like about eight years to return on investment, (inaudible). So, you really don't get anything for three or four years. And so, it's very expensive to put out all that cash. So, it's a tours, are our strategy that allows us to build those agricultural assets up in a way that say we didn't have that and we just all we have is the agriculture retail stand. We would just put a sign on the side of the road free chocolate today. You know, we would have people coming through, we would survive just on that. It would mean we have to do some layoffs. Maybe we can't afford organic fertilizer, you know what I mean, it would become a little more scrappy and like much of the farming you see where people are really hand to mouth. And I know, I know members of this Commission understand, you know, agriculture and how that is so, that I have a farm (inaudible) and agronomist. I have a tree crop specialist, all he does his graft all day. That's a, it's deluxe, I mean this is I'm so stoked on my people, and you got to pay people super good and it's really expensive here and housing is incredibly hard to get. So, that's the reason to have such a great team and the fact that I have a (inaudible) and better net margins because I run tours, that's what allows me to have this staff that's growing and stoked.

Mr. Ako: Yeah. And I think for me too, yeah, I think on the other side as much as I appreciate the fact that, hey, you don't get your tours, you may have to lay off people and all of this at the same time, I guess two years ago, I didn't know who you were, today I know that you are, you know you are across the nation, you know, going worldwide and what that also brings is the fact that when I come to Kaua'i not only am I going to the must see is going to be the go to Koke'e, right, it's going to be to go to Lydgate Farms, which is a great thing. And at the same time, yeah, I guess, what does greatness do to your, and how does it impact that group that's living on that road there.

Mr. Lydgate: I can speak too.

Ms. Olds: And, Commissioner, and just to follow up on your comment, I mean part of it also, if it was only the agricultural retail stand, then we're going to have the traffic impact be even greater yet it's not going to, it's a permitted use. So, if we didn't have the tours, then one of the alternatives is going to go back to the traffic that we're, it's going to be increased traffic impact because now the retail stand has to be on the farm. That's part of what the 2021 ordinance requires. It's value added on the farm with the restrictions that are there. So, I mean...

Mr. Ako: Correct, but what was it...

Ms. Olds: ...there's a, there's a balancing.

Mr. Ako: Yeah, but (inaudible) that issue today, right, is the traffic that is generated by the tours, right, not so much the gift shop, I mean, I guess if I live there, I don't really care, right. It's just how many cars are coming over there, but I guess technically, we're looking at the impact of the cars that are generated by the tours itself.

Ms. Olds: Yeah.

Ms. Streufert: Just a question since this, the, your gift shop is about a month old and we really don't know what the impact is going to be from, of having a gift shop in Kapa'a. If we did this for another two years, so you would have to come back in two years and just tell us how it went. Is that...because that's all it is. This is not limiting tours. There's no limit on the tours, there's no limit on the total number of people. That's not part of Condition 10. Condition 10 is just coming back in two years. Is that correct? Did I misunderstand that one?

Ms. Barzilai: If there are grievances, it can revert back to prior condition.

Ms. Streufert: But that would be, that would have to be another discussion in this commission.

Ms. Barzilai: That, it would, if you delete the condition today, it would come in the form of enforcement action.

(Multiple people talking at once)

Ms. Barzilai: What I think I'm hearing...

Ms. Streufert: What I'm asking is, this condition does not limit the number of tours, it does not limit the number of people, it does not limit the number of days. All it does is it says in two years you will come back.

Ms. Barzilai: Yes, but if there is a grievance and mitigation measures aren't acceptable prior to our limitations can be reimposed.

Chair Apisa: If there's a grievance, it could change everything that there, that they come back, but that's if they...

Mr. Ako: So, your suggestion is really to amend the condition that we have now by extending the date.

Ms. Streufert: Exactly. Just keep the date but not make it so, I mean it has to be a significant grievance or it has to be more than X percentage of the people who are part of the CPR or something like that because otherwise you're right, you know, one person with a grievance can make this stop, but it also, it would just, I don't think it's correct but one, but at least there's an outlet for people who live in that CPR to have an outlet that is not an enforcement action, I mean that goes from zero to one hundred all at once and I would prefer that there be some kind of a mitigation in between that all the CPR members can agree upon. And right now I think that's what we have here, but it's not, but we don't go from (inaudible) from everything is peachy keen to or chocolatey nice to, you know, it goes to we're going to go to court. I mean, there's some, there's got to be something in between for people who are not comfortable with either traffic or not, we don't really have the data yet to see what the impact of the Kapa'a store is going to be yet. I think you can rightly make it an assumption that there's going to be less traffic, but until you have the data, I'm kind of a data person. I was kind of trying to figure out the number of cars and stuff. I would like to see some more data before I say no, you don't have to come in but, after two years, I think one or if you if you want to make it three years, you know, whatever. But at least that there's there is some kind of an outlet for the people that are living in that CPR, that doesn't go all the way to enforcement for the first time. So, that would be my recommendation, but I

mean that would be where I would stand on this thing that this does not limit the number of tours, this does not limit the number of people, it does not limit the number of days that can go. If I'm wrong on any of those three points, then I would like to know that.

Ms. Barzilai: Chair, I think what Commissioner, is asking for is would you like an annual?

Unknown Commissioner: No.

Ms. Barzilai: Or you want every two years a written status report that can then be discussed by the Commission as an outlet for public comment.

Chair Apisa: That's what I'm hearing is...

Ms. Barzilai: Because...

Chair Apisa: ...Commissioner Streufert's position.

Ms. Barzilai: ...the other...

Ms. Streufert: And that would, and it would be then, I mean both we have, we don't limit the number of tours, we don't limit you in any way because we all want to support agriculture and it is the, it is the utilization of agricultural land for agriculture that we really appreciate, okay, but it's that there are apparently issues in your CPR and we would like to be able to not go directly to an enforcement if someone gets upset.

Ms. Barzilai: The other option are, petitions to modify the conditions that can be brought by the department or the Commission itself later on. I don't see it coming to that. Things are moving smoothly, but the status report that Commissioner is speaking of this is going to require an agreement in the Commission now to add that as a condition.

Ms. Streufert: As opposed to this, what we have right now which is the (inaudible).

Mr. Ako: Would it be a status report or would it be that in two years or three years, whatever that that they are able to come back and again remove this condition?

Ms. Streufert: That's all, that's all...

Ms. Barzilai: Then you would be denying their application for today because you have two things before you.

Mr. Ako: Well, you...

Ms. Barzilai: Sorry, Ka'aina. Please go ahead.

Mr. Hull: Yeah, and I'm just trying to clarify and not the department's taking a position on it. I can voice the departments position, but to clarify thing where you're going, Commissioner Streufert, in the comments, you (inaudible) Commissioner Ako, I think what Commissioner Streufert what you're saying is you'd like to reestablish conditions, no, no, keep Condition 10 in place, and that after two years so, we could set a date, August 13th, 2026, so that we, let me read

what I've gotten and see if it gets to what you're attempting to propose, Commissioner. The Condition 10 would be amended to read as follows; The projects shall be monitored for a period of two years from August 13th, 2024, in that time, the department (inaudible) record any grievances related to the project, if any, within the two year period, the project shall be revisited by the Planning Commission. The applicant may be allowed to continue to operate with no patron limitation. However, additional mitigation measures may be imposed to address any issues or impacts, if any. If projects result in impacts to the surrounding neighborhood due to the removal of the maximum number of patrons per tour, the Planning Commission may consider requiring the tour operation to revert back to a maximum of 25 patrons per tour as originally conditioned.

Ms. Streufert: I would prefer not to have the second part of it in there, and I don't think we want to revert or anything like that. That's something that the next commission can actually determine what they want to do. That's not for us to determine right now.

Mr. Hull: Okay, so (inaudible) amend the...I can rephrase, the project should be monitored for a period of two years from August 13th, 2026. In that time the department shall record any grievances related to the project, if any. Within the two-year period the project shall be revisited by the Planning Commission.

Ms. Streufert: Period.

Mr. Hull: Period. Ultimately, a motion would have to be made, and seconded, if you folks wanted to discuss it.

Chair Apisa: Yeah. At this point, it's just...

Ms. Streufert: It's just (inaudible).

Chair Apisa: ...what's on the table. Right, it's just a suggestion of one or two commissioners.

Ms. Barzilai: Maybe they'd like to hear from the (inaudible).

(Multiple people speaking at once)

Ms. Otsuka: I can understand only if there's grievances, the next commission, if there's grievances, then the next commission has to figure out.

Ms. Streufert: What the mitigation is.

Chair Apisa: Well, I think if there are grievances, it comes before you at that time and not waiting for two years, correct?

Ms. Barzilai: The language that our clerk just read doesn't address grievances. It addresses monitoring...

Mr. Hull: Yep.

Ms. Barzilai: ...which I believe is something that the department does in any case.

Mr. Hull: Yep.

Ms. Otsuka: Because I feel people who have concerns about the traffic in two years will still have concerns about the traffic, whether, even if the traffic is reduced as Chair Apisa mentioned, each person has a different idea of what traffic is, what quiet, a quiet neighborhood is. So, I believe the retail store in Kapa'a Town will significantly reduce the traffic. However, I feel in two years there will still be complaints.

Ms. Streufert: And that could be, I can't, I can't hypothesize what's going to happen. I'm just thinking that in two years, we'll have more data. Right now, we have one month of data about what the whether (inaudible).

Ms. Otsuka: Yeah, that's my concern too. There's only one month of data.

Ms. Streufert: And so, that's, and based upon that, I'm trying to make it as easy for them to continue the operation of, of the farm, because it is a fantastic product, and everybody knows it. You know you're doing agriculture and agricultural land. The question is just one of...is it going to, if there's a status report or if you or if something were to, they would be monitoring you for two years, would that be an issue?

Chair Apisa: Yeah, I would like to hear just some input from the applicant after all of this discussion amongst the Commissioners.

Mr. Lydgate: We've, speak from the heart. I think I've; I've always felt that we operated at the pleasure of the commission and I think you've heard from me, it does feel a little bit like walking on egg shells because anytime you get out there and do something, there's going to be someone that doesn't like it and, frankly we've been getting, I've been hearing similar feedback from one individual since we had, you know, seven cars, three times a week. And it's been just as impassionate and negative. And I've (inaudible) there's a long history there. I didn't bring any of that up, I decided not to share any of that with you at the advice of my attorney because we want to be, you know factual and I don't think it's a lot of cars. You know, this could just be what it is, I'm happy to come back for the commission if that's what it gets, gets this done and gets us off and going and I think, you know, there's the commission isn't the only, you know, the end all be all. I mean, it's there's other ways that we can take a look at this, and I think that, you know, tides are changing to move in the favor of these kinds of uses. So, there's work that needs to be done outside of just a use permit, right, to see what is a bonafide farm, right. Do we want to do farm tours on our island? You know, because these kinds of issues are going to keep coming up, and I really do want to clear the way for predecessors. I want, I want, I want people to, people who come after us. I want the other people to be able to get into this stuff and frankly, this is the kinds of issues you have when you have residential you know uses in agricultural district. You find it all over the country, all over the world. It's a very common issues, I learned that in ag leadership program, they have it everywhere. It's in Massachusetts, it's in New York, it's in California, it's everywhere. And it's, you know, I feel the support and I really appreciate the accommodation for doing ag on ag land and making a world class product, and we're going to keep doing that and I'd be happy to come back and see you all in two years or three years and you know, I'm just, I'm

really trying hard to be a good person and be a good neighbor and I'm going to keep on doing that, and I think it's just part of kind of being sort of the first out of the gate with these sort of paid tours. Like I tell you from 20 years ago to now, it's already a sea change in people's understanding. And I went to the at the federal level, Schatz's office is talking about this kind of stuff. They're finally starting to look at, like, oh, this might be the new medium sized farm, right.

Chair Apisa: Thank you.

Mr. Lydgate: Is that okay?

Ms. Olds: Yeah.

Mr. Ako: If I can add, Madam Chair. Maybe. Yeah.

Mr. Lydgate: Yeah, yeah, I know, it was mentioned to, you know, just remove restriction restrictions on dates and times and then have us come back in two or three years and that would be very favorable to us. You know we think we're good operators and we want to have a little flexibility with how we do things, you know and we already, my point earlier, already operating under a use permit, which at any time you know anyone can complain. So, I have that already over my head at all times.

Chair Apisa: Alright, thank you. And I don't want to put Commissioner Ornellas on the spot, but I would be curious to see if you have any input just coming from a farming background.

Mr. Ornellas: I certainly do.

Chair Apisa: Alright.

Mr. Ornellas: People who move into a rural area, especially here in Hawai'i, that's zone agriculture, and expect utopia. The true meaning of the word utopia means nowhere because it doesn't exist, so you wouldn't buy a condominium in Kapa'a Town or in Waipouli and then complain about the tourists. You wouldn't buy a home next to an industrial area and then complain about the noise. Working farms can be messy. They can generate noise, they can generate smells, they can generate dust, right. The farm, I'm familiar with Mr. Lydgate's farm. It's a very quiet farm. A lot quieter than mine. I try not to work on weekends out of respect for my neighbors, but frankly, farming is a business and we need to operate our businesses. Farming is a seven day a week operation. Yeah. So, because he runs Orchard, he doesn't do tillage all the time, he doesn't do spraying all the time, he doesn't do a lot of the activities that most farmers do. So, along those lines, about ten years ago, the legislature, in their wisdom, struck down convenances, conditions and restrictions. So, CC and R's on agricultural CPR's right, because they recognized that farmers cannot operate under conditions, especially when their favored residents, oftentimes unfamiliar with what goes on in a farming community, so, you know, that's just my two cents.

Chair Apisa: No, thank you. And I do recall that I believe it was Aliomanu Estates that brought that new laws into effect. So, thank you very much. I value your input. Thank you.

Ms. Barzilai: So, Chair.

Mr. Hull: Oh, sorry.

Ms. Barzilai: No, go ahead.

Mr. Hull: I'll just stating, I crafted of the language the way I think Commissioner Streufert was trying to memorialize it. And I just, we crafted the language, but I'll just from the department standpoint again raise just a bit of concern. I do think the body does have the authority to intervene in limiting tours to address traffic on a driveway. I do think you have authority, I'm not pushing back on that authority, however just as a matter of practice and of philosophy from the Clerk of the Commission, I generally advise the Commission not to get into what are civil disputes. There was a few years ago when there was a restaurant and hotel and they attempted to try to litigate their civil issues before this body and then, you know, I have strong contention of any civil group and in both those situations, in this situation is a condominium property (inaudible) that have very specific bylaws and HOA processes that can remedy it or keep it in place, but again, I'm not trying to push back on your authority to intervene, I just as a practice, I do have concern about getting involved, the Commission getting involved in what is clearly a civil dispute. I've added, if the motion passes, that's 2026, will be around the time you'll be getting a new clerk, and that clerk may have a different philosophy, but for now, that that'd be my advice.

Chair Apisa: Thank you for...

Ms. Otsuka: Thank you.

Ms. Streufert: And if that were worded the way you had it, have it right now, which is very, which limits this, would that, would that satisfy what you're (inaudible).

Mr. Hull: No, I think to Commissioner Otsuka's point, it still would, I think in two or three years, if they're not able to resolve it through their HOA processes, that it would be back before this body again, with this request for this body to participate in what again, I believe is a civil dispute.

Chair Apisa: I think we're allowing a little bit and thank you for that direction. I think it brings us back to some clarity that within a CPR is a civil matter and we're looking at outside of that CPR.

Ms. Streufert: So, we should never have had this Condition 10 anyway.

Ms. Otsuka: Yeah.

Ms. Streufert: Is that what...

Mr. Hull: Well, I think, you know, I think if through the process we got grievances and complaints that the traffic being generated on a county standard road is being overly burdensome, we do have a problem with the overall impact, what the entitlements on this lot of record are doing to, you know, that region of land to properties that are being affected outside of the specific lot and record, lot in question, I think that that that would be okay. Now I think it's appropriate for all of us to get involved, review and assess. And I know those words are probably falling a little harshly on the condominium property regime owners because you folks in a way,

our neighbors as well, but that's where I think what you're looking at public thoroughfares and impact on traffic on that we can see. I definitely say this condition would be appropriate to call into question their operation, where agreements are being aired from within the lot of record itself, that's where, again, I would say that reverts back to a civil matter.

Mr. Ako: Madam Chair, can I ask a question? If what is being proposed right now and amended, actually is what will be governed from today forward, what impact does that have on your business?

Mr. Lydgate: Can you clarify the...

Mr. Ako: Because I think, you know, all of us here, you know, we're for ag, and, you know, let's say we take the extreme extent where there's no tours up there, right, and that's your business right there and you're done, but by having the existing conditions still here today, how does that impact your business moving forward? And because I know you're booming, you're booming right now and you know you're only going to get bigger and bigger and you know from what's going on at the Kapa'a store, you know you get more exposure and everything is there, is there a negative impact? I'm assuming it is not going to be a, well, I'm assuming there's not going to be a negative impact.

Mr. Lydgate: I can speak to the to two points on that. One, is just the overall vision of this site, this Olohena site, (inaudible) a place where it all began. That's where I planted the cacao that came from Hillebrand, and my great grandfather, worked for Hillebrand at that time, the 1800's, it was like, that history is there, but I don't foresee it as a site that can really scale too much, so I would rather have the tours on that site rather than the agriculture region stay on that site because there's only so much people we want to have up there, right. So, I don't think this is the only place we ever want to grow. For example, now we have a retail store in Kapa'a, so that can grow more and we're, you know, contemplating other sites, right, you know. Lots of ideas, I think this business has (inaudible), there's lots of different crops. In terms of what's the impact, I think for me it's kind of on a personal level, but also a political level that if you live in agriculturally zoned land and you just don't like seeing cars on the driveway, we're talking about 40 cars over an eight hour period, then you can, have (inaudible), you know, have to go get all these letters of support to go and do this stuff and call Janeen and do these things, it's almost like a vote of confidence that you, you really you want to see this kind of ag go forward and I understand that you're going to listen to everybody and you know, be fashionable and clear just as a personal level. I feel like I'm doing the thing that everyone says they want, and I just (inaudible) some support in that. Does that make sense, like, just that vote that, and I think I've already heard it, you appreciate what I'm doing, you appreciate the products, and this is, I think just part of it being a pioneer, you know.

Ms. Barzilai: Madam Chair. Excuse me, Mr. Lydgate. If I could just distill it down to what you might focus on right now.

Chair Apisa: Yes.

Ms. Barzilai: So, you what you have before you is a request to modify to delete Condition 10. I believe that's the request of the applicant. So, that's either a deny or approve vote.

Chair Apisa: (Inaudible) correct.

Ms. Barzilai: Correct?

Ms. Olds: So, actually the request of the applicant is to...

Chair Apisa: Amend.

Ms. Olds: Amend...

Ms. Barzilai: (Inaudible).

Ms. Olds: ...well, whether it's amendment or deletion or modification, I'm sorry, I don't have it right in front of me, is the dates and times on Condition 2, as well as to delete Condition 10.

Ms. Barzilai: So, the modification to remove those two or to delete these two requirements, correct?

Ms. Olds: Yes.

Ms. Barzilai: Okay, so this is one motion and there's a lot of discussion on this right now. And the alternative is to amend language suggested by the clerk or some other form of language. You can also defer and request an additional traffic study, or you can revert to the caps that were in place in 2022.

Chair Apisa: So...

Ms. Barzilai: So, maybe there's some discussion on, I think we have a sense from some of the Commissioners on where we're going with this.

Mr. Ako: So, the request really is to have tours with no restrictions?

Ms. Barzilai: Yes.

Ms. Streufert: (Inaudible) don't have any restrictions on their tours.

Ms. Otsuka: If you delete number 10.

(Multiple people speaking at once)

Mr. Ako: Two and ten, right.

Ms. Otsuka: Two and ten.

Ms. Barzilai: Under number two. Look at the first page of the Planning Director's report. You'll see the language of Condition 2.

Ms. Streufert: I was only looking at 10.

Ms. Barzilai: Sorry Mr. Lydgate. So, you could start with calling for a vote on the language suggested by Commissioner Streufert. If other language, if, if this pass is great, you can proceed. You also need a motion to accept the status report. Mr. Clerk, any other suggestions?

Mr. Hull: Yes, yes, (inaudible) want some clarity. The applicant...

Ms. Otsuka: Question.

Mr. Hull: Oh yeah.

Ms. Otsuka: So, say if we end up deleting Condition 10, what will happen if people do, continue to have grievances? Do they still...

Ms. Barzilai: It goes to...

Ms. Otsuka: ...approach the department?

Mr. Hull: Uh-huh.

Ms. Barzilai: Yes. It would be directed at the Enforcement Division.

Ms. Otsuka: Thank you.

Mr. Hull: So, currently, Condition 2 reads, the agricultural commercial tours shall be limited to no more than five days per week, and the hours of operation shall be 8 a.m. to 4 p.m., so that's what's in play. You guys are requesting to amend this?

Ms. Olds: To delete it.

Mr. Hull: To delete this and then also to delete Condition 10.

Ms. Olds: I don't know if this is the appropriate time, but after hearing the Commission speak, we would modify that, if possible, to deleting Condition 2, to provide flexibility and in light of the stewardship, I believe that Lydgate Farms has demonstrated over the past several years, but are willing to come back and however, the report would be, I'm not sure how you want to word it exactly, but to come back in two or three years with, so that Condition 10 perhaps is modified in whatever capacity that you want, it's just that, that is still going to give you the opportunity to review the ongoing tour operations of Lydgate Farms.

Ms. Otsuka: What, what did you want us to do with Condition 2? Still delete?

Ms. Olds: Delete it, but then we would, we are willing to come back and to report or however you would like a report in two or three years with respect to the tour operations.

Ms. Streufert: But the Condition 10 says that there are no patron limitations. That's how I read it, that there are no limitations anyway.

Ms. Barzilai: So, the limitations are dictated by Condition 2.

Ms. Otsuka: Yeah.

Mr. Hull: Yeah. Under the original condition and it was the patron limitations are dictated by Condition 2, which has an hour, 8 a.m. to 6 p.m., and 25 paying participants. You know, I think, I think that's something that may have been missed in the report that Condition 2 was being requested to be amended. I think that's what's creating some confusion.

Ms. Barzilai: I think it's because you know, actually the request comes in the form of a status report and not a...

Mr. Hull: Yeah.

Ms. Barzilai: ...traditional petition. So, I don't think it was clear.

Ms. Streufert: It might, I guess that I'm mistaken. My understanding was there were no limitations on date time and number of patrons, so, that's why (inaudible) just (inaudible) the status report in two years did not seem like it, (inaudible) kind of, or if however, that does not mean that Condition 10 still needs and there are conditions about number of patriots and hours of operation (inaudible).

Ms. Barzilai: So, if I'm reading this correctly then deleting ten necessitates a deletion of two, right.

Mr. Hull: Potentially. I mean Condition 2 could be kept in play still the same time and just Condition 10 is removed.

Mr. DeGracia: Madam Chair. Could I ask for a quick bathroom recess?

Chair Apisa: Yeah.

Ms. Barzilai: I think that's a good idea.

Chair Barzilai: So, we were going, we were going to take a recess after this was over. I had no idea this was going to continue on so long. So, let's take a seven-minute recess.

The Commission went into recess at 11:27 a.m.
The Commission reconvened from recess at 11:41 a.m.

Chair Apisa: I think we're all back together, call the meeting back to order. And just to kind of summarize what I'm hearing here are on Condition No. 2 and 10, are the conditions here. What I'm hearing is to, we will take the vote separately, but what I'm hearing, as is two delete Condition No. 2 and amend Condition No. 10 that the, this be monitored by the Planning Department and then they come back in two years and revisit. That's kind of what I'm hearing, but it's the pleasure of the Commissioners to...

Mr. Hull: Just to clarify things. Chair, where you going is what you're hearing some of the discussion involved, but to clarify, the specific request from the petitioner is to delete Condition 2 and to delete Condition 10, and so it may be appropriate to look at if there's any desire for a

Commissioner to introduce a motion to delete Condition 2 first, and that discussion and vote be done and then also, then a motion, if there's a Commissioner willing to delete Condition 10 pursuant to the request of the applicant and then discussion to evolve around there to which it may turn into a debate to amend Condition 10 versus deleted, but it probably needs the most appropriate to look at them as separate.

Chair Apisa: Right, right, right. I was sort of summarizing the big picture, but I do agree that they would be taken as two separate motions. So, I would entertain a motion regarding number two, if anyone is so inclined to make a motion.

Mr. DeGracia: Madam Chair, real quick. Do we need a motion to accept, to receive the status report?

Ms. Barzilai: To receive the status report.

Mr. DeGracia: First or...

Mr. Hull: You can do it before or after, it's at the pleasure of the commission.

Ms. Barzilai: We may as well do it now because it appears that the request, the applicants request is contained within the status report so.

Chair Apisa: Okay, I would first of all entertain a motion to receive the status report.

Ms. Streufert: I move to accept the status report.

Ms. Barzilai: To receive.

Ms. Barzilai: Receive.

Ms. Streufert: To receive the status report.

Ms. Otsuka: Second.

Chair Apisa: Okay. Any discussion on receiving the status report? Hearing none. All in favor? Aye (unanimous voice vote). Any opposed? Any abstentions? Okay, that motion carried the status report is received. 6:0. We've crossed one little hurdle.

Ms. Barzilai: Now you can address the request of the applicant. You can address by calling for a motion, you can call for a motion on Condition 2.

Chair Apisa: Right, right.

Ms. Barzilai: (Inaudible) dictate the content of the motion, but you can call for the motion.

Chair Apisa: Right. I would call. I mean, it's the Commissioners pleasure here, I would call for a motion on Condition No. 2. We will address them separately.

Ms. Streufert: I move to delete Condition No. 2.

Mr. DeGracia: Second.

Chair Apisa: We have a motion on the floor to delete Condition No. 2. Call for discussion.

Mr. Ako: Yeah, so if we delete Condition No. 2, we're saying that you can have it seven days a week and any time of the day.

Ms. Streufert: Yes.

Mr. Hull: Correct.

Mr. Ako: That's what it is, yeah.

Ms. Otsuka: But we're relying on his good stewardship. I trust him.

Chair Apisa: I would like a roll call vote on this removal of Condition No. 2.

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

Mr. Ako: Aye.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Apisa?

Chair Apisa: I say aye and thank you Commissioner Otsuka for your comment, there's a lot of good faith going into this motion. Thank you.

Motion passes, 6:0.

Chair Apisa: Moving on to Condition, oh wait...

Ms. Barzilai: Condition 10.

Chair Apisa: Condition No. 2 has been...

Ms. Barzilai: Deleted or modified.

Chair Apisa: Deleted.

Ms. Barzilai: Yes.

Chair Apisa: So, moving on to Condition No. 10, do we have a motion? I know that there was one suggested here by our Planning Director. Do we have a motion on Condition No. 10? Maybe do you want to repeat what you had?

Ms. Otsuka: Yeah, can you re-read?

Mr. Hull: Yeah. So, either to be clear, the applicant is requesting Condition 10 be deleted. A possible modification to ten was drafted to read as follows; the projects will be monitored for a period of two years from August 13th, 2024. In that time, the department shall record any grievances related to the project, if any. Within the two year period, the project shall be revisited by the Planning Commission. And again, that the condition was drafted in the manner to reflect Commissioner Streufert's comments, I would say the department is submitting it as a recommendation.

Ms. Otsuka: Wait, hold on...

Ms. Barzilai: The alternative is to approve the applicant's request.

Ms. Otsuka: Does it need to be more detailed like the project or, I guess, yeah, I guess the project, I was thinking more like the traffic, but we want to keep it general, the project. I guess, yeah, that that'll be better if it's that open, yeah.

Mr. Hull: That's up to you guys.

Ms. Barzilai: That's (inaudible).

Mr. Hull: The department isn't recommending that this language be adopted, but I think if the intent is to have the applicant return to the Commission after two years, then the reflected language does work and be implemented.

Chair Apisa: Maybe read that one more time. It's brief. Thank you.

Mr. Hull: The project shall be monitored for a period of two years from August 13th, 2024. In that time the department shall record any grievances related to the project, if any. Within the two year period the projects shall be revisited by the Planning Commission.

Ms. Otsuka: I know what, I apologize. I have one more thought, being that you're saying August 13th, wait, from...

Chair Apisa: Today.

Ms. Otsuka: August 13th, 2024. Does this condition need to state why we picked that date? Does it need to state that it was a Commission meeting, August...no, okay.

Mr. Hull: It set, it sets the deadline. I mean you can reflect if you like more introductory or explanatory clauses into it, but it's not necessary.

Ms. Otsuka: Okay.

Ms. Barzilai: It will appear in the Director's Report too, at the time that it comes before the Commission again. What the language doesn't indicate is how it's going to come before the Planning Commission, does it have to come by way of written status report or is this, does this cover it, revisited?

Ms. Barzilai: Open for discussion.

Mr. Hull: Yeah.

Ms. Barzilai: So, you require a motion, Madam Chair.

Chair Apisa: Yes, I am waiting to hear a motion. That's why I asked our Planning Director to restate that if that is the pleasure of Commissioner Ornellas, you have a motion or no? Okay.

Mr. Otsuka: Within a two-year period the project.

Mr. Ako: I think you for the motion is made, I'll just state that, you know, I think at this point already we put, when you delete Condition No. 2, you put a whole bunch of trusts already within the corporation of Lydgate Farms, and if there's any complaints that come up from here forward, you know there's always a process within the rules already to have those addressed. So, I think right now I would prefer to stick with the original request and just remove.

Chair Apisa: Okay. Would you like to make such a motion? If it fails, we'll come up with another one. Let's get something on the floor.

Mr. Ako: Okay. I move to accept. No, let's see, move to approve the removal of Condition No. 10...

Ms. Otsuka: Removal?

Mr. Ako: ...in the Class IV Zoning Permit Z-IV-2015-10, Use Permit U-2015-9, Special Permit SP-2015-1.

Ms. Barzilai: That works.

Ms. Otsuka: So, delete, yeah.

Mr. Ako: To delete Condition No. 10.

Mr. DeGracia: I'll second.

Chair Apisa: Is everybody clear on the motion? We have a motion on the floor. Do we have any discussion on the motion? Hearing none. I would like to call for a roll call.

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

Mr. Ako: Aye.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Abstain.

Mr. Hull: And Chair Apisa?

Chair Apisa: Aye. I would just like to say I mean I think we are very sensitive to the CPR owners, and I hope that you can understand that what goes on within the CPR is really a civil matter, a CPR is registered with the State of Hawai'i, and the county still sees it as one parcel. So, I hope you can understand that we're not being deaf to your testimony and your comments. So, thank you for sharing them and hopefully there will be consideration and you folks within the CPR can find some peace and work it out amongst yourselves, but I hope you can understand the position that we are taking today that the CPR is really registered with the state and county is seeing it as one parcel.

Motion passes. 5:1

Mr. Hull: Thank you. Moving on to the next agenda item. We still got a full dock. Thank you all.

COMMUNICATION (None)

Mr. Hull: Moving on next agenda item is, no additional communications.

COMMITTEE REPORTS

Mr. Hull: We have Committee Reports. I'll turn it over to the Subdivision Committee Chair for the Subdivision Committee Report.

Mr. DeGracia: Commissioners, Madam Chair. Subdivision Committee met today. We had three items on our agenda. Lima Ola Phase 2, Kukui'ula parcel, and also Yukimura Trust. The actions taken was all approved and all of the votes were all 3:0.

Chair Apisa: Thank you. Motion to accept the Subdivision Committee Report.

Ms. Barzilai: You can do a motion to approve, Chair.

Chair Apisa: Approve. I'm sorry.

Ms. Barzilai: No problem.

Ms. Otsuka: Motion to approve.

Ms. Streufert: Second.

Chair Apisa: All in favor? Aye (unanimous voice vote). Any opposed? Any abstain? Motion carried. 6:0.

UNFINISHED BUSINESS (For Action)

Mr. Hull: Next, we have up, K. Unfinished Business.

SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2024-10) to allow construction of a new single-family residence within Lot 79-A of the Wainiha Hui Partition in Wainiha, involving a parcel situated on the makai side of Kuhio Highway, approximately 200 feet west of the Kuhio Highway/Alamihi Road intersection, further identified as 5-7070 Kuhio Highway, Tax Map Key: (4) 5-8-011:049 containing a total area of 22,736 square feet = **BRUCE HOLDINGS LLC.** [Director's Report received and Agency Hearing Deferred, July 9, 2024.]

Mr. Hull: We had the agency hearing earlier this morning and I'll turn it over to Romio for the departments report pertaining to this matter.

Staff Planner Romio Idica: Thank you, Madam Chair, Commissioners, I have a brief update for you today. This is a continuation from the Planning Commission meeting on July 9, 2024.

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

Chair Apisa: Thank you, good report.

Mr. Hull: Doesn't look like we have any questions right now for staff or myself. Before I turn over the applicant, I was just reminded while we did have the agency hearing earlier for this session, technically all agenda items are allowed to call for testimony. So, like I said, if there's anybody in this audience that like to testify on this agenda item, you can approach the microphone. With that, I'll turn, I'll ask the applicant if you can come up and respond to any of the report analysis or present on any other additional material.

Mr. Ian Jung: Good morning, commissioners. Ian Jung behalf of Bruce Holdings LLC, the applicant in this matter. We did submit a Supplement No. 2, that the supplemental report was premised on. In that Supplement No. 2, we sort of refined the site plan that was prepared, as well as some of the architectural plans, one of the issues that Ms. Diamond raised was the size of the

structure, and let me apologize because when we submitted our application we meant to refer to the second dwelling as 1,682 square feet, that's actually the existing dwelling, but in our land coverage portion of the application, we identified the total land coverage, which at the time of the original submittal, which went out for notification of the public, was at, was at 4,243 square feet. The proposed land coverage now, I'm sorry, the original was 4,100 square feet. The proposed land coverage now is 4,234. And the way this is broken down is you have to work through what counts as land coverage and not when dealing with these types of properties, so the interior space is 2,500 square feet. The decking adds on an additional 1,533 square feet, that includes the decking that's under eave and outside of eave. So, you have to count certain portions of that is full land coverage, certain portions of that is 50% of land coverage. And then when we reconfigured the stairs to eliminate the two stairwells into one stairwell, it reduced the land coverage allotment. So, I hope that cleans up the size of the structure. The size of the structure for the interior living is 2,518 square feet. I did sort of a quick survey of some of the properties around there, the most recent one that was approved was the spa building for the Hanalei Colony Resort, and that one was approved at 4,200 square feet. So, there's some consistent numbers on the size of structures out there. There's another landowner, some of you might know, Terri Tico, who has the property out there, that one is at 2,600 square feet. There's another two residences that drop in the 2,300 to 4,300 square feet, so it's fairly consistent. Some of the older homes are more in the realm of 1,600 to 1,800 square feet. So, the SMA threshold for what considered exempt on a single-family residence for the first home, and I know this is the second home, not the first home, but it's 7,500 square feet. So, I think the threshold is not too exorbitant to be a large home, when you factor in the interior square footage of 2,500 square feet plus the lanai decking at 1,500, and the stairwell that goes up. So, that's issue number one with the size of the structure. Issue number two was the wastewater treatment issue and the applicant was aware that the cesspool for the existing residence on the property was antiquated and actually took it upon himself to do the Fuji clean aerobics system on that, for that house, and that's already been converted. So, one of the issues that Ms. Diamond raised is to convert that or put a condition to convert that existing residences waste system to a septic system, which has been done, and I submitted that to the SMA Planner for the record. The next issue that we have is dealing with the additional conditions and the additional conditions that are proposed are reasonable, we're okay with them. One includes, I mean that, the two main ones or one includes the seawall restriction, which we all know now that you know that for private residences, the state, county are no longer going to support any sea wall, so the applicants okay with that condition. The second condition is the parking, this is the first project I've ever heard of where they put a restriction on no parking on the site for construction activities, which I know it says we shall consider not doing it and the applicant is willing to consider it, but it's just sometimes it's not reasonable to have you know, certain contractors come out at certain period of times and then relay a shuttle back and forth to get those, but he's willing to try and work it out with the contractor, whomever that may be at the time, to try and create a shuttle process, so, there's a limitation on parking on site. And then the third one or the last one that was raised by Ms. Diamond, is the issue of the existing grandfather single family residence in the front and that that should be removed or relocated. And I think from a constitutional standpoint, that structure is grandfathered in, the law has to respect it. This particular SMA is for the second dwelling, and what impacts that second dwelling may have. There's always a situation where the state can come in and condemn land and take land, saying that it's a part of the coastal beach corridor, the beach access corridor, but I don't think it's reasonable and I believe it's arbitrary and capricious to add some kind of condition that would

require the removal of that structure, if it's ever impacted by coastal erosion because there's going to be a separate process for that, if the state deems that it's on state unencumbered land, then they can initiate those processes. For us to agree to a condition that would, I guess speculate as to what the erosion rate would be because this is all what's anticipated and what the erosion rate would be and lose significant value, I'd probably lose my law license for agreeing to it, but if that were to happen, then the state can come in and do what's necessary, similar to what's happening on the North Shore of O'ahu and how they're dealing with it through OCCL. So, we can't agree to any type of condition dealing with the existing grandfathered single-family residence. With that said, I did bring some photos for the view access corridor as requested at the last Planning Commission. The first photo has the illustration from the road and then the second photo has the color palette that was requested to darken it, illustrating the photo realistic of the home. So, with that, I'll leave it for any questions the Commission may have as to the proposed project, any impacts it may have.

Mr. Ornellas: So, Mr. Jung, what is the distance from the high-water mark to the first dwelling?

Mr. Jung: The first one, we don't have that that marking it's in the shoreline setback. Well, we did a certified shoreline and then a shoreline setback. We could probably get that measurement for you if you want, but it'd be on a rough scale since, we don't have it, but looking here, if you look on Exhibit, I think it's Exhibit E, and it's SP 1, you can see that the state certified shoreline as of...

Mr. Idica: To answer that question, I did some preliminary measurements on the certified shoreline. It's approximately about 15 to 17 feet from the 2022 certified shoreline.

Mr. Ornellas: 15 to 17?

Mr. Idica: That is correct.

Mr. Ornellas: What's the rate of erosion?

Mr. Idica: It's about .4.

Mr. Ornellas: Thank you.

Mr. Idica: You're welcome.

Ms. Streufert: .4 feet per year?

Mr. Idica: That is correct.

Chair Apisa: So, 30 years. Well, half, you know, .5 in 15.

Mr. Jung: But just for record purposes, I think it's important to look at how the rates of erosion are really affecting this parcel over the last 30 years, because they're fairly constant. There's some change with, you know, during North Shore high wave event, but there are periods of time when the sand retreats back on the beach, so, it's an estimated number, it creates a vulnerable number, but the reality is we don't know that data yet and how it's going to impact because it's

been somewhat constant and not like there's some places where, you know, it shows four feet of erosion, but it really hasn't been four feet of erosion. So, in this case, with the minimum amount of .4 feet, it's still not as significant when this house was built back in the 80's.

Mr. Hull: Yeah, just to add because I think Ms. Diamond's comments and that she had here verbally with us, but also, she submitted concerning the proximity of the existing structure to the shoreline and potential undermining action by the ocean. Within the lifespan of structure from a planning perspective, we're a hundred percent in agreement that that is concerning and so, I did have Romio draft, a potential condition of approval reflecting that, but I think as Mr. Jung has intimated that they would have grave objections to that and from a legal standpoint, and so all I have to say is we do have a conditional approval drafted, Mr. Jung has reviewed it, but I think if there's any discussion or desire for the Commission to entertain and look at it, you're going to have to consult with your attorney. Perhaps in executive session as well, if there is a desired pursue that.

Ms. Barzilai: My initial thought is that I am in agreement with Mr. Jung, and that this condition as it applies to the new structure might be unconstitutional as applied based on the factors that you have to consider. I'm not in a hundred percent agreement with Mr. Jung on the speculative nature of the erosion rates. I think that there are other applications where such a demolition requirement may be appropriate. You considered one for variance from a shoreline setback determination, but that was for the subject structure itself. This is for a different structure that is sitting behind the coastal structure. And I can get more into it if you'd like.

Mr. Ornellas: I believe Ms. Diamond's point was the managed retreat from the shoreline would impact the primary structure first and correct me if I'm wrong, but there's no ordinance now regarding retreat as far as allowing room for the retreat.

Ms. Barzilai: Although conceptually I think it's wonderful that Ms. Diamond raised it, but there is no managed retreat or retreat program that the department is implementing at this time.

Mr. Hull: I'll just (inaudible). Ian and I have presented at a multitude of platforms and venues to discuss manage retreat in practice. Hawai'i has one of the most, I know it's not the best in our eyes, but one of the most progressive somewhat managed retreat program, in that it now proactively prohibit sea walls from being constructed on the shoreline. There are many municipalities that don't even have that and that same organization entity OCCL also takes action against those structures that are being undermined by the ocean that aren't moved out. So, currently that's technically the manage retreat policy of the State of Hawai'i is, it doesn't allow new sea walls and allow us and requires structures being undermined by the ocean to be demolished and removed, and then they're making some success with actually, you know, finding to the tune of hundreds of thousands of dollars of structures that are in there. So, you know, I think what when Mr. Jung is getting at is that, you know this structure will be undermined eventually, but it's in OCCL's domain to really regulate that, and that's the manage retreat policies, it's just move it out. Maybe they could move it back a little, but probably not given they're going to have now this larger structure on the site, but anyways, I just wanted...

Mr. Jung: May I comment on that? So, Ms. Diamond and I have talked about this because we have all kinds of theories on various things. And one of the issues I looked at it for like a

(inaudible), I actually look at this project as manage retreat because they're going to build a new house compliant with the shoreline setback ordinance, but the issue is what to do with the first existing home right. So, if the ocean were to encroach onto this particular residence, I wouldn't be able to get that residence lifted up and move back because it's over 1,500 square feet. So, the county shoreline setback variance would not allow for that size of structure. Something would have to be removed when it's retreated back, and it will have to be retreated back at the 40-foot set back line based on a current certifying shoreline. So, if at some point in the future, whether it's ten years from now or 50 years from now, that structure would have a difficult time being relocated unless you modified it and set it back a certain different or certain distance. This new structure would then be seated at the rear of the property, subject to the current 88-foot shoreline setback line compliant with some of the codes on what we anticipate for new projects. The problem with the current certified shoreline is we had to respect of the existing residences, but deal with the future residences and I think that's an issue, you know going forward and I fully understand how the Commission analyzed the shoreline setback variance condition on those particular structures because it's inside, the proposed project was going to be inside the shoreline setback area. So, I think there's a (inaudible) need to connect that type of condition to that type of project one is a shoreline set back variance, but in this case, when the proposed new project sits outside, I think it's hard to come back in and tackle the existing grandfathered residence. It's going to be an issue that OCCL will have to deal with in the future, whether it's ten years from now or 50 years from now, you know they'll have to come up with a plan, but at least this particular landowner will have this permit in place to have the residence on the property should that one need to be removed.

Mr. Ornellas: So, it raises an interesting question regarding density. You would basically lose half of your density on the property.

Mr. Jung: Yeah. Because the size of this particular lot, you get two dwelling units. I know there was an issue raised about ADU, but I don't think the architect of record fully understand the density implications, when he called it the ADU, it still could get an ADU, but it really is a second dwelling. You could, like if the state took the house and took the property and subdivided the lot to make it smaller, then you could still in theory get an ADU, but you'd be subject to the current shoreline setback and fit even if you had to do a shoreline set back variance no greater than 1,500 square feet beyond 40 feet. So, it'd be kind of a narrow building site to put something on.

Mr. Ornellas: Thank you.

Mr. Jung: Sure.

Chair Apisa: Any further questions?

Mr. Ako: Yeah, if I can ask? You know last month we came here and then we put that restriction in there that the house needs to be removed by a certain date. What is the difference between that and this one here?

Mr. Jung: That's what I was just saying because it was a shoreline set back variance. So, that was the first one I think we, was it the first one, yeah, the first one the Planning Commission dealt

with whereby the proposed structures that were, the applicant was asking to get billed, were built going to be built inside the shoreline setback line. The problem with that particular project is the whole lot was in the shoreline setback area, so the condition on those particular houses and the boat shed was to say that in in the 70-year planning horizon, if there's coastal erosion, then the Commission will come back, take a look at it and realize, and if they're getting impacted, have them removed. But that's a special requirement for the shoreline set back variances, this one we're not asking for variance.

Mr. Hull: And so, that one too was that was the proposed structure they wanted to cite it there, so, we're saying, the commission ultimately said, because we're citing the structure here, you're going to have to agree to remove it by such and such date. In this scenario, the structure is being cited outside the setback, and in any condition to now have the existing structure that is inside the setback being moved, again, I'll say from a planning principle is appropriate, it absolutely is, I think. But what I think Mr. Jung is saying and Ms. Barzilai is saying is that from a constitutional standpoint, there are (inaudible) issues. And I've said it before and I'll say it again, the single biggest barrier to managed retreat is United States Constitution, and what it costs to do it.

Ms. Otsuka: I have a question for Mr. Jung. The previous architects rendition has in the middle of an opening where you can see there's an ocean view, and...but you presented us today is blocked off. Is it a sliding wall or is it a permanent...

Mr. Jung: Yeah. Sorry, when Mr. Chun was covering for me in the last meeting and he wanted the angle of the home at the angle for which you make that curvature of the turn. So, there is still the gap between the two lower breakaway wall storage cabinets and garage, but you just can't see it on that. So, the break is still there.

Ms. Otsuka: To see the ocean?

Mr. Jung: Correct.

Ms. Otsuka: Oh.

Mr. Jung: It's just the structure is tilted so as you drive along the highway, what you see.

Ms. Otsuka: Okay.

Mr. Jung: That illustration was, I think, in response to the concern that the brighter color wasn't preferred. So, they use the wood for the darker tint for more darker tones. Which was a proposed condition better.

Ms. Otsuka: It does look better.

Ms. Streufert: Darker.

Mr. Jung: You know, I've had, you know, I hold multiple community meetings on these kinds of things and it's like some people love white, some people have dark, and nobody seems to agree

what's the better. I know with the 1 Hotel when the olive green was proposed everybody seemed to agree that that was good. So, versus the white.

Ms. Streufert: There was a couple of comments about the driveway that was going to be on the west side of the property line and that KIUC has a utility easement in that area, you addressed that. Is that...

Mr. Jung: Yeah, the driveway you can see on the larger plan was enclosed to just be one and the technical driveway is only one, you only get one driveway allowed per lot, you know unless you can prove that the sight distances aren't impacted, in this case there will just be one driveway.

Ms. Streufert: But will that have any impact upon the KIUC...

Mr. Jung: No. Yeah, it won't impact the easement. Because KIUC will still have access to it. So, when KIUC grants easements they're typically not exclusive easements, they're non-exclusive easements where they just have the right to go on and get to their power source to deal with whatever maintenance and repaired.

Ms. Streufert: So, this driveway will not be over. I think it said somewhere in here, one of them that said, it was over right the easement.

Mr. Jung: Along the, where the water meter and (inaudible).

Ms. Streufert: And I all I have is easement. On the KIUC easement. I just want to make sure that we don't have an issue with the utility easements.

Mr. Jung: Yeah, there won't be any issue. Because the landowner will have to respect that easement that's been granted over that property.

Chair Apisa: Are there further questions?

Ms. Barzilai: Need a recommendation from the department.

Chair Apisa: No, no further questions? Yeah, I think we're ready for the recommendation from the department.

Mr. Idica: My apologies. I just have to find the language, my apologies. Based on the foregoing conclusion evaluation, it is hereby recommended that the construction of a second single-family dwelling through Special Management Area Use Permit SMA(U)-2024-10 be approved with the following conditions as amended. Do you want me to read the whole amended conditions or...

Mr. Hull: The Commission has had the report for some time now, so we stand by the conditions. Like I said, we had drafted an additional condition previously to address one of Ms. Diamond's concerns. But we're ultimately at the advice of our attorney not submitting it as a supplemental. So, we stand by the originally submitted supplemental Director's Report.

Chair Apisa: Are there any further questions or is someone...

Mr. Ornellas: I just had one quick question. Mr. Jung, what was the rationale behind not having parking on the lot to reconstruction?

Mr. Jung: I'm not sure. I think that was a comment that came from community testimony. And I've seen it before. I've seen it actually before, where people are parking on the streets. And clustering the street, but not necessarily on the property. So, there was two components, one was the trash, which I confirmed with the owner, they're going to get trash bins to have the trash stored versus scattered about, which is just the respectful thing to do. And then the other one I think was when people come in and off site, there's multiple trucks coming from contractors and subs and all that, but I think that was the issue and maybe it's traffic to the North Shore, I don't know.

Mr. Ornellas: Thank you.

Chair Apisa: And then the applicant, have you reviewed the eighteen conditions? You have no...

Unknown Woman: Eighteen?

Chair Apisa: Aren't there eighteen?

Ms. Barzilai: Eighteen, including...

Chair Apisa: The amended yeah, the supplement to the Planning Director's Report, but there you have no...

Mr. Jung: Yeah, we're acceptable to the additional five conditions to make it from eighteen from thirteen.

Chair Apisa: Are we ready for a motion or any other questions? What is the...

Ms. Streufert: I move to approve the Special Management Area use Permit SMA(U)-2024-10 with the eighteen conditions.

Chair Apisa: Do we have a second?

Mr. Ako: Second.

Chair Apisa: We have a motion on the floor. Is there any further discussion on it? Would like a roll call vote please?

Mr. Hull: Oh, sorry. Roll call, Madam Chair. Commissioner Ako?

Mr. Ako: Aye.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Apisa?

Chair Apisa: Aye.

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

Mr. Jung: Thank you, commissioners.

Ms. Otsuka: Thank you.

Mr. Hull: Next we have, K.2.

ZA-2024-3: A bill (2919) for an ordinance amending Chapter 8, Kaua'i County Code 1987, as amended, relating to the Comprehensive Zoning Ordinance (CZO). The purpose of this Ordinance is to expand the permissiveness of guest houses in zoning districts Residential (R-1 to R-6 and R-10 to R-20), Neighborhood Commercial (C-N), General Commercial (C-G), Agriculture (A), Open (O), and University (UNV), and make other technical edits = KAUAI COUNTY COUNCIL. [Director's Report received and Public Hearing Deferred, June 4, 2024.]

Mr. Hull: I'll call for any public testimony on this agenda item. Seeing none, I'll kind of give a brief report of what happened at the last meeting. We asked this, so we introduced this proposal, which allows guest houses in all zoning districts as permissible for one per dwelling unit and right now, guest houses are allowed one per lot of records, so some lots of record qualify from multiple dwelling units, but only one guest house is allowed where there is some confusion at times is on condominium property regimes on any lot that has residential rights or dwelling rights, I should say, you might have five or six or seven CPR units, each one with a dwelling unit, but only one of those CPR units can qualify for a guest house, so the proposal is to say, all of those units with each of the respective dwellings could qualify for a guest house and a guest house being up to 800 square feet in size, with or without a kitchen, so it can be used for habitable purposes and are currently being used for habitable purposes across the island. So, the department is supportive of the initiative and the draft ordinance we asked for some time to somewhat review and assess other, you know, housing initiatives and programs. And so, we've come back to you folks with two proposed amendments to the bill. One, is that there was some concern in our previous report for two particular areas, one being IAL lands and the other being SMA coastal lands, the IAL lands because those lands are designated important agricultural lands for the express use of being tied up for agriculture use in perpetuity. There are some dwelling

rights on those lands, but the original report rate raised some concerns should guest houses at this new ratio will be allowed on IAL lands. Ultimately, we come to an analysis and a conclusion from our side, is that IAL lands are massive in size and across Kaua'i, you know the amount of guest houses that will be qualified on the IAL parcels is nominal in size. You're talking, you know, right now it might be one per one of those lots, and now they could qualify between five and ten, which might seem like a lot, but most of the lots are thousands of acres in size, and so we're kind of like, it's nominal impact. They could also be used by farmers, who are farming IAL lands, so we decided not to go any further in pursuing that concern. The other concern is allowing guest houses at this new ratio in SMA coastal lands and ultimately we will be come to and our conclusion analysis is that perhaps they aren't appropriate in SMA coastal lands, SMA coastal lands are generally one subject to a higher frequency and intensity of hazards, whether they be coastal flooding, the impacts from hurricanes and storms, sea level rise, so, increasing density in this area may not be appropriate because of all of those hazards, and then also for the most part, the coastal SMA areas are generally a speculative area. It's generally from, unfortunately it's the area that that is most valuable and purchased up from a global speculative aspect, and so having those houses locked up in that, you know, perhaps it's not appropriate when combined with the hazards at the same time by allowing it, you may have some local inventory in there, so we're not, you know, like going down swinging say it should not be in the coastal, but it's a concern we have and right now in the draft what we're saying is it, it should not be allowed at that rate in SMA coastal lands. And then the last amendment we have is to have what's called a guest house clearance form process and this just follows the ADU additional dwelling units, as well as additional rental units all have what's called a clearing form, and it requires the applicant to do this clearing form which is free of charge, they just fill out the tax map key, provide a plot plan that they can hand draw to scale, and the Planning Department will circulate with all the infrastructure agencies and those infrastructure agencies will make an assessment of whether or not that property qualifies for a guest house, pursuant to the infrastructure availability, i.e., does it have water? Does it have the ability to put a sewer system, to put a septic system or hook up to a sewer because the only other way that they could determine that is by drafting, having an architect or draftsman spend five to ten thousand dollars or higher on those plans and then circulated only to find out the Department of Health's not going to let you do it because you can't put a septic system on that property or Water Department has limited water capacity, so you know with the first time I was approached with this idea of clearance forms with the ARU process is like, no, we're not putting another, you know, layer of permit review on the applicant. But then on second look saying like oh, but this could actually protect the applicant and save them a lot of potential lost monies, is where (inaudible) like it's on the ARU, it's on the ADU's, it should also be on the guest house. So, those are the two amendments we have, that's all nutshell. Open to any questions, concerns, issues.

Mr. Ornellas: Yeah, I, you know, Department of Water has concerns regarding water availability, meter availability. Now my understanding is that you could share a water meter with the primary residence, as it presently exists. You don't need a water meter for a guest house.

Mr. Hull: Correct.

Mr. Ornellas: So, that still stands right, so, that kind of answers the department's concern.

Mr. Hull: Yeah, it does, it doesn't. The Water Department could still restrict, depending on the line size or capacity, they still could end up restricting some of these guest houses. The guest (inaudible), the guest houses aren't going to be a way to end run or there's no water capacity in this neighborhood, but we can get guest houses with water. There still will be water issues.

Mr. Ornellas: Yeah, but guest houses right now do not require a separate meter.

Mr. Hull: Nope.

Mr. Ornellas: Okay. So, and then wastewater, right, you can share a septic system providing you fall within the parameters of the number of bedrooms.

Mr. Hull: Yes.

Mr. Ornellas: Okay, so, if you have a five-bedroom septic system, and you have a three bedroom house then you have no problem, right?

Mr. Hull: Exactly.

Mr. Ornellas: Okay, so, that kind of answers...then there's also questions regarding flow, gauging flow to the house, right, and that with the issue of increasing capacity, line size, most houses are 5/8 meters.

Mr. Hull: Yeah.

Mr. Ornellas: So, it's expensive to put a one-inch meter in for (inaudible).

Mr. Hull: Yes. Yeah, that's what the clearance form is going to kind of ferret out, if you will.

Mr. Ornellas: If you could, yeah, okay. Thank you.

Ms. Otsuka: I have a question. There were several testimonies written testimonies against this amendment and my question is, at what point in time does our fold or consideration to date take effect? Does it go back to the Council?

Mr. Hull: Yeah.

Ms. Otsuka: So, a person in Po'ipū who is, has already started planning an ADU and is, if they started it, like today and the Council takes couple months, are they, like, grandfathered in that they can build on Po'ipū...I'm sorry, a shoreline...

Mr. Hull: Okay, so...

Ms. Barzilai: Complaint about the VDA.

Mr. Hull: Yeah, so those if you're, Commissioner Otsuka, if you're referring to some of the testimony provided for Po'ipū, there were concerns in there that in the ordinance as drafted and we didn't recommend touching it states that the guesthouse cannot be used for a TVR vacation rental.

Ms. Otsuka: Okay.

Mr. Hull: If a guesthouse is being used for a vacation rental currently and it exists in the VDA, so the Visitor Destination Area, that's a legal, and that's a legal use today right now. If they got their permits for it though they just get their permit for its Class I Zoning permits over the counter, if they have their zoning permit for today, and the ordinance is adopted tomorrow, they who got their permits today or prior to the adoption date, can still operate as legally nonconforming.

Ms. Otsuka: Thank you.

Chair Apisa: So, I guess just expanding on that, so all they need is the building permit, they don't have to have the house up in use of it.

Mr. Hull: They don't have to have the building permit; they just have to have the zoning permit.

Chair Apisa: Oh, the zoning permit.

Mr. Hull: And so, the zoning permit, yeah, even if the house isn't up yet, they can still get the zoning permit entitlement.

Chair Apisa: Okay. So, do there, is there a special application to do that or is it just, it's there because of the zoning?

Mr. Hull: It's over the, it's at the Planning Department, Class I Zoning Permit, over the counter, \$30 fee.

Chair Apisa: Any other questions? Let's see what's our action required here.

Mr. Hull: Action...sorry, I also, for other testimony that was submitted, I think there was one that was submitted that's recommended removing it from the residential neighborhoods because it could have the impact on the quality of the neighborhood or whatnot. While there is definite, you know, concerns about that, we don't anticipate a...while it would be nice concerning our housing crisis, they're being mad, rushed to the door once the ordinance is adopted in the residential neighborhood because of inadequate in particular wastewater infrastructure in the residential neighborhoods, we don't anticipate a mad rush to the door. We anticipate some. We also anticipate some occurring in the agricultural district and open district, which you know, there are some concerns about that, but just going over our current housing crisis, the amount of permits we've processed in the past three years, I think I presented the last time in the past three years, we've approved on average, a hundred zoning permits, we've approved permits for a hundred dwelling units annually for the past three years, in the middle of a housing crisis whereby we are behind by several thousand. And then I just, you know, found out this past week that the average contractor rate for a single-family dwelling on Kaua'i has hit 500 dollars a square foot. Meaning if you're proposing a 1,500, you will pay 750,000 dollars for just the house, not the land or the infrastructure. And this in bill, in no ways is the panacea to the housing crisis, but is one of many lines we believe are being thrown into the ocean to try and help ameliorate the crisis we're in.

Mr. Ornellas: So, Ka'aina, that hundred houses, hundred units annually, does that include the affordable housing units?

Mr. Hull: So, those were approved prior to the past three years. We haven't had any affordable housing projects. So, there are still affordable housing and other housing units that were approved that still haven't been constructed. (Inaudible) just we're looking at the actual permit caseload, it's a little, it's a little over a hundred a year and, but that's counting houses, like, that are in Kukui'ula that aren't going really into our housing inventory and meeting our housing needs, right, so, we are, we are so far behind. I'm trying to advance that move to get housing, but yeah...

Ms. Streufert: Based upon this, if you had a residence and you had an ADU, could you still have a guest house?

Mr. Hull: Yeah, the way this is, so that's a perfectly good question, Commissioner Streufert, and I don't think I addressed that in my comments. Currently, the existing ADU losses you can either have an ADU or a guest house. What this bill changes to say, you can have them both, and in fact for every dwelling unit you can have a guest house as well. So, if your lot only qualifies, and this isn't for Agriculture District, because the ADU's aren't allowed on the ag district, but in a residential district, if your lot, only qualifies for one house, that means it qualifies for an ADU, but it also qualify for two guest houses now, as opposed to zero guest houses.

Chair Apisa: For every house that you're allowed, you can add additional guest house?

Mr. Hull: Yeah.

Ms. Streufert: And an ADU.

Chair Apisa: No.

Mr. Ornellas: So, those already houses that already have a guest house are not entitled to another guest.

Mr. Hull: No. It's one per.

Mr. Ornellas: Thank you.

Ms. Streufert: But if you have an ADU, you can have guest house.

Mr. Hull: If this bill is adopted, you could have two guest houses on that property. One for the main dwelling, one for the ADU.

Chair Apisa: So, we are looking to either approve or deny the...

Ms. Barzilai: The zoning amendment, Chair.

Chair Apisa: Yeah, you know, as amended, yeah and then refer it back to the Council. So, I mean we, we have to look at what's before us and either approve or deny.

Mr. Hull: Or modify.

Chair Apisa: As amended or modify as amended. As it's already amended.

Mr. Ako: I'll so move. I'll so move to approve Zoning Amendment ZA-2024-3, as revised.

Ms. Barzilai: And refer to Council, Commissioner.

Mr. Ako: And referred to Council.

Ms. Barzilai: Thank you.

Ms. Otsuka: Second.

Chair Apisa: Okay. We have a motion on the floor. Any further discussion on it? No further discussion. I'd like a roll call, please.

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

Mr. Ako: Aye.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Apisa?

Chair Apisa: Aye.

Mr. Hull: Motion passes, Madam Chair 6:0. We don't have any further business on the agenda.

NEW BUSINESS (For Action) (None)

EXECUTIVE SESSION (None)

ANNOUNCEMENTS

Mr. Hull: Our next scheduled meeting is September 10, 2024. We do anticipate for the rest of the year only having Planning Commission meetings on the second Tuesday of the following months, so only one Planning Commission for a month we're anticipating for the rest of the year we have a few agenda items coming up. Some are going to be some administrative rules. We also

have the Nihoku Green application coming back. It's been, the hearings officer has provided a report to the Commission on that, and of course, Coco Palms Status Report is eventually coming, we're working with Chair to get that on the upcoming agenda. Nothing else, but if there's anything the commission would like to see, provided a brief, you can definitely get our staff know, to get that set up.

Ms. Streufert: Are there any additional affordable housing projects that are coming up?

Mr. Hull: You guys just did one via the subdivision action, and that is Phase 2 Of Lima Ola. Lima Ola is definitely up and running. We, the Housing Agency, is going to be taking some actions to shore up lands that they already have purchased over in Kilauea, but it's not going to be going vertical anytime soon. There's also plans in the works for the Waimea 400 property that the Housing Agency is working on, but as far as additional ones coming in for permitting, there's nothing on our immediate horizon. I can say that we anticipate the Central Pacific Bank site, which is going to be converted into, demolished and converted into affordable housing units. They should be breaking ground in the next few months, hopefully, they already have their permits. We also have the Komalu, which is across from Burger King on the highway. They should be breaking out in the next couple of months. And the site of the affordable housing units in Ele'ele that burned down, we do anticipate that developer beginning reconstruction, they do plan on reconstructing in light of, after the fires. And I can't think of any other projects on the immediate horizon. I can say we do have the plantation camp, our department team is doing plantation camp zoning districts for, what we did it for Kaumakani Avenue and Kaumakani Camp, we now have another series of plantation camp form based codes for Numila, which is kind of like Kaua'i Coffee as well as camp six, so we should have those to you folks with the consent of the landowners, we're working with the landowners right now, hopefully before the year's end, and then after that we do anticipate kind of going throughout the state and looking at the other plantation camps to see if we can formulate the Plantation Camp Subdivision Ordinance, that basically reduces lot size requirements, reduces roadway requirements, reduces a fair amount of infrastructure requirements, can't get around DOH and Water Department, but reduces a lot of requirements and is still within the form of the camps that so many here grew up on and grew up within and are familiar with. So, we hope to get that in. And when I was talking with, who was I talking to? Kimi Yuen, from PBR, which is a planning firm, she was saying that they were taking some of the plantation camp work we've done with not just building decks, but more particularly with roadway standards and shared parking standards that were in the camps for decades and implementing them in affordable housing projects. So, it's catching on there and there's moves that are being made, but again, in this crisis, like we're nowhere near resolution of it, so we're trying to cast every line in the river we can.

Ms. Streufert: \$500 dollars a square foot. Is that for single family residents? Would it...what's the cost in terms of a multi-family thing?

Mr. Hull: I don't have that at the top of my head, we can find that out, though. Now, if you know that off the top your head, Francis.

Mr. DeGracia: Even more.

Chair Apisa: Even more, yeah. Bet it's even more. But I'm hearing those same numbers. I've heard it for a while. It's 500 is your starter cost per square foot to build a single-family residence.

Ms. Streufert: How is that...how does that compare to the first (inaudible)? How does it compare with the rest of the United States?

Chair Apisa: Oh, I'm sure it's high.

Mr. Ornellas: Four, I just read today.

Ms. Streufert: 400? So, we're just, we're not that much, 20% more.

Mr. Ornellas: It's incredible because the United States, I mean, I mean, Made in America was a lot a lot cheaper, now it's now four, 400 a square foot.

ADJOURNMENT

Chair Apisa: Building materials and labor. Anything else before or else I'll call for a motion to adjourn.

Mr. Ornellas: Move to adjourn.

Ms. Otsuka: Second.

Chair Apisa: All in favor. Aye (unanimous voice vote). The meeting is adjourned. 6:0.

Chair Apisa adjourned the meeting at 12:43 p.m.

Respectfully submitted by:

 Lisa Oyama

Lisa Oyama,
Commission Support Clerk

() Approved as circulated (date of meeting approved).

(X) Approved as amended. See minutes of September 17, 2024, meeting.