

**BOARD OF VARIANCES AND APPEALS  
REGULAR MEETING  
MARCH 25, 2010**

**(Approved: 4/8/2010)**

**A. CALL TO ORDER**

The regular meeting of the Board of Variances and Appeals (Board) was called to order by Chairman Randall Endo at approximately, 1:35 p.m., Thursday, March 25, 2010, in the Planning Department Conference Room, first floor, Kalana Pakui Building, 250 South High Street, Wailuku, Island of Maui.

A quorum of the Board was present. (See Record of Attendance.)

Chairman Randall Endo: This meeting of the Board of Variances and Appeals will now come to order. Let the record reflect that it's 1:35 p.m. on March 25, 2010, and that there is a quorum present of six Members of the Board and also Corporation Counsel who's just arrived. At this time, we'd like to take the first item on our agenda up. I believe we need the Planning Director.

**B. RESOLUTIONS THANKING OUTGOING MEMBERS: HARJINDER AJMANI AND JAMES SHEFTE**

Mr. Jeffrey Hunt: Thank you, Mr. Chairman. We have two resolutions that I'd like to read into the record. This is customary for our officials who are leaving their positions. And I also have a letter from the Mayor that I'd like to read. So if you'll bear with me.

Resolution of the Maui County Board of Variances and Appeals

Whereas, The Maui County Board of Variances and Appeals was established in 1983; and

Whereas, James Shefte has served the County of Maui since April 2005 as a member of the Maui County Board of Variances and Appeals; and

Whereas, Mr. Shefte has served with dedication, performed his duties in the highest professional manner, and provided valuable guidance in serving the needs of the people of Maui County; and

Whereas, Mr. Shefte's term of office will expire on March 31, 2010; now, therefore,

Be it resolved, by the Maui County Board of Variances and Appeals that it does hereby express its deepest gratitude and appreciation to Mr. Shefte for his service during the past five years; and does hereby extend its best wishes in his future endeavors; and

Be it further resolved that copies of this resolution be transmitted to the Honorable Charmaine Tavares, Mayor of the County of Maui, and the Honorable Danny A. Mateo, Chairman of the Maui County Council.

The second resolution of the Maui County Board of Variances and Appeals:

Whereas, The Maui County Board of Variances and Appeals was established in

1983; and

Whereas, Harjinder Ajmani has served the County of Maui since April 2005 as a member of the Maui County Board of Variances and Appeals; and

Whereas, Mr. Ajmani has served with dedication, performed his duties in the highest professional manner, and provided valuable guidance in serving the needs of the people of Maui County; and

Whereas, Mr. Ajmani's term of office will expire on March 31, 2010; now, therefore,

Be it resolved, by the Maui County Board of Variances and Appeals that it does hereby express its deepest gratitude and appreciation to Mr. Ajmani for his service during the past five years; and does hereby extend its best wishes in his future endeavors; and

Be it further resolved that copies of this resolution be transmitted to the Honorable Charmaine Tavares, Mayor of the County of Maui, and the Honorable Danny A. Mateo, Chairman of the Maui County Council.

And we – like I said, we also have two letters from the Mayor, and I'll read the one letter. It's considered to both of you.

Congratulations on a job well done. On behalf of the people of the County of Maui, please accept my deepest appreciation and gratitude for your dedication and service on the Board of Variances and Appeals. Your efforts and contributions have made a positive difference. I truly believe it is important for citizens to play an active role within both our community and government. The process of recruiting and selecting nominees to the various Maui County boards and commissions has given me a greater appreciation for volunteerism and community service. I would like to commend you for your willingness to devote your time, energy, resources, and insight to the betterment of Maui County. Once again, thank you very much for doing your part to make our County the best that it can be. I hope that your experience has been rewarding and worthwhile.

Sincerely,  
Charmaine Tavares, Mayor  
County of Maui

Chairman Endo: Hari and James, maybe we'll save some comments for you at the end of the meeting by Board Members. I know for myself, it's been a pleasure working with both of you. You folks added a lot of great input. And even though we didn't always agree on the issues, it was always a great dialogue, very useful, and to the benefit of the public. So I know for myself and probably for everyone else, we're going to miss you a lot on this Board.

Mr. Harjinder Ajmani: And we will miss it, too.

Mr. James Shefte: Yes.

Mr. Ajmani: In some ways.

Chairman Endo: Okay. Okay, moving on to Item C-1.

**C. PUBLIC HEARING - VARIANCES**

- 1. TOM PIERCE, ESQ. representing MARGARET ANN HECHT requesting variances from road widening, paving and fire hydrant requirements of Maui County Code, §§16.04B.140, 16.04B.400 and 18.20.040 for the Margaret Hecht Subdivision (Subdivision File No. 1.296) located at 39879 Hana Highway, Hana, Maui, Hawaii; TMK: (2) 1-6-008:023 (BVAV 20100006).**

Mr. Francis Cerizo read the agenda item into the record.

Chairman Endo: Does the Planning Department have a video presentation?

Mr. Cerizo: The applicant has indicated that they'll provide that in their application.

Chairman Endo: Okay, thank you. At this point, can we ask Mr. Pierce to introduce himself and his clients?

Mr. Tom Pierce: Mr. Chair and Members of the Board, my name is Tom Pierce. And thank you for hearing our variance today. And with me today is Greg Hecht, Margaret Hecht's son, the landowner. And also with us are the employee/owners of the Whispering Winds Bamboo Cooperative, Rich von Wellsheim, Ryan Zucco. And also with us today is our Engineer, Stacy Otomo.

Chairman Endo: Mr. Pierce, do you waive reading of the Department of Public Works' staff report?

Mr. Pierce: Yes.

Chairman Endo: Thank you. So do you have a presentation you'd like to—?

Mr. Pierce: I would like, if you would permit.

Chairman Endo: Sure.

Mr. Pierce: And what I'd like to do is the outline that we have for the presentation is I want to just real briefly show you where the property is and make sure the Board is acclimated with the geographical aspects of it. And then I'd like, with the permission of the Chair, to bring up Rich von Wellsheim to just describe the project briefly because I think it helps to understand that with respect to the structures and what we've got going on in the property.

So this property is located out in Kipahulu where that little red candlestick points out. It's about a

half hour's drive from Hana Town, and about a fifteen or twenty minutes' drive from Kaupo Store. The property— You can see where Hana Highway is down below. And the property is composed – what we call Ola Honua Forestry Project is composed of three parcels: Parcel 1, Parcel 23 – excuse me, Parcel 22, and Parcel 23. Together they are – aggregate about 175 acres of land. There's a small State – this little wedge right here is a State parcel. And above it is also a State parcel. These have been leased to the landowner for quite some time. The remaining parcels on each side of this are in private ownership.

The access to the property goes right along through here up those property lines right along in here, and then on up, and then across the State easement. There's also as you can see here, this Parcel 22 is a flag lot. There's an access here, and we have an additional access that comes down through the property this way. And we'll be showing some bigger maps here in just a moment.

This, you can also see from this aerial – you can kind of make out what the – what we were seeing back here. I do want to point out the two big geographical features of this property: one is Opelu Stream, which is not a – it's a periodic stream; and on this side, on the east side, is Koukouai Stream, which is pretty much a perennial – perennially, running stream. And you can see those in this aerial. This is Opelu Gulch. And over here is Koukouai Stream. So between those two, the property goes up right into this upper area here where it meets the State land and then continues down. And this right here, you can see this is some of our – of the bamboo plantation that's been planted. Over in here is some of the tropical hardwood trees that Rich will be talking about.

The lot – the subject lot for the subdivision that's been applied for, we applied for a subdivision in either 2008 or 2009, and we've been working through the process. And the proposed subdivision is a subdivision of Parcel 23, which is 77 – roughly 77 acres in size. And the proposed subdivision will be this long lot, which we call the larger lot, which is about 64 acres in size; and this smaller lot, which is over in the western lower corner, which is 14 acres in size. This lower lot, the importance of this one is this is where we've – you know, because this is right where our access easement comes through, this is where the infrastructure for the agricultural operations have been placed keeping everything close to the road.

So one of the purposes of this subdivision is to – and actually, this is a good point for me to step back for a moment just to explain what the Ola Honua Forestry Project is real briefly. I want Rich to explain it more, but let me just say this that this is for me as I pretty much focus on land conservation projects, that's what I do—that nonprofit work, and this is – I hope there's more projects that come along, but this one of those that you would call a once in a lifetime kind of project that you get to work on. This – the landowner has just been an absolute visionary in terms of wanting to have conservation take place and also provide jobs. It's her belief, and I think this is a belief that a lot of us share that there is a way to create sustainable jobs that can work well with the land. And this is – and her goal with this one is to have it at the highest level.

So one of the elements of this property since day one has been to have strong organic standards. And Rich will talk a little bit more about that, but this is all certified organic—everything that's happening on the property. And what we've been working towards to make this sustainable, we believe to make it sustainable, one of the things we had to do was to turn it into an employee-owned and operated business. So we've been trying to figure out how do we move from having a landowner who runs this operation to having it be employee-owned and operated at all levels,

including not only the business, but the land.

So after – I've been working on the project for five or six years. They've been working on it for ten years. We've now gotten it to the point where we have created – where they have created the employees a cooperative which now – and we've just recently conveyed ownership of the Whispering Winds Bamboo business to them. And now the next step is we want to hopefully subdivide this piece of property here so that they can have the heart and soul of the operations, the agricultural operations. They can have a long term lease and hopefully, an opportunity to purchase that at an affordable price because that's key to the sustainability of the project.

One of the things that's happened here, I just included a front page of a deed of conservation easement that we did back in 2004. And that easement was conveyed – that was donated by the landowner to Maui Coastal Land Trust, and it severely restricts development in the upper part of the property. And you can see the subject property here. This is the smaller lot that we're talking about for this. And now what I'd like to do is bring up Rich to just explain the next part.

Mr. Rich von Wellsheim: Thank you. Good afternoon. My name is Rich von Wellsheim, and I've been with the project since 2003 as the manager onsite. And right from the beginning, the owner said to us, "Well, how do we make this long term sustainable?" And so today is really a giant step for us as we take another one to get closer to that. So we started this conversation seven– They started it ten years ago. We began to clear the land.

And so what we've done is we've got into an agreement with the State Division of Forestry, part of the Department of Land and Natural Resources to do both native restoration work and tropical exotic hardwood as a commercial . . . (inaudible) . . . And so it was just typical Kipahulu-Kaupohana land covered in Christmas berry and guava. And we just went through, and cleared, and planted acre by acre. Again, we've been certified organic since 2004. I believe it's the State Division of Forestry's only organically-managed FSP program, the Forest Stewardship Plan, that we're involved in with them. And that's a cost share program with private landowners. We have 120 acres under contract with them to restore.

Here's some teak that we've put in. This is them at five years. They're now seven or eight years old now. And mahogany—you can see that the growth is pretty phenomenal for such a young project, but we're getting really good response from the land. We have adequate rainfall. And you'll see no guava and Christmas berry regrow. We do – we go to great efforts to keep the weed invasive species to a minimum allowing the trees that we want have selected to grow. This is the bamboo side of the things. I'm very happy to be standing here saying that some of the employees and I have formed a cooperative cooperation, an employee-owned cooperative cooperation, and have bought the business assets of Whispering Winds Bamboo Farm, and we have a lease for running the operation on the land. And so this subdivision really for us will allow us to get into a long term lease on that portion of the property that holds our office, our nursery facilities, our equipment sheds, and we even have a farm labor dwelling that we built a few years ago.

So bamboo's the name of the game. We feel strongly that this stands a good chance of becoming a major crop for Maui and the Hawaiian Islands both for timber, fiber, and food because some of the shoots are quite edible.

This is a quick schematic map of the 20 acres of timber grade bamboo that we have in the ground. These are all clumping bamboos, not running bamboos because we're well aware of the invasive species of our – of their running cousins, but these are clumpers. They stay in their own clump, so to speak, and we harvest them every year. They put out poles. Here's an aerial view of that same map showing the land. And that picture's about four years old right now, and here it is. Took a picture just a couple days ago, actually. So the bamboo's coming on quite nicely and strong. We've begun harvesting poles for market already. Here we are standing down in it. We have 13 species, some black bamboos very highly valued in the market right now. All timber grade, all very, very strong. Some of them yielding a really great shoot for the edible market and of different diameters so that that would satisfy all the requirements for people that want to build with – or use bamboo.

Just some of the species that we have going–another one of the blacks. And this is the – our favorite. This is considered by many in the world to be the strongest and the most valuable–the timber bamboos from South America, the . . . (inaudible) . . . , really, a quick grower. Those plants right there were put in the ground in 2003–little keikis.

So the response has been phenomenal for us. And we're quite excited about the amount of carbon that could be sequestered, the amount of timber that would be available on a yearly basis. Bamboo can be harvested yearly without clear-cutting. You just take the older poles there. Just more of the species.

Here is our nursery operation. While the timber was coming on, we developed a landscaped bamboo – a bamboo landscape market, growing hedges and ornamental species for the landscape industry. And also all the trees that went out in the tropical timber and native restoration aspect of the project were grown onsite. In terms of the natives, the seed came from the Kipahulu area. And in terms of the tropical exotic hardwoods, most of the seed came from Maui County actually from trees around the island–the teaks and the mahoganies.

This is our greenhouse facility, again, chock full of plants. Here is our equipment and equipment shed. This is all located within this 15-acre parcel that we're asking to be subdivided off from the bigger, larger parcel. That is the farm labor dwelling that we built in 2007, 2008, that we have four or five of our workers living in there now. That's inside the building. This is another structure that we're putting up for some of our workers as well.

That's an overview of the farm showing the farm in the upper part of the picture. Up in here is the bamboo. This is the easement coming up through other private parcels, and up the hill, and across into the little parcel that we wanted to be subdivided. So you can see that we're a long way off the Hana Highway. It's rather a lengthy driveway. Much of it has been improved with strips. Here it is on a map which I can't see very well. Here's Hana Highway. We come up here, come across the contour, up again, and then into the project right there.

There is – this is a slide that's in response to a comment by the Fire Department saying that there's not a 24-foot easement. We apologize for that overlook in our application. There is actually a 24-foot wide easement to both the larger parcel and the parcel that we're asking to be subdivided off.

And this is a picture of the road at the Hana Highway. This road has been here for many, many,

many years, and serves a number of private parcels at the bottom as well as our farm at the top. So there's been gravel dumped on it over the years down here near the road. Here is a – this is a bit of hardened, concrete pavement up the first little bit of slope. And there's some more strips up here on a little bit of a difficult area. And then on up into the farm it's all concrete strips. Up here, there's our equipment shed off into the right. And there's plenty of room up here for large trucks, fire engines, if you will, to turn around and have access. We shot this with a big dump truck that comes up and delivers nursery supplies, usually cinders, sometimes road base. And you can see that it's traveling up the easement without any problems whatsoever. And I'm not moving forward any more on this, but maybe 'cause that's it.

So that's the project in a nutshell. I'm extremely fortunately to be able to be a part of it. And like I say, for us as owner/employees, we're excited about the possibility of bamboo in the future and our ability to lease this small subdivided lot for the long term. Thank you very much.

Mr. Pierce: What I'd like to do next is just explain the variance request that we have. The subdivision requirements – and I may actually ask Rich here if I get anything wrong, but one of the things that we also want to talk about is, I just went back to the structures real quickly, these structures are all – all have fire sprinkler systems in them as a result of the permitting process we went through in 2006. The fire sprinkler systems are fed by – and in fact, there's even one here in the shade house. That was a County requirement. Those are all fed from a 60,000-gallon tank that has two four-inch lines that are gravity-fed quite some distance. Mr. Otomo built or designed the system for us. At the time when we did this in 2006, the requirement was to provide the fire protection down to each of the structures, put in the sprinkler systems, and also provide stand pipes. So we have three stand pipes on the property. The stand pipes deliver 250 gallons per minute for two hours. The subdivision requirements require 500 gallons per minute. So one of the places where we're asking for a variance is on the fire hydrant requirement.

The other place, and I want to come back to the reasons why in a second, the other place is – the reason we spent some time talking about the private road is that there's a requirement to have most likely as Public Works pointed out in their staff report, it's not totally clear until they see a construction plan, which would actually be quite expensive for us to do because it's 2,900 feet of road just to go out and survey. I'm estimating. We haven't asked the surveyor for exactly what it would cost, but it would probably be, you know, in the tens of thousands of dollars to get the survey done. So we've been trying to avoid the construction plan with the knowledge of course that we have that fire trucks can make it to the property. So the other part of the variance application is asking for a variance from the road-widening requirements.

The reason we think that this makes sense and why we think that the Board can grant the variance is based upon – you know, of course, you're held to looking at these five requirements, the five variance criteria, and making a decision based upon those. I think we are the ones here that are really at issue: the special geographical considerations, whether there's an extraordinary hardship, and whether there's anything here by you granting the variance that would cause there to be a diminishment in the public health and safety.

And what we can say – Let me first just address the fire hydrant and then go to the roads. With respect to the fire hydrants, this of course – the rules have changed. They're greater now, but as we've explained, our purpose behind this subdivision is really for ownership transfer. And so there

aren't plans to increase density out there, that kind of thing. So what we're asking for is we think that we have a good fire system. By the way, one of the other things that we could actually show you on – if we need to, I've got the plat that Stacy Otomo prepared which shows a reservoir. We also have right now down near these structures in addition to the 60,000-gallon tank, which has the two four-inch lines, we also have a reservoir, which we estimate probably has another 45,000 gallons of water. And so that's another place where the fire truck, if they can make it out there, can do that. So we think on that level, this is a – seems to be the right kind of situation where a variance would make sense.

With respect to the road, the first thing that I think anyone who's traveled around Kipahulu knows is that to get a fire truck from Hana out to Kipahulu, if there's any oncoming cars, there's many places where you – one of them is gonna have to back up. So they already have – we're already dealing with a public road unfortunately, in that situation, which is substandard. And even if you're making good time, it's a half an hour of travel time, you know, even assuming that you can make it without running into the cars coming in the other direction. So I guess our point here is that fire trucks just getting to the frontage of the road are most likely going to have opposing car traffic that they're going to deal with, and they're gonna – someone's gonna have to back up, and they're gonna have to get around that. And those are pretty tough places. What we think we can actually can provide here as the photograph show is that a very large truck can make it up there. There are several places where you can get off to the side. And we have – this has to be used by large machinery, large trucks on a daily basis or a weekly basis. So it's something that we already need to have and we want to keep it there to keep our ag operation going. And therefore, it seems like this is again the kind of place the variance makes sense. We don't see how there'll be a diminishment in public health because when you get down to it, we can improve the road here, but the fire truck still has to make it from Hana, and it still has to do so with a really narrow road. So one analogy could be – the subdivision requirements in this case, because of the unique circumstances would be a little bit like requiring a 12-inch diameter pipe when the water that's getting to that pipe is four inches in diameter. It won't really increase the flow that much.

I think that the other thing– Just, Mr. Chair, two more things and I'll stop. I just want to quickly address the Fire Department's comments. One of the things they basically on page 7 of their staff report, they had three things that they thought were important for the Board to consider. One of them was they said we think that there needs to be a legal access easement that's 24 feet wide. We did not make mention of it, but we do have that in the application, but we do have that as was shown on that one picture. It's actually 50 feet wide up the flag lot and it's 24 feet. It provides access to both the larger lot and the smaller lot. So we felt we've met that.

The Fire Department also mentioned the need for construction plans for the fire system. It seems that they weren't sure that it actually delivered what it says it delivers. We have Stacy Otomo here, if you have any questions regarding the system which he designed. We think we're okay on that part.

They asked for construction plans for the road. Again, we think the pictures are actually more telling here than the construction plans would be. I think they give a much more realistic idea of what is possible out there.

The final thing they mentioned is the stipulation which I'm having a difficult time understanding, but



which was suggesting that they're not – they call it a stipulation, but basically it would be a restriction that any of the parcels involving Ola Honua could not apply for a variance or an appeal at a later date. And that doesn't seem to really make sense in this situation. If you all have any questions, I can talk further about that.

With respect to Public Works, Public Works, if I understood their concerns, one of the things they mentioned is well, you've got 2,900 feet of road that you've got to deal with here. We may not actually require you to upgrade at all. At this stage, we really– But in order for them to get there, they would have to have the construction plans. Our goal is as much as possible is to try to keep this property affordable so that it can get passed on to the employees either in the form of a good long term lease for them, something that'll actually give them some security so that they can really keep this business going. So anything at this stage of the game after getting to this point would really be a setback for us in terms of expenses.

So I guess what we understand that to mean is that– You know, one of the points also made in that same section of the staff report for Public Works was the Director does have some discretion there. And I think that means to say that similarly here as the Hearing Body, you all have some discretion in that area. They also said, look, we can't tell you as much as we'd like to because we don't have construction plans, and they did talk about the cost. This goes to the third criteria, which is an extraordinary hardship that would result from denying the variance. And we think the answer is yes, it would be a dramatic hardship. We estimate the cost of the fire hydrants to be – to put those in to be around \$40,000 to do that upgrade. And the cost of improving just those parts of the road, this is based upon some calculations our engineer has done, just improve the portions of the road that are gravel, not including the other parts that we've improved with the road strips would be around \$300,000. So this would significantly impact our ability to pass on this property affordably to the employees which is the goal of this project.

And with that, the last thing I'd like to do with the Chair's permission is just for the sake – because he's here from the Mainland is to real briefly introduce Greg Hecht, the landowner's son who's been– This was really his idea originally. He said, "Why don't we go out here and start planting trees?" So he really – you know, back – this was almost I think close to 20 years ago when this happened. So with your permission, if he could just say a few words. Thank you.

Mr. Greg Hecht: Hi. Sorry about my appearance. I met the sandbar in Kauai yesterday. Again, as Tom's been – as Tom and Rich have said much better than I, as this project moves forward and its vision becomes more concrete and the land, it's our desire and hope to really allow the employees and the cooperative to keep moving forward without meeting what we kind of perceive as extraordinary costs and without, you know, creating due hardship upon the process because I don't think that they can afford it. So thank you for your time and your consideration.

Chairman Endo: Mr. Pierce, does that conclude your presentation?

Mr. Pierce: Yes, it does. Thank you. We can take any questions.

Chairman Endo: Okay, at this point, we'd like to open it up, the agenda item up, for public testimony. I have here on the sign-up sheet three people who have signed up. If there's anyone else who wants to sign up, please come forward and add your name to the list. Some ground rules:

we do limit the length of the testimony to three minutes. So I will be timing you. And just to let you know at three minutes, I will let you know that you've reached your three minutes, and at three and a half minutes, we take off our shoes and start throwing them at you. So first of all, we have Helen Nielson.

Ms. Helen Nielson: Good afternoon, Board Chair and Board Members. My name is Helen Nielson. And I'm here on my own behalf. I'm a nearby neighbor. Nearby three miles away, but I've been familiar with this project from the very beginning on many different levels. I want to speak to urge you to vote in favor of these variances. I understand that there are basically the two issues: one is the fire hydrant issue. And, you know, with these dwellings having the fire protection, the sprinkler systems put in, it really takes care of that problem. And also, the road requirements, the road is really quite sufficient. Huge trucks can go up and down that road. I've been up and down it for the last 20 years as I have a lot of friends along that road. I can't speak highly enough about the folks who are involved in this project and the project itself. Having this hardwoods tree farm is a real honorable thing trying to create sustainability on this island. So a lot of people really look up to these folks and what they're doing. I don't believe that the usage will change by having this variance. It will be owned by the present workers and with the dwellings that are on there now. So it's not like it's a regular subdivision where there'll be a lot of other homes put in. On another note, I am President of the Maui Coastal Land Trust and I am familiar with the development restrictions that have been placed on the land surrounding this subdivision, so I really appreciate them doing that as well. So anyway, I urge you all to vote in favor of this variance, if you could. It's a great project. Thank you.

Chairman Endo: Thank you. Any questions for Ms. Nielson? Thank you. Next we have Ryan Zucco.

Mr. Ryan Zucco: Thank you. Good afternoon. My name is Ryan Zucco. I'm not going to repeat everything that Tom and Rich said. Just came up here to give you my personal perspective on it. I moved out to the farm ten years ago, approximately. Didn't know anything about farming, but just learned as I went, and just dove right in. I love working with nature. It's so honorable to find something in life that totally gives me great satisfaction just like – and makes me feel like I can spread that love out to the rest of the world. And I've seen that reflected back. Margaret, at the time, the owner, she sent me to mechanics school so that we could have a full-time mechanic on the property to take care of all of the equipment. And then in January, Rich and I formed a cooperation and bought the business from them. We're now employee-owners. I never ever thought I would be in a place in life where I could be a business owner or small business owner and, you know, be growing trees and doing something good for the earth. And I definitely would love to urge you guys to vote in favor of the subdivision just so that, you know, I can watch my dreams come true, and also that we can lease this little piece of property that has all of our infrastructure on it, my shop, and nursery facility, and the housing for us too. So thank you very much for hearing that.

Chairman Endo: Thank you. Any questions for the speaker? No? Thank you.

Mr. Zucco: Thanks.

Chairman Endo: Finally, we have Tweety Lind.

Ms. Tweety Lind: Aloha, all of you. My husband and I are here today. His name is John and I'm Tweety. That's a nickname. I'm here because I couldn't sleep last night. I was concerned. I was concerned because being that we did support Margaret Hecht's project. We have been putting fence working along with the – on State lands on private home lands, Hawaiian lands, you know, asked them permission. So as Kipahulu ohana, we have worked with Margaret Hecht. The only thing is that we were surprised that they wanted to subdivide. I can understand she poured a lot of money into this. Lots and lots of money. Hired a few over the years—native. And as it went down the road, the trees all became big. So now you have a different group coming in, or even the same group that still wants to support the project. I'm not against that. I just felt that it was— We weren't told. The first time Margaret Hecht came before us with . . . (inaudible) . . . they wanted 20 homes. The community shut them down. That was it. Never heard about it. So it kept on going.

I'm concerned about where they're gonna get their water from. Koukouai is right next to their project. Koukouai, my husband will tell you a little bit more about Koukouai. It's a special stream. It maybe would run regular. We're not sure, but when big water does, it does run down. Right now in the village, in the village itself, some of the families are right on the side of Koukouai can't get water, the old Hawaiian families that have moved back. We've been pleading to people. Remember, there's also two private water associations. They don't want us to get on. All of a sudden we hear, hey, Koukouai's getting a subdivision. Where they getting their water from? Do they have an agreement with the State? Are they willing to share more down to the maybe four more families who left their land coming back and they can't get to it? What about the families that live above them: Hailis, Kamais, Kaia? They gonna get water, too, or is it just for them? That's where we're at. We're pleading for water. This is in Hana, in Kipahulu. There's only maybe ten Hawaiian families, but many more will come back. Water has been the issue. I know the bamboos don't really need that much water because you pretty much let it grow with nature. It's not like you have to go out and water it. So when you come for a variance like this, how come the County can say, go ahead without this, without that? But you don't know what goes on back of it. I'm not saying there's alternatives.

Chairman Endo: Three minutes.

Ms. Lind: I'm not saying that, but I'm just saying that you have to look at addressing the water issue. Have they also had an EIA, something like that where we who live there all of our lives at least can feel comfortable? At least we can feel we said something. Either we say it now or our mouth will be shut up because it's gonna be gone. It's gonna be away from our hands into another private water system. Thank you very much.

Chairman Endo: Okay. Any questions for Ms. Lind? No? Thank you. Is there anyone else who wishes to testify? Please come up and sign the sign-up sheet.

Mr. John Lind: I have a few words I just wanted to say that—

Chairman Endo: Please state your name.

Mr. Lind: John Lind. I'm John Lind. I was born and raised in Hana, Kipahulu area. And I'm a Konahiki for that area. And I was one of the guys who put in that waterline with John Hanchett way before Margaret got in. We put a water tank, too, with the son, Mike Hanchett. And one day

Margaret came to me and asked me that if we could help her bless or pule . . . (inaudible) . . . bless her place, and I was there, which was a good project. Rich is my good friend. You know, we are really close in community where they help us kind of like keep our community together. I felt that, you know, they should've come and see us. At least tell us, you know. But I like what they doing, which is good. I feel that I think we gotta get more together because a lot of the families who don't understand what's going on who told me to speak up. And I'm not a speaker, but, you know, I'm kind of like concerned to really say that we really gotta look into this, and let us work real close so we don't get disputes in among ourselves. So that's it. Love all you guys and love all you folks. That's all I got to say. Aloha.

Chairman Endo: Thank you. Any questions for Mr. Lind?

Ms. Lind: I go ask him a question. Can I ask him?

Chairman Endo: Oh, no, I'm sorry. The questions are from the Board to the testifier. No? No. Thank you. Is there anyone else in the public who wishes to testify as to this agenda item? Seeing no one coming forward, we will close public testimony as to this agenda item only.

At this point, we should note for the record that there are actually two staff reports and I erroneously only referred to one previously. There is one from the Public Works and also one from the Fire Department. So we can begin asking questions, but if no one has an objection, I thought we'd ask both Departments if they had anything else or anything they wanted to highlight from their reports starting with the Fire Department.

Mr. Paul Haake: Good afternoon, Chairman and Board. I don't have anything to highlight. I think the staff report speaks for itself. Maybe in the end, the conclusion, the intent of the staff report was not to deter the subdivision, but to remind everybody that there's minimum requirements that you have to do to be allowed to do the subdivision. And I wanted to explain my understanding of how all these requirements came to be like the roads and the fire protection because I had people come into my office every day and they have problems with access because of past subdivisions that were allowed and they weren't held to any type of minimum standard. So now these people come to me and they say, what am I gonna do? And I don't have no answers for them, some suggestions, but-- So the-- And then they also ask about fire protection. You know, why am I now this last person after somebody divides up a big piece of land into small parcels, why now am I now responsible for all of the infrastructure? So the requirements are there so that as each person starting with the person with the big amount of land breaks the thing apart, each person is responsible for making sure that they provide the proper access, and they share in some of the costs of the infrastructure, and not just let people just cut things up, and then sell them away, and then I gotta deal with all these people coming in to my office. So that's how I understand how these requirements -- the reasons for them. And that's what this whole wordy thing was about. I have to apologize because I didn't have a clear understanding of appeals and variance. I thought if you came in for a variance, you had to provide some type of alternative to what was required. But I have since been informed that's not correct, so that's why I keep making references to what's the alternatives that they're gonna provide. That's it.

Chairman Endo: Thank you. Any questions for Captain Haake?

Mr. Ajmani: Can I ask?

Chairman Endo: Yes, sure.

Mr. Ajmani: Captain Haake, you have seen the existing fire protection systems over there for the buildings that they currently have: the fire sprinkler, the stand pipes, and the water source, the pressure?

Mr. Haake: No, I haven't. I only know about them because they're referenced in their report.

Mr. Ajmani: So before writing your report, you did not verify it, or looked into it, or physically looked at them or anything?

Mr. Haake: No, I did not.

Mr. Ajmani: Okay, thank you.

Chairman Endo: Any additional questions?

Mr. Stephen Castro, Sr.: Yeah, just one. Do you have any plans in going to visit the property to see if they're in compliance with the sprinklers and all the dwellings?

Mr. Haake: That could be arranged, but what's happening here is you have two different things going on: you have the subdivision and you have building permits. So they were required to put sprinklers in their structures because they don't have adequate fire protection. So one of the exceptions to not having adequate fire protection is to sprinkle the structures that you build. And so that's why their structures have sprinkler systems in them. Now, to do a subdivision, you have to provide some type of infrastructure fire protection for the parcels that you create. So I could arrange to go out there, but then on a site visit without proper plans, I'm not sure what is what. They might have different roads going to the parcels. So the plan that I received, it was really hard to determine what was what. You could – I could tell the easements because there was an arrow to the line saying this 12-foot easement, 12-foot easement, and then they didn't show any of their fire protection on the plan. They just referenced it in their report.

Chairman Endo: Hari?

Mr. Ajmani: These buildings were all done with the building – proper building permit. So during the building permit process, did the Fire Department look at the adequacy of the fire protection system, or where the water was coming for that? I mean, who – somebody must have established the requirement, and somebody at the County must have approved those requirements. Did you ever try to find out who did that or what they did?

Mr. Haake: I'm not sure how recent the permits were, but I'm sure somebody at least looked at their fire sprinkler plan. And with that fire sprinkler plan, the design of it is just for two heads to calc. So the most you need would be 600 gallons of water—two heads calced for 20 minutes at 13 gallons a head. So it would be about 600 gallons. So as long as they showed us on their plan that we have a 600-gallon tank to provide water for two sprinkler heads, their plan was okay. We didn't

have to see a 60,000-gallon water tank. It would've been nice if they included it on their plan. You know, this is the fire protection we have. This is where our tank is. This is the piping that we have, and this is the locations of the stand pipes.

Mr. Ajmani: I think these permits were obtained in 2006 and 2009, so they are not very old permits.

Mr. Haake: Okay, so someone had to look at the fire sprinklers.

Mr. Ajmani: Who does that? Does the Fire Department look at it?

Mr. Haake: Yes, we do. Yes, we do.

Mr. Ajmani: So somebody in your Department must have looked at it.

Mr. Haake: Right.

Mr. Ajmani: Did you have any conversations with that person?

Mr. Haake: No.

Mr. Ajmani: Okay.

Mr. Haake: And we're assuming that it's all good, but then you have two different things going on here. You have the subdivision and you have the building permit.

Mr. Ajmani: Okay, but I think one of your report's concern is that future buildings may not be okayed if you have the subdivision. So I'm surprised that you did not make any attempt to understand what the existing system they have.

Mr. Haake: Well, you know, if they have sprinkler systems, that's fine. We can cut up a large portion of land and provide all these lots with homes that are sprinkled. But if you don't have any type of outside infrastructure, how are you to protect those homes from an outside type of issue? These homes are – these fire sprinkler systems are only designed to give the people time to get out of their home. That's the difference between a resident – a residential fire sprinkler system and a commercial fire sprinkler system. One that's designed for the commercial application, that sprinkler system is designed to put the fire out. For a residential sprinkler system, that system is only designed to keep the fire in its beginning stages so that the people have time to get out. I'd say a high 90% that sprinkler system for the residential structure would put the fire out, but it's not designed to do that. It's only designed to give the people time to get out. So you're gonna maybe have to have a fire truck there to put the fire out. Now, if we just did subdivisions with no fire hydrants and just home sprinkled, and then they started to burn, or we had a brush fire coming, there's no way to protect those homes. So I understand that they're way out there and this is just the beginning, but you have to make each person responsible for that infrastructure. What that is, I don't know. That's going to be for you guys to decide.

Mr. Ajmani: I'm just trying to understand that what additional fire requirement there might be if they subdivide because the drawing shows that there's a 60,000-gallon water tank, a 30,000-gallon

water tank. And I'm sure that they were sized based upon some directions from you or your Department. And I'm just trying to understand whether – what were the basis for those, or whether they will remain adequate, or should we ask the applicant to increase them? Or I'm just trying to find out the basis.

Mr. Haake: Yes, that's a good question. You know what? They don't have any plans in here, so I wasn't able to review it. If – that's why I said, it would've been nice if they had some plans, and I could've at least taken a look at it.

Chairman Endo: If I might try and help, I do believe you're right. It's kind of vague as to what exactly the request is. It does say that they have three existing stand pipes. They just want to stay with that. They don't want to put in any fire hydrants. So I guess we need to understand a little bit about what the two differences is like how many fire hydrants would they be required to do, in general, do you think, and how good is the existing three stand pipes versus the fire hydrants that would have to go in. And if you're not sure, maybe we can ask maybe Stacy also, their civil engineer, to comment.

Mr. Haake: Okay. Well, when we asked for this fire protection, the fire protection is provided on a road that we can – that meets the Fire Code: minimum 20 feet wide, all weather surface, capable of supporting the fire truck. So now we have that road, and all these parcels, or whatever – how many parcels they create need to have access to that road. And then on that road, depending on how long it is, we'll space the fire hydrants on there. So I wasn't able to determine from this plan how to access the parcel, or how I'm going to do the spacing. In fact, I don't really do that. They hire an engineer, and he brings in their plan, and we look at it and say, okay, they're meeting the intent. In this case, they're just doing two lots. So what they could've done, depending upon the design, was just to put one spot, put a fire hydrant there, and both parcels have access to that fire hydrant, and it would've worked out fine. In my conclusion, I'm not really concerned about the fire protection. I am, but what I was really concerned about was their access. I didn't think their access was adequate. And then the stipulation was, you know, you can't keep applying for these appeals and not put in the infrastructure till all the way till you get the last guy and this person is bearing the total cost. If they think it's a hardship now, try and do it later at the end. So maybe Stacy can enlighten us with the fire protection plan, if there's no more questions.

Chairman Endo: No other questions?

Mr. Ajmani: Thank you.

Chairman Endo: Thanks, Captain.

Mr. Haake: Thank you.

Chairman Endo: Mr. Otomo?

Mr. Pierce: Mr. Chair, if I could say one thing just to simplify in terms of our request? We're not asking for a variance from any subdivision requirement regarding the size of the tanks like 60,000 gallons versus whatever because we actually think we've met that. And we – I believe it was a requirement – Stacy can say whether or not, but it was our understanding that it was a requirement

when we were doing the building permit process. So the only part that we're asking a variance from is as the Chair said the difference between doing a stand pipe versus a hydrant. So with respect to everything else, as we go through the subdivision process, if Public Works needs to have a review of that, it's not something that we've asked for a variance from in terms of any other part of our fire system, just to make sure that was clear.

Mr. Stacy Otomo: Good afternoon, Chair Endo and Members of the Board. My name is Stacy Otomo. Regarding the fire protection system, in all fairness to Captain Haake, I think this was prior to his time when we started on these plans, somewhere around 2005. And we might have been dealing with Scott English at that time. But just to give you a brief overview of the system, if you look on the upper right-hand corner where you see the two lines going up, it actually goes up to a 60,000-gallon tank. And at that time, the requirement for fire protection was only 30,000 gallons. So we exceeded the amount by a factor of two. There's two four-inch lines that come down that branch off to both sides and comes down like a horseshoe shape. And what we did was we provided a lateral to each of the structures for the sprinkler system, and I think called out for three or four stand pipes which were installed. And at the bottom right at the left-hand corner of the lot, we see a circular thing. That's what Tom was saying that there's an existing pond that's there that also has a capacity of about 45,000 gallons. So there is a fire system in there. I'm not sure at what point the Fire Department looked at this, but like I said, in all fairness to Captain Haake, I think it was before his time, but it was presented to them at some point in time.

Mr. Kevin Tanaka: Stacy, for agricultural zone, 500 gallons per minute, 500-foot spacing between hydrants for a duration of two hours, I think that's pretty recent. So your design actually met the previous requirement?

Mr. Otomo: That's correct. What's happening now is there's two four-inch lines that comes down. It joins with the common four-inch line, and it's four inches all around, but if you take the cumulative of the both of them, they actually meet today's standards both in storage and capacity.

Mr. Ajmani: What is the water source of these pipes right now?

Mr. Otomo: I'll let Rich answer that. I think it comes from the stream.

Mr. von Wellsheim: . . . (inaudible) . . .

Mr. Ajmani: Okay, so it comes from the stream, and then gets stored in the tanks, and then flows through the pipes?

Mr. Otomo: That's correct.

Mr. Ajmani: So the tanks stays full?

Mr. Otomo: Yes.

Mr. Ajmani: All the time?

Mr. Otomo: Yes.



Mr. Ajmani: And what kind of – what height?

Chairman Endo: If you're going to speak, please ask the people to come up and speak into the mic., because we're recording the testimony.

Mr. Ajmani: I just want to find out a little bit – some technical – whether – what kind of pressure you have on this line or flow.

Mr. Otomo: I think based on that information that's on that plan that we're looking at, at the very top where the two four-inch line comes down and branches off, the pressure there is between 70 and 75 pounds. And we're coming downhill, so by the time you reach these structures, you have quite a bit more pressure than that.

Mr. Ajmani: Okay, so you don't need any fire pump or anything like that?

Mr. Otomo: No.

Mr. Ajmani: Okay, in the drawing here shows a 60,000-gallon tank and a 30,000-gallon tank. Are you familiar with those two?

Mr. Otomo: The lines that we're connecting to I believe goes to the 60,000-gallon tank.

Mr. Ajmani: Okay, thank you.

Mr. Tanaka: Just to be clear, the 60,000-gallon tank is specific for fire prevention and only fire prevention?

Mr. Otomo: According to Rich it is, fire protection.

Mr. Tanaka: So your domestic water use is a separate source?

Mr. von Wellsheim: It is the 30,000-gallon tank that was just mentioned on the right-hand side of the property. That runs our nursery facility and other water for the farm, but they made us put in the 60,000-gallon as a standalone, fire suppression only. So the source to that 60,000-gallon although it's replenished from Koukouai, we haven't had a fire. So it's hooked up and there's a flow. At the top of it. It keeps it full. If we lose any through evaporation, and there is a cover on it, it gets replenished.

Mr. Ajmani: Okay, so then– Can I ask another question?

Chairman Endo: Yes, sure.

Mr. Ajmani: So from the 60,000-gallon tank, you have the fire lines running to all these buildings? And then from the 30,000-gallon, you have separate lines going to the same buildings as potable water?

Mr. von Wellsheim: Yes. Yes.

Mr. Ajmani: So there are two sets of lines?

Mr. von Wellsheim: Yes.

Mr. Ajmani: So these four stand pipes that you're talking about, they are connected to the 60,000-gallon tank?

Mr. von Wellsheim: That's correct.

Mr. Ajmani: And they are two and half-inch sized pipes, or four-inch sized pipes with two and a half-inch sized stand pipes?

Mr. von Wellsheim: No, I believe it's a two-inch stand pipe with a hundred feet of cloth hose standing next to the buildings, the main buildings.

Mr. Ajmani: Okay.

Chairman Endo: So, Stacy, do you have a general idea of what exactly we talking about in terms of location of the stand pipes versus of location in number of the hydrants so we can have a better sense of what exactly the variance request is on this topic?

Mr. Otomo: One of them is not – the stand pipe is capable of 250 gallons per minute per head versus a fire hydrant that if you come off a six-inch line is 500 gallons a minute. What they're asking for is to leave the stand pipes as is, and I believe the access road issue, right, Tom? Access road, the width, not improving – not having to improve the access road.

Chairman Endo: Okay, so if we didn't grant the variance, they'd have to upgrade their lines. It's not just the cost of the hydrant, but all the lines that feed in will probably have to be upgraded in order to have higher flow amounts and pressure or whatever.

Mr. Otomo: That may be questionable because like I said, there's two lines that come down, and the structures fall within 500 feet of multiple stand pipes. So in terms of getting the 500 gallons a minute for two hours, I believe most of the structures meet the criteria.

Chairman Endo: Okay. Any other questions for Mr. Otomo?

Mr. Ajmani: I think if I see the requirement for agricultural subdivision, it's 500 gpm for two hours. So that translates to 60,000 gallons storage. So it looks like you do have a 60,000-gallon storage tank.

Mr. Otomo: That's correct.

Mr. Ajmani: Now, it happens to be on an adjacent lot, if this drawing is correct. So from there, I don't know what the stand pipe locations and if the requirement will be satisfactory to the Fire Department, but will it be possible to run a six-inch line from the tank to some fire hydrants if the Fire Department requires that to be the case?

Mr. Otomo: Well, like I said, there's two four-inch lines that come down. So the capacity of two four-inch lines equal a six-inch. So it'll be redundant to run a six-inch line from the tank down. There is enough capacity in those two lines that come down.

Mr. Ajmani: Okay, I don't think the two four-inch lines are equal to one six-inch line, but—

Mr. Otomo: Well, capacity wise, if you have a stand pipe off of a four-inch line, that's 250 gallons a minute, and we got two times that so—

Mr. Ajmani: So you have two four-inch lines coming from the tank to these buildings?

Mr. Otomo: That's correct. I think if you look at the diagram that's on the screen—

Mr. Ajmani: I see the drawing. I look at — I cannot relate to that drawing.

Mr. Otomo: Okay, maybe this will help. There's two four-inch lines that come down here. It splits off. One four-inch comes down here. Another one comes down here. And there's stand pipes, I believe, right here, right here, and right here. And these are the two four-inch lines that go up to the 60,000-gallon tank.

Mr. Ajmani: And where are the buildings on this drawing?

Mr. Otomo: One's here. There's some small ones. Rich, you might have to help me out, right there.

Mr. von Wellsheim: That's the shop and equipment shed. And there's a stand pipe right outside of that corner. The farm labor dwelling is right there, and there's a stand pipe right there. And down here where our nursery facility is, is the third one down here.

Mr. Ajmani: According to the drawing I have, the 60,000-gallon tank is very close to the farm worker housing, it looks like. I don't know what the scale is, but it's less than a hundred feet or so.

Mr. von Wellsheim: Could I look at your map?

Mr. Ajmani: The 60,000-gallon tank is right here.

Mr. von Wellsheim: . . . (inaudible) . . .

Mr. Ajmani: You see the arrow pointing to this? Is this the farm dwelling?

Mr. von Wellsheim: That is the farm labor dwelling. The tank is up here. And I don't know . . . (inaudible) . . . , but the tank is up here. . . . (inaudible) . . .

Mr. Ajmani: . . . (inaudible) . . . This tank is over here somewhere.

Mr. von Wellsheim: . . . (inaudible) . . .

Chairman Endo: Well, while we're figuring this out— Oh, you had a question?

Mr. Tanaka: Well, I just wanted to clarify, if I understand you correctly, it's – the difference between a single six-inch line that would feed 500 gallons per minute, you're saying that two four-inch lines will produce two 250 gallons per minute sources. So that's – I mean, that's the difference. What— You have 500 gallons. It's just from two separate lines.

Mr. Otomo: That's correct.

Mr. Tanaka: I just wanted to clarify that.

Chairman Endo: Okay, any further questions for Mr. Otomo? Okay, thanks, Stacy. Might have some more for you later.

Mr. Otomo: Okay.

Chairman Endo: We should ask Ms. Otani if she wants to add anything to her staff report from the Department of Public Works.

Ms. Lesli Otani: Actually, for this – this report was done by Mr. Lance Nakamura. So I'm here today on his behalf. There were two items that were of a concern to the Department that I'm here to clarify.

One is that in the application, there were statements regarding the length of improvements. And that is not something that the Department has decided upon. Typically, when the construction plans are submitted to our office, there's a review by ourselves and also by the traffic engineers to determine the amount of improvements. There's some discretion, but if you read the code as was revised in 2007, typically what is required is 100 lineal feet of improvements in access to the lot times each lot that's created less one. So if there's two lots created, at a minimum, we would require the first 100 feet, so 100 x1 to be improved to our standards. And typically for ag, it's gonna be the swales, grass swales, with the 20 feet of concrete or pavement. We can require more. That is discretionary. In urban areas, we would require possibly sidewalks, curb, gutter, things of that nature. If the Director feels that the roads are so inadequate as to impair health and safety, then we can require more, which typically as a rule of thumb, we take it to the major County roadways. In this case, it may be the State or the government road that's adjacent or down below the property. So it could be that we would require 2,000 feet or more, or it could be that we would require only the 100 feet. So we just wanted to clarify that that we never stated we would require all of it. It's just that we don't know right now. It's somewhere between the 100 and all the way down the hill is the requirement.

The second item was that if the Board does grant the variance, we just have a concern that in all areas, minimal safety is met. So again, we don't have construction plans. We don't know the condition of the road based upon plans. We do have an inspector for Hana, but he didn't go out as there was no inspection required. So if the Board does grant the variance, we ask that – and I'm not sure how you would determine it, but at least any areas that need to be improved, are improved to some kind of standard, if not our own. Thank you.

Chairman Endo: Lesli, that minimum hundred, is that from the highway, or is that from the lot boundary?

Ms. Otani: There's discretion in that, too, because sometimes you have areas. For example, Naalae Road in Kula where down by where some of the newer subdivisions are, it's improved, but up closer to in that case Kula Highway, it's not improved. So, you know, usually we go for the area that would be most helpful to the community and to the person subdividing.

Chairman Endo: Thank you. Questions?

Mr. Tanaka: Questions for the applicant.

Chairman Endo: Yeah.

Mr. Tanaka: I guess, Mr. Pierce, you can answer this. Hopefully, you can. You showed us photos of that strip paved areas. How much of that between Hana Highway and the actual parcel is that stripped pavement versus gravel versus any paved area, any other concrete, any other grass paved? Do you have some kind of a—?

Mr. Pierce: Yes, we did measure it out, and it's roughly – it's a hundred feet in either direction. I can – in fact, I think I have it in my notes, but it's roughly half and half—half strips and concrete, and half, you know, really impacted gravel with a little bit of dirt as we saw.

Mr. Tanaka: So is it as closer you get to the parcel, that's where those grass strips are?

Mr. Pierce: That's correct. So if I may, I can point back here real quick to show you?

Mr. Tanaka: Because the last few photos that showed the truck—

Mr. Pierce: Okay, this map right here shows the access. There's Hana Highway. And so if we break this into five parts, this is part one, this is part two, part three, part four. That's all the 40-foot wide easement. And then part five is this little State easement going across the State land. And that correlates— This is part one. That's actually part three right there. That's the part that was going across right here. That part going right there. And then the next part, now you're going up. Essentially every one— This is— Essentially, we're the only people that use this part of the road. And it continues on up. And that is the part that's going across the State land right there. This little sign right there is the entranceway. And then once you're here, you're inside the property. And this the turnaround area that we have right inside the property. And the shop is right off to the right-hand side right here.

Mr. Tanaka: So according to your diagram, what you define as part one coming off of the highway and up along Parcel 4-A, it's basically a gravel road?

Mr. Pierce: Right, this is the part that everyone uses. And it's actually the part that— You know, one of the reasons that there are road strips only on this upper part, it's because the community and the neighbors did not want road strips in their area. They really wanted to hang on to— Am I correct in that, Rich? They really wanted to hang on to this because we – Rich has really spearheaded

improvements to that road over time. And so we've done it where the neighbors were okay with it. And where they haven't, we haven't done it. And it's usually been a group project with the neighbors working together to do the work over a few weekends, that kind of thing.

Mr. Tanaka: And how many of these neighbors use that – your – first part of that access road, roughly?

Mr. Pierce: So there's five lots.

Mr. Tanaka: Thank you.

Mr. Pierce: Before getting to our lot.

Chairman Endo: Any other questions? Hari?

Mr. Ajmani: Yeah, Mr. Pierce, I have some questions about there are one, two, three, four, five buildings built on this which is right now is a 77-acre lot.

Mr. Pierce: That's – you know, I don't have the exact number of structures in my head, but that sounds about right.

Mr. Ajmani: It says "barn," and "farm shed," "farm worker housing," "green house," and "shed house." So I just wanted to find out from the Public Works Department or somebody how these five buildings will be still okay for a smaller lot, or is there a lot requirement that determines how many buildings can be made? Am I making sense?

Mr. Pierce: You can ask the question again. And what I'm also thinking is I think there is – there's another farm storage structure that's not included. I think it is included there.

Mr. Ajmani: Yeah, I think there is another structure. One, two, three, four, five six of them.

Mr. Pierce: Okay.

Mr. Ajmani: So my question is, I don't know the rules about it, but six parcels – six buildings will be allowed on the 77-acre lot, but they may not be allowed on the 16-acre lot.

Mr. Pierce: Oh, I think we have no problem with that because the question of dwellings – I can defer to Public Works, but we've got one farm labor dwelling there. And the other dwelling that you saw in the photographs is actually on a separate parcel, and – but these are all permitted. I mean, they're all permitted. All the structures are permitted.

Mr. Ajmani: But for one 77-acre parcel.

Mr. Pierce: And that has not been an issue through the subdivision process.

Mr. Francis Cerizo: I can answer that question. As far as any lot, any single lot, you're allowed to have two dwellings: one dwelling not more than a thousand square feet, and a second dwelling is based on the area of your lot. And the maximum amount of building area for a dwelling would be

10 percent of the actual parcel. So if you're looking at 70 acres, you're looking at a pretty big house, but one can be only a thousand square feet. The other one can be like few acres big. So that's just for the dwellings itself. And as far as farm structures like sheds, hot houses, there is no limit on those structures.

Mr. Ajmani: Oh, I see, so all the buildings would be – will stay the same, will still be legal if they were to be built today?

Mr. Cerizo: That's correct. As it's shown now, if you put all those structures on one lot, that would be allowable.

Mr. Pierce: And one thing I'd like to mention is that the farm structure, the green house, that we showed you that is on the subject parcel, Parcel 23, the one that we were trying to subdivide from, that is permitted as a farm labor dwelling under the County code, which means we went to the County, we showed them the income that we were producing off of the property, and they have permitted it as specifically for a farm labor dwelling. And you have to meet several criteria in order to do that. And the idea behind those criteria is to make sure that you're doing legitimate farming activities. And the reason I point that out is that you still have obviously, other rights associated, potentially, associated with the property in addition to that.

Mr. Cerizo: One additional addition here is that when we're looking at farm labor dwellings, that is over and above the actual farm dwellings. Farm labor dwellings is different from a single family farm dwelling. And the difference between that is that farm labor dwellings are basically for the workers. And certain criteria is that you can have – the minimum lot size is five acres for each farm labor dwelling. And there's also a minimum amount of sales that you would have to generate from your farm in order to qualify for a farm labor dwelling. So based on this lot, you're looking at one for every five acres. There's quite a bit more dwellings that can be constructed on the property.

Mr. Ajmani: So in other words they can build some more on this 16-acre lot, if they want to?

Mr. Cerizo: There's two lots. On the 13-acre, you could do more two more. You could do a total of two farm labor dwellings and two farm dwellings. Or if the subdivision goes through, you can do the same with the lot, the 16-acre lot, one per five acres. On top of that, the two regular farm dwellings.

Chairman Endo: We're going to take a short five-minute break. We're going to come right back at 3:05, so please hurry back.

(A recess was then taken at 3:03 p.m., and the meeting reconvened at 3:13 p.m.)

Chairman Endo: The meeting of the Board of Variances and Appeals is back in session. When we left off, Member Ajmani was still asking some questions.

Mr. Ajmani: Yeah, I have a couple of questions, which are more administrative type, which is this parcel that is being subdivided is one of the three parcels owned by the same owner right now, Margaret Hecht. And apparently, the new parcel will be owned by some corporation. And I don't really understand how the corporation relates to Margaret. Or will she have a— The corporation

will lease the land, or will buy the land, or— I just want to know what the issue may come up when – if this subdivision is granted and the County – if somebody asks for more permits and so on.

Mr. von Wellsheim: So it's our hope as the employee-owned Whispering Winds Bamboo Cooperative that we would at least enter into a long term lease with the owner. And if the possibility arose and revenues were adequate enough that we could go into a lease-to-own type of situation. But for the foreseeable future, since we're a startup business, a lease is really the one thing that we're looking for security from. So she would still be the owner.

Mr. Ajmani: Okay, so right now it would be just leased?

Mr. von Wellsheim: That's correct.

Mr. Ajmani: And the corporation has like somebody heading the corporation, or does all the dealings with the owner, or—?

Mr. von Wellsheim: Yes, that's me.

Mr. Ajmani: Okay. And can the County be sure that this will stay like this because under this kind of scenario, we can see that since ownership does not change other than the lease agreement, so the County can put some restrictions, or if something is not going well, they can go after an owner. But if this gets totally owned by an entity, which is different from the other, then your water storage tank is on one property from which the lines are coming to this property, so how does – how is that going to be okay in the future?

Mr. von Wellsheim: Before I bought the property, I would make sure that there was an easement allowing me to have that water tank that served those buildings, but until then, they're owned by the same person, so that issue isn't there. And I'm almost certain that the easements for that are in place from one property to the other. We chose that site for the water tank, for the fire suppression system, so that it would develop enough head to give the flow requirements totally understanding that it was not on the same parcel of land, if I'm understanding your question correctly.

Mr. Ajmani: Yeah, I think— See, right now, there are two four-inch pipes coming, as somebody explained, and they are two different parts. And has the easement been dedicated for that? I don't see any easement being dedicated at this point.

Mr. Pierce: At this point—

Mr. von Wellsheim: . . . (inaudible) . . . are in the easement on this photo.

Mr. Pierce: Right, right. It's part of the new . . . (inaudible) . . . which this is the one that is also our new 24-foot wide striper.

Chairman Endo: Is that in your application?

Mr. von Wellsheim: No, it is not. We apologize for that, but we're including it here in our presentation because of the comment either by Public Works or the Fire Department that the



easement wasn't wide enough, but is there is a 24-foot wide easement to both the proposed lots. And in that 24-foot easement coming down off the hill is where the fire suppression lines are.

Mr. Ajmani: Yeah, I think that's my one concern is that just by making this subdivision, I think there are some legal issues which will prevent them from doing anything to this lot in the future are creating conflicts with the County as to what can be done, or what you would like to do, and what the County will say you cannot do. And I'm trying to understand the ramification of those kinds of issues.

Mr. von Wellsheim: Right, and I'm sure—

Mr. Ajmani: Because it's not clear to me.

Mr. von Wellsheim: Yeah, I can't answer for the County.

Mr. Ajmani: Maybe the Board Members understand this better than I do.

Mr. Pierce: Maybe I can help with that. What I'm hearing is the concern is to make sure that if there were a conveyance of what is called Parcel 22, this parcel, if there was a conveyance out such that the ownership would change and it was no longer owned by — some were owners that Parcel 23 were the smaller parcel here that we're asking for subdivision on would still have the benefits and rights to the water storage tank, the fire protection system, which is the water tank and the lines. Is that the concern?

Mr. Ajmani: That, and also the — I heard your potable water system is also coming from a 30,000-gallon tank which is currently on the same lot as this small lot, but it will become a different lot.

Mr. Pierce: Well, this actually goes back to something that the testifiers, the Linds, were saying is — which is something that the owner is very concerned about is the owner really wants to protect Koukouai Stream, and really, once again keeping the sustainability aspects of the project. We went to the Department of Water Supply, and in fact, it's part of the subdivision file right now. There's now the requirement—show me the water. And we said in this case, for this project, it's going to be catchment, which works in Kipahulu because of the rainfall. That's also, one of the reasons why it works as a fantastic place for ag activities. So that is going to be on catchment. And the conveyance of the property will not include any rights. This is already the intent of the owner. It will not include any rights to Koukouai Stream. And that's true of any of the lots that are not touching the stream. Does that help?

Mr. Ajmani: Well, I think it's — I think it does give a little more information, but I'm not positive I have conveyed that. The implications are that there are just too many things happening between parcels. And if the ownership gets changed right now, it's a friendly ownership, and in the future, it may not be, and what will be the implications?

Mr. Pierce: Well, you know, one of the reasons that there is a relationship between these, and this is probably more detailed than anyone wants to know, but we have spent a lot of time doing the master planning on this project. And the idea is for the ownership between those three parcels— And let me see if I can go back to the beginning real quick. These three parcels, we really want

them to interact with each other in a way to where they're supporting each other. So this area, one of the reasons this is conserved is this is a very, very highly sensitive area up here. It's State land which what the owner along with Rich here, working with the community and with the State, they've been putting fences in to really keep out the feral animals and things like that. And they're really improving things. The idea is a lot of the tropical hardwoods here, part of that also includes native reforestation part, so we're bringing koas. You saw some photographs with some koas. We're trying to bring down some of that native forest down in here to restore it. So this was all originally sugarcane. It was originally sugarcane and then grazed for years. So it's going to take a long time to rehabilitate it. But the idea was that this would not be much of a financial center. I mean, creating native forest isn't a great way to make money. But the way that we've strategized this to have this bamboo operation which can generate money, but it can do it in a sustainable way where we really feel like we're still healing the land and doing it right. And then this parcel becomes the place where all the operations take place from. And what it will do is send workers up into this – these long, long term hardwood forestry areas to do work. This is not going to be an economic engine for 30 or 40 years. At that point under the forest stewardship program that we're working with, with the State, we might be in a position where we can do a little bit of a sustainable logging there, if we want to, but this is really where this happens. So the idea was, give us a short term economic engine where we can have workers co-habiting with conserved lands, and still in a position where they're generating enough money from this activity to go up and still continue to restore and protect this area. And one of the ideas here is obviously, that this lot then is separated from Koukouai Stream which is a very important stream. It's one that the landowners made very much throughout all of our strategic planning and master planning is to protect that as much as possible. And one of the things that Rich can talk more to is that the farm really – one of the selections in terms of what are we gonna do for crops here is to – the bamboo, once you get it started, and it is all started now, does not require any water. It can go through – in fact, they've just gone through one of the longest droughts in a long time, but this is comparing it to, you know, tillable kinds of crops, which requires ongoing water every time that you put in your crop in. So the idea here was to really try to have things here that makes sense over the long haul, and will not be a drain on the natural resources. So that was a long way of saying, yes, you are actually seeing the interrelationship between these parties which was an intentional part of our master plan. But of course, we always have those situations where things change, and they are separate lots. They are entitled to be sold separately. So one of the things that I could say is to the extent the Board is concerned about this fire protection system making sure that it remains viable here, subject to just talking with the owner, we – I'm certain that this is fine because it's something that we've intended, we will make sure that we can show the Board through the property easement documents that this lot, what we call the smaller parcel where the workers will be continue to using it, always has rights, a perpetual easement to the fire protection system. That's absolutely imperative for that project, and we wanna make sure that that happens because we want them to be able to use that to the best ability they can.

Mr. Ajmani: I think my concern is I really admire the effort that you are doing and what you are doing. That is very commendable and everything. And I'm glad you are doing it, but one thing I'm not able to fully understand is that why this can stay as is just by subleasing this amount of parcel to all the working corporation and not even go through any subdivision process. Why that will not be – not let you accomplish what you are trying to do?

Mr. Pierce: That's something I wish we could do, but maybe Francis can talk to this, but I don't

think— There's only one exception. A lease constitutes a subdivision under the Maui County Code. And with the limited of exception of where it's an "agricultural lease," which I believe Francis probably confirm this, but I believe that you cannot have structures associated with the lease. And it's— So that is one part. But the other part is that the long term lease is really a vehicle to get the employee cooperative to a point where they can own it. So what the long term lease does initially is it permits them— Right now, they are not able to go and get capital backing. They can't go to a bank because they don't have anything. What we wanna do is start giving them the security they can have to where they can start leveraging the assets that they have. They'll have business assets. We also want them to have certain kinds of land assets so where they can go in a prudent way, you know, start to use that to get the kind of backing that they need like any landowner would. So ultimately, it's very important for them to have ownership of that as part of that process. One of the other things from a sustainable perspective, obviously, a lease is somewhat tenuous. We really — you know, if you take that seventh generation concept, that's really something we're trying to have here. And so ownership is really important to see this thing continue beyond just this one landowner. We don't want that lease to end up with another landowner who perhaps doesn't grant or give the employee cooperative the same level of security, so ownership is very important for that. And we feel that this is the time to be asking for it because it's one of these last little pieces we need to really try to put together this master plan.

Chairman Endo: Just to clarify, I believe if you want to have an agricultural lease under the Maui County Code, you can't have any dwellings on it. You can have structures.

Mr. Pierce: Right, okay, so it would be the dwellings. Thank you, yeah.

Chairman Endo: Just to follow up on a quick question related to Member Ajmani's, though, this is somewhat tangential, but you probably could've done a two-lot condo on this land and avoided most of these requirements. I'm not sure if you've investigated that or not.

Mr. Pierce: Well, you know, what we're hoping here is that right now, the place can handle five workers. And — but if we start generating the kind of harvest and sales that—and Rich can speak to this more as necessary—you know, once we start generating the kind of sales that will really make this thing sustainable, right now it's still in this — we can survive, but no one can — it's still very tenuous. We need to get a certain minimum level of sales from the bamboo to make it happen, and to do that, and this is what we think is a beautiful part of it, it requires labor. And it requires labor at a level to where we put people close to the land that they're working on so that they— And you heard this best from Ryan Zucco, he's one of the employees out there, they love this property once they get a chance to be on it, and they — because we think that's part of it. So one of the reasons that we prefer to have a subdivision as opposed to a condominium is that it will give us some ability to do some prudent additional housing as necessary. And what we actually hope to do is, as the income comes on line, we can go back and ask for another farm labor dwelling. And that of course, we couldn't do — the condominium permits you to do a separation of ownership, but it doesn't give you any additional rights of — you know, it doesn't give you any additional density opportunities.

Chairman Endo: It doesn't give you additional density for the living dwellings, the single family residences, but I'm pretty sure you can still do the farm labor dwellings. You can check with Planning on that, but I know it's tangential because you're here for the subdivision. It was just a side question.

Mr. Pierce: Right. Yeah. We hope we don't have to consider that, but we will if we have to after today.

Chairman Endo: I guess from my perspective, I'll let other people – we're running close to – we're running out of time, but it seems like we're kind of – don't have a real clear picture. I mean, we all – well, not we all, I, for one, think the project is great, and all the work that's been done is awesome and everything, but we don't seem to have a good sense of exactly what the variance is for because we don't know what DSA wants in terms of improvements. And we know you want on one hand just to be released from doing any improvements to the road. On the other hand, we don't have any certification that there's no health or safety issues. I mean, it looks great on the pictures, and it looks great seeing the truck going up there, but I would think we would want something more. I don't know. Maybe a site inspection with the Fire Department and maybe somebody from DSA to go up there at least get together with you folks and just sort of narrow down the issues a little bit better so that we can have a better idea of what we're granting because essentially, you're just asking us for a blanket variance without even knowing what the two choices we're picking from. You know, one is they don't have to do anything. Just go ahead and leave the road completely the same. Don't do anything to fire protection. And the other side, if we don't grant it, what exactly would – either requirement. We don't really know, yeah, at this point. So it seems like most of the time when we have applications, it's a little bit clearer in our mind what we're making a decision on. And so that's why I think we're struggling at this point. Members?

Mr. Ajmani: I think very well put, Randy. I'm struggling. I like the project and I like what they're doing, but I'm struggling with this application which is not very clear. It doesn't answer – it raises a lot of questions which I can't get any answers for.

Mr. James Shefte: Mr. Chairman, I would agree with Hari's comments. I also feel that the presentations are unclear and not definitive enough to make a good decision, a good informed decision.

Chairman Endo: Perhaps we should ask the parties as well as the – I mean, the applicant as well as the Department of Public Works and Fire what they suggest could be done to add clarity so that we can make a better decision. Ms. Otani?

Ms. Otani: We could go out and do an inspection, but my concern is that right now, there's not an established threshold of what the Board – what types of improvements the Board would want, because if we send out the Development Services Construction Inspector, he will be looking for what he typically looks for, which is 20 feet of pavement, swales, things of that nature. And so, you know, I'm not sure how safe is safe to the Board, because for us our minimum may be different than your minimum. And again, our Inspector would be looking for what he typically looks for. And again, there's several easements in the area. I'm not sure if – this didn't really come up, but I'm not sure if the access that they're using is how they're justifying their – or plan to justify their 24 feet of legal access. And that's the other thing is that typically, when we review is that each subdivision is required to have a 24 feet minimum of legal access, and that the improvements are actually in the access. And I heard language about a 12-foot State easement. So if their tire tracks and such are within the State portion that supposedly is 12 feet, that would not be within the 24 feet of legal access that is required for compliance with the Subdivision Code.

Chairman Endo: Mr. Pierce, you want to say anything? Then I'm going to ask Captain Haake also.

Mr. Pierce: Why don't I hear from the Fire Department, if I may? And then I'll respond to both, but we certainly – I'll just say, you know, we'd love to work with both Departments and try to work something out to give greater clarity.

Chairman Endo: Okay. Captain Haake, the question is, if we were to defer this matter and come back again, can you help us? What would help to make it clearer for us and for you?

Mr. Haake: I think better plans, you know, showing exactly what they're using, their access, because the plans that I had, I couldn't really tell anything from it. Like, I saw a 12-foot road. I saw some of the lines drawn. So if they could really define their access and put their fire protection in, better plans would help. And then like Lesli said, we could go out and at least look at the stuff, because they're pointing out access through the State, and then somebody said they had access through the top so—

Chairman Endo: Okay.

Mr. Haake: Thank you.

Chairman Endo: Thanks. Mr. Pierce?

Mr. Pierce: You know, you can probably suggest procedurally, but I think one of the things that we would need to have an opportunity to do is to supplement the application after we've had an opportunity to confer and hopefully maybe get the inspections, figure out what would be the minimum that the Departments would need to see. As I mentioned earlier, we're hoping we can avoid construction plans because the survey cost would be quite high. Maybe we can find something that would still work for both Public Works and Fire that would be short of that. And hopefully, Stacy would have some suggestions on that. So I would just ask that as part whatever deliberation you have is you give us an opportunity to continue until we've had an opportunity to meet with both the Departments, work that out as much as possible, and then give all three of us an opportunity to supplement the record with some papers to come back before the next hearing.

Chairman Endo: That part should be no problem.

Mr. Aaron Shinmoto: Timeline, to give you some timeline things here, April 8<sup>th</sup>, the next meeting is an orientation meeting. You could defer to that meeting. However, I don't know how much time it would take for them to schedule the inspections and things. April 22<sup>nd</sup>, you're on your way to Lanai. So the next available after that is May 13<sup>th</sup>. There's already two variances on May 13<sup>th</sup> so you may be going to May 27<sup>th</sup>. And there's also that 60-day or 120-day deadlines that the Board has to operate under. Maybe Mr. Giroux could explain that part.

Chairman Endo: Okay. If we do continue this matter, Mr. Pierce, is your client willing to waive the 60 and 120-day requirements which impose limitations from the Board in which we can make a decision?

Mr. Pierce: Yes, we are willing to waive that.

Chairman Endo: Okay.

Mr. Shinmoto: So the earliest, unless you make the April 8<sup>th</sup> meeting, you're looking at May or June.

Mr. Pierce: I think just because it's Kipahulu and we're going to be working with the Departments' schedules, I think realistically, we shouldn't shoot for anything in April. We'll probably need to looking at one of those two May hearing dates.

Mr. Shinmoto: We'll talk to Mr. Pierce and get a better date later on.

Chairman Endo: Okay. So we'll let you folks work out the details on the exact date.

Mr. Shinmoto: And that is assuming you defer.

Chairman Endo: Assuming we defer, yeah. So the Chair would recommend that somebody make a motion to defer the matter with an instruction to the parties to meet and discuss possible alternatives for the Board to consider in granting the variance, and to ask that the Fire and Public Works Department do a preliminary inspection of the site particularly with regard to the access road and to come up with their thoughts as to what the minimum requirements would be either – or actually, what the minimum requirements would be without a variance, and what the bare absolute minimum they would want if a variance were granted as a condition to the variance.

Mr. Ajmani: I make a motion.

Chairman Endo: Okay.

Mr. Ajmani: To defer the application for a subsequent meeting in which the applicant, and the Fire Department, and the County Department of Public Works have worked out some of the details, have a better understanding of the – both administrative and technical side of the issues, and have minimum requirements stipulated for granting a variance or not granting it.

Chairman Endo: Is there a second?

Mr. Tanaka: So second.

Chairman Endo: Okay, it's been moved and seconded. Discussion? Corporation Counsel for the Board suggested that we insert a date specific for the next meeting since there are time deadline issues, and it can always be changed by agreement, but for now, we'd like to have a date.

Mr. Shinmoto: We prefer June 10<sup>th</sup>. May 27<sup>th</sup>, we may be able to squeeze something in there, but June 10<sup>th</sup>.

Mr. Pierce: That's okay.

Chairman Endo: Is June 10<sup>th</sup> okay with the applicant?

Mr. Pierce: Yes.

Chairman Endo: Okay. So if no objection, we'll assume that it's deferred to June 10<sup>th</sup> with all the other things also added in. No objections? Okay. Further discussion? All those in favor of the motion, please say aye. Opposed?

It was moved by Mr. Ajmani, seconded by Mr. Tanaka, then

**VOTED: To the June 10, 2010 meeting with the stipulations as stated.**

**(Assenting: H. Ajmani, K. Tanaka, J. Shefte, R. Phillips, S. Castro)**  
**(Excused: W. Kamai, R. Shimabuku)**

Chairman Endo: **The motion is carried and the matter is deferred with the stipulations as stated.**

Mr. Pierce: Thank you.

Mr. James Giroux: And, Staff, can you make sure the new Members get the transcript of what occurred today? They're going to need to review those documents.

#### **D. APPROVAL OF THE MARCH 11, 2010 MEETING MINUTES**

Chairman Endo: Members, we have the March 11, 2010 meeting minutes in front of us. Would someone make a motion?

Mr. Castro: Move to accept.

Mr. Tanaka: So second.

Chairman Endo: Okay, it's been moved and seconded to approve the March 11, 2010 meeting minutes. Discussion? Hearing none, all those in favor, please say aye. Opposed, please say no.

It was moved by Mr. Castro, seconded by Mr. Tanaka, then

**VOTED: To approve the March 11, 2010 meeting minutes as presented.**

**(Assenting: S. Castro, K. Tanaka, H. Ajmani, J. Shefte, R. Phillips)**  
**(Excused: W. Kamai, R. Shimabuku)**

Chairman Endo: **The motion is carried and the minutes are approved.** Is there a Director's Report?

#### **E. DIRECTOR'S REPORT**

##### **1. Status Update on BVA's Contested Cases**

Mr. Shinmoto: You have the status update of the appeals and hearings in your binder, your packet. Nothing really happened.

Mr. Cerizo: If you want us to go through it, we have six different appeals. The West Maui Village Appeal, there's a – it's being – they're trying to settle the matter. That's on BVAA 2007007. The Makila Ranches, there's four appeals. And on that matter, we have the – right now, it went through a contested case, and the Judge is preparing his hearings report. The Mancini Farm Dwelling is being resolved with the applicant. As far as the Kaanapali Royal Condominiums, that was resolved on March 11<sup>th</sup>. We had the Board grant the appeal, and they're working on the final order. The Kaanapali Resort, Lot no. 3, right now, the Hearings Officer has been appointed and the contract is being processed. And finally, Victor Campos' appeal is set for the contested case to be heard on March 27<sup>th</sup>.

Chairman Endo: Thank you, Mr. Cerizo.

**2. Reminder to turn in Updated Financial Disclosures by April 15, 2010**

Mr. Shinmoto: Next is the reminder to those Board Members who have not yet done so, please turn in your updated financial disclosures by April 15<sup>th</sup>, tax day. Turn it in. There are penalties if you don't turn in.

**3. April 22, 2010 Meeting on Lanai**

Mr. Shinmoto: Next, April 22<sup>nd</sup>, you'll be going to Lanai. And we're going to let you ride the boat. We know you folks, some of you never rode the boat, so we thought we'd give you this experience. April 22<sup>nd</sup>. It departs Lahaina Harbor at 6:45 in the morning. We hope to catch the 2:00 boat back, if not, 4:30. We'll try to arrange transportation from here. Maybe meet at the County building here at an appropriate time and then take you folks all over there.

Chairman Endo: Okay, is there any further business of the Board? Any final remarks by our outgoing Members?

Mr. Tanaka: Good luck to you both. Thank you very much for your time.

Mr. Ajmani: I want to say that I'm glad – I'm really happy to serve on this Board with you. And thank you for your patience. I was the one asking most of the questions, delayed most of the meetings, so I apologize for that, but I needed to understand what was going on, so I hope you don't mind.

Chairman Endo: Not at all. James?

Mr. Shefte: I also have enjoyed my time here over the last five years. And I've discovered one thing, I didn't take enough legal courses in school to really understand all these legal wranglings that go on back and forth, but I think it's enough. And it's been a pleasure working with you guys, and I wish you good luck in the next year.

Chairman Endo: Thank you.

Mr. Shefte: That includes everybody behind me, too.

Mr. Shinmoto: And there are more boards and commissions that are looking for volunteers, so don't



be afraid to volunteer the next time around. And after a year, you can come back, or after two years, you can come back. You take two years off, and then you can come back.

Mr. Castro: Hari, I look forward to reading your comments in the *Maui News*.

Mr. Shefte: Yes, they do appear from time to time, don't they?

Mr. Ajmani: I don't get that much time any more. I used to work as an engineer. That was my—I used to have big buildings. When I worked for a big architect firm, we had to go for a variance for pretty much every project we used to do. So I was used to be on the other side. And I really never thought about what goes behind the table and so on. So this really was an eye-opener and a worthwhile experience for me to see from both sides.

Chairman Endo: Okay, thank you. Meeting adjourned.

**F. NEXT MEETING DATE: April 8, 2010, Thursday**

**G. ADJOURNMENT**

There being no further business to come before the Board, the meeting adjourned at 3:49 p.m.

Respectfully submitted by,



TREMAINE K. BALBERDI  
Secretary to Boards and Commissions II

**RECORD OF ATTENDANCE**

**Members Present:**

Randall Endo, Chairman  
Kevin Tanaka, Vice-Chairman  
James Shefte  
Rachel Ball Phillips  
Harjinder Ajmani  
Stephen Castro, Sr.

**Members Excused:**

Ray Shimabuku  
William Kamai

**Others:**

Jeffrey S. Hunt, Planning Director

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Kathleen Aoki, Planning Deputy Director  
Aaron Shinmoto, Planning Program Administrator  
Francis Cerizo, Staff Planner, Planning Department  
James Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel  
Lesli Otani, Civil Engineer, Department of Public Works, Development Services Administration  
Paul Haake, Captain, Department of Fire and Public Safety