

**BOARD OF VARIANCES AND APPEALS
REGULAR MEETING
JANUARY 24, 2013**

(Approved: 2/14/2013)

A. CALL TO ORDER

The meeting of the Board of Variances and Appeals (Board) was called to order by Vice-Chairman Rick Tanner at approximately, 1:15 p.m., Thursday, January 24, 2013, in the Lanai Senior Center, 309 Seventh Street, Lanai, Hawaii.

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

Vice-Chairman Rick Tanner: Good afternoon. At this time I'll call the meeting of the Board of Variances and Appeals to order. The time is 1:15 p.m. and the let the record show we have a quorum. I'd like to thank you all for joining us today. It's a pleasure to be here. Normally, you would have Kevin, but he gets motion sickness so you got me. Last time I was in this . . . well, not this building, on this spot, was a different building. We were working on a variance for the parking and I was just hopeful we'd get out of the building before it came down on us. And so it's really a pleasure to be in this new facility. Fantastic. It's really beautiful. And we're happy to have a small part in that. So at this time will the staff read the notice of public hearing?

B. PUBLIC HEARING

- 1. LANAI COMMUNITY HEALTH CENTER for LANAI RESORTS, LLC requesting variances to delete the following: (1) Maui County Code (MCC), §§18.20.040, 16.26B.3600, 18.16.060(B), which requires the construction of roadway improvements and the widening of existing rights-of way; and (2) MCC, §16.04B.110, which requires a paved, 20-foot wide minimum-fire apparatus access road, for the proposed Lanai Community Health Center at 647 Gay Street, Lanai City, Hawaii; TMK: (2) 4-9-006:011 (BVAV 20120011).**

Ms. Trisha Kapua`ala read the agenda item into the record.

Vice-Chairman Tanner: Thank you. Does staff have a presentation?

Ms. Kapua`ala: The site visit was considered . . .

Vice-Chairman Tanner: OK. At this time, if the applicant would come forward, speak into the mic., and state their name.

Ms. Diana Shaw: My name is Diana Shaw. I'm the executive director for Lanai Community Health Center.

Vice-Chairman Tanner: At this time, if you'd like to make your presentation.

Ms. Shaw: I'm gonna actually turn over for the beginning to our Architect Hawaii, Marney Murdock and Kwan Law. They'll be doing most of the presentation. Thank you.

Ms. Marney Murdock: To give you a little background on Lanai Community Health Center, it is a nonprofit center providing the following services: primary care and preventive health services, communicable disease testing, dental, mental health services, prenatal services, cardiology, chronic disease management, wellness services, counseling and treatment, alternative medicine, insurance eligibility, and medical enabling services such as outreach, case management, and language interpretation. The Health Center has taken a leadership role in the provision of family planning, Title 10 services providing education and treatment to men and women within childbearing age. Lanai Community Health Center serves mainly the uninsured and under-insured. So basically, Vice-Chairman, would you just like me to go through each point?

Vice-Chairman Tanner: Yes, that would be helpful.

Ms. Murdock: OK. So first, number one, that there are special geographical or physical circumstances or conditions affecting the property that are not common to all property in the area. There are three points that we'd like to bring forward.

First that the property located between . . . it's bordered by Houston Street, Gay Street, Sixth and Seventh. First, Houston Street, there is an existing 70-foot high Cook Island Pine tree at the north corner of the property near Houston and Sixth that would be approximately, eight feet within the right-of-way. The tree is healthy and established with a trunk diameter of 30 inches and should not be cut down. There are other trees along Houston as well that would fall within the right-of-way that would also need to be cut down.

The second point B: Houston, Sixth, and Gay Streets. The natural terrain of the site slopes about four feet from Houston Street to Gay Street in the southwesterly direction to the corner of Gay and Sixth Streets. Our intent is to maintain the existing drainage patterns and drainage discharge points off the site. There are no existing drainage systems around the project site so consequently, increasing impervious services increases storm water runoff. Storm water runoff can pick up pollutants and ultimately flow to the ocean. By increasing the paved area to 24 feet in width, Gay Street, four and a half feet in width of grassy area would be eliminated for paving. On Houston Street, five feet in width of grassy area would be eliminated increasing the paved area and potential for storm water runoff.

The third point C: on Gay Street, the Maui Community College structures currently encroach four inches into Gay Street. If the street is widened to comply with the 44-foot right-of-way, according to 18.16.050, the existing buildings will encroach seven feet . . . approximately 7 feet, 4 inches into the street. In the proposed draft of the National Register of Historic Places, these two buildings constructed in 1927 were considered contributing building sites to the plantation vernacular commercial Lanai City business country town zone. As the building has been inventoried as a potentially historical building, mitigation measure to relocate or modify the structures owned currently by Lanai Resorts and leased to the University of Hawaii will be a hardship if Lanai Community Hospital will . . . Lanai Community Health Center were made responsible for these mitigation measures. Obtaining subdivision is a requirement of Lanai Community Health Center's lease with Lanai Resorts.

So the following slides are some images, graphic images, that reinforce those three points just mentioned. You can see where the arrow's pointing to the Cook Pines, that's Houston Street. And

along there, there are . . . there's the large Cook Pine that's on Sixth and Houston, and then a row of them all the way down on Houston.

I apologize, these images are a little bit hard to see. This is Gay Street. And these are the current Lanai Art Center support building and the Maui Community College that we spoke of that encroach onto Gay Street. This is another view of Gay Street looking toward Seventh Street.

This is standing near Seventh Street looking toward Sixth Street on Houston. And you can see the many Cook Pines here that would be in the right-of-way and that would need to be removed.

This is on the corner of Houston and Sixth Street. This is the established Cook Pine that would have to be relocated if the right-of-way . . . that would be in the right-of-way.

So this is the site between Houston and Gay Street. And this side is Sixth and this side is Seventh. This is Lanai Art Center. And this is the Maui Community College. And this is the current site. This is the proposed site for the new Lanai Community Health Center. You can see that this is the direction of the current sheet flow of the water, the runoff. It's naturally flowing in this direction. And our proposed plan is to maintain the existing terrain of the land and to not have any additional storm water runoff onto the surrounding streets.

This slide actually is for Item 2. And Item 2 is that the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner and extraordinary hardship will result from strict compliance with the provisions of this title because of the special geographical or physical circumstances or conditions affecting the property. Widening the road to provide the required right-of-way of 44 feet on Gay and Houston Streets would decrease the grass-covered area fronting those streets by seven feet in width for a total of 14 feet of the property. This also reduces the existing building setbacks to 2'6" and 9'6", respectively. There will be insufficient space for the people to enter safely into the building fronting Gay Street since the front doors will be 2'6" from the edge of the street. That is with the current building configuration that's there now.

Lanai Community Health Center has applied for a building permit to construct a new structure on a portion of this lot which involves demolition of the existing three structures that are there now. However, due to funding issues, the new clinic may not be built for several years. It depends. There is construction funding in place. Some of it has a time limit. Because the Lanai Community Health Center is trying to make the medical services more accessible to the community, an option is to bring the services into the existing buildings that are there now and do the necessary modification so that the clinic can operate within this proposed property. So that Lanai Community Health Center does not lose the grant funding, they've been able to secure to date, a second temporary option. They're considering to move the Health Center into the existing buildings. By moving temporarily to the existing buildings on Houston and Gay Street site, the clinic is much easier . . . number one, the clinic is much easier for patients to access. And number two, the Health Center can utilize the grant funds that will expire next year. The temporary option would not be possible if the road is widened and one of the buildings cannot be used. So on this map, you can see that the dark line, it's a red line, that is how much the property line would be set in: seven feet on Gay Street, and seven feet on Houston Street, and three feet on Sixth Street.

Number three, that the special geographical or physical circumstances or conditions affecting the

property are not the result of previous actions pertaining to the subdivision. The special geographical and physical circumstances affecting the property were put into place when the town was originally planned. The unique character of Lanai City is a grid plan of the streets with the narrow pavement width, and frequent lack of edge defined by a curb, and thick planting of Cook Pines. The topography of our site is integral to the gently sloping terrain of this portion of Lanai City. The Maui Community College structures were built originally as Yet Lung Store's warehouse in 1927. This is not a result of our actions, but it is our intent to maintain and enhance the unique character of Lanai City.

I know this is difficult to read on the screen, but this is an excerpt from the Lanai Community Plan. And it specifically itemizes the goals for the urban design. And I'm just gonna point out a couple of them, which is listed in the objectives and polices of the Lanai Community Plan:

- To maintain existing scale and street layout pattern of Lanai City.
- To develop off-street parking as part of expanded commercial facilities.
- To promote an architectural style within the commercial civic center area that is consistent with the existing buildings and neighborhood character.

And lastly, "To maintain existing road rights-of-ways within Lanai City."

The next slide shows the grid pattern of the city. And you can see where the project site is located.

This photo illustrates the example of the narrow streets with the undefined curb edges unique to the city.

Number four, that the granting of the variance shall not be detrimental to the public's health, safety, or welfare, or injurious to other property in the vicinity of said property. So the granting of the variance shall not be detrimental to the public's health, safety, and welfare. To the contrary, complying with the right-of-way would decrease the distance between the street and building entrance, that's the existing building entrance, and make it unsafe for occupants utilizing the buildings especially, on Gay Street.

And number five, that the said property has obtained an appropriate zoning designation provided that for purposes of this chapter, districts with interim zoning shall not be considered an appropriate zoning. Our response: that the property is appropriately designated as business country town and should be preserved as stated in the Lanai City Country Town Business District Guidelines and Standards of 2011, the proposed standards of 2011 existing of 1997, and also of the Lanai Community Plan. And a direct excerpt from that is:

To maintain the existing commercial area characteristics of predominantly pedestrian scale, open space, and setbacks from streets and adjacent buildings, and is accordance with the sidewalk master plan of the B-CT guidelines.

The property is not designated for future sidewalk which is shown in the next slide. This is the sidewalk master plan from the Lanai Community Design Guidelines. And you can see where the property is. The dotted . . . the solid lines are the existing sidewalks, and the dotted lines are the proposed. And you can see that where the property is located, there are no sidewalks designated.

So that covers Title 18 variance. The second variance is Title 16 which basically covers a lot of the same points. Would you like me to read through those?

Vice-Chairman Tanner: No, I don't think so. Do we have any questions, Board, for the applicant? OK. At this time, we will open up for public testimony and we can ask further questions from the Board after that. We got a couple of lists here. I'm not sure which one was first, but we'll just start with what I've got. And we could probably hear you fine, but I'm gonna ask you to speak into the microphone for the purposes of the recording in our minutes. And when you come up, if you would repeat your name, because I'm sure I'll get it wrong. Beverly?

Ms. Beverly Zigmond: Aloha, Members of the Board of Variances and Appeals and Vice-Chair Rick Tanner. Thank you for coming to Lanai today to conduct this hearing. My name is Beverly Zigmond and I have been a Lanai resident for over 20 years. I come before you today as a Board Member of the Lanai Community Health Center. I have been involved with the center from its inception when it was the Lanai Women's Center. I volunteer my time and energy because I believe in its mission to take care of the community of Lanai. We care for everyone: uninsured, under-insured, or even those with insurance. And we do it differently as a community health center. Our board is comprised of the majority of consumers to insure that services are designed to meet local needs specific to our community. We've outgrown our original temporary clinic and are eagerly awaiting for a new facility. The site you saw this morning at the site visit will not only provide us with a much needed expansion, but it will be accessible to all. You can walk there. You can drive there. It's close to the senior center where we are now and close to the school. The granting of this variance will be in keeping with the Lanai Community Plan and our design guidelines. It will help preserve the unique character of our community. As stated in the Lanai Design Guidelines:

The character defining features of the town must be retained to maintain the unique character of Lanai City. The most obvious of these are the grid plan of the streets with their narrow pavement widths and frequent lack of an edge defined by a curb.

As our proposed site is located in the country town business district, the variance will help to preserve the historical character of the country town business district.

As you had heard earlier, the enforcement of some of the provisions of Title 16 would result in unnecessary hardship to the applicant. We are a nonprofit. Our funds are scarce. As you know, everybody's competing for funds these days and it seems to be getting worse. The variance is not detrimental to the public health, safety, or welfare of our community, nor would it be contrary to the public interest. We respectfully request that you approve our variance so that we may continue with our mission of providing high quality primary healthcare to the community of Lanai. Thank you.

Vice-Chairman Tanner: Thank you. Next we have John . . . ?

Mr. John Dela Cruz: Dela Cruz.

Vice-Chairman Tanner: Thank you.

Mr. Dela Cruz: Good afternoon. My name is John Dela Cruz. I'm a Lanai resident. And I wasn't

really planning on speaking. I signed the paper that was going around. But what I do wanna say is before the Lanai Community Health Center came along, we only had one health provider. It was started by the company when the plantation opened operated by the company. Started to transition to semi private about the '80s and then it was cut loose. Until the mid-'80s, late '80s, the company always paid a huge subsidy to the medical service provider. And then Straub took over and they were still the only player in town. What a second health provider provides is really an incentive for the other guys to provide customer service. The other guys, which I still attend, by the way, 'cause I'm old, I don't like to make changes, so I'm still going there. But when Lanai Community Health Center started, about a year afterwards, it was very noticeable that the other guys started to practice customer assistance, customer care. They started to act like they cared about you. And for me, this is a huge impact for the Lanai community. Many of us, or them, actually us still feel kind of like we're imposing on the medical staff when we go there, because they're doing us a favor, because we live on Lanai, because there's no place else to go. When we have second player, which we have now, and I would like to see more than one provider on Lanai, it provides incentive for both parties, both health providers, to provide quality care. In this situation, the entire community will benefit. And it's what I wanna add today. Thank you.

Vice-Chairman Tanner: Thank you, Mr. Dela Cruz. Sherry Williams?

Mr. Ray Shimabuku: Question?

Vice-Chairman Tanner: Oh, you want . . .

Mr. Shimabuku: What did you sign up for?

Mr. Dela Cruz: The paper was going around.

Mr. Shimabuku: Just curious. (Laughter)

Ms. Sherry Williams: My name is Sherry Williams. I'm a resident on Lanai for nine-plus years. Came from Maui. And fortunately, I've never had to go to the doctor here, so I haven't experienced any clinic experience firsthand, but I am on the board of the art center, the Lanai Art Center that they refer to in the diagram. And one of our classrooms is in the area for which the health center will take. So it will be torn down and then they will build the . . . The last I saw the parking lot actually would be behind the art center building and then the art center or the clinic would be built more on the back of Houston and Gay. Is that right? Yeah. So I guess I have two questions. If you're allowed to do the health center in the existing buildings and not able to build the new one right off the back, where would the parking be? How much would the traffic increase? And when you enter, would there be a temporary parking lot put in and where would you enter? And then how often . . . like would garbage trucks have to come because you probably have more garbage collection than once a week? I guess those kinda questions about the increased traffic, the ingress and egress of the property if you use existing buildings. And I'm assuming that the reason you're using the existing building is because you haven't been able to probably procure the land yet from Lanai Resorts. I don't know that for sure.

We have been approached with relocation assistance from the County for our kids' art classroom which is the one building that will go away. But again, I'm just wondering how that traffic . . .

Whether the road is widened or not, I agree that it would be a hardship to the clinic, which I think is necessary. One of the things the clinic does is I work with the kids and the families that come to the art center, and we do K through 6th. I think it's a lot less intimidating for them to go to the health clinic. I think the families embrace the health clinic as a family, the local people. So I think it's a really good thing for them. So my question is really, how it affects whether you do temporary buildings. And then down the road with the new building, how it affects the ingress and egress around that block as it will affect the kids, the art center, which are in and out of the buildings. We do things outdoors as well as indoors, so I just have a question as to how . . . I heard that maybe you'd use the temporary buildings. So my question is that.

As far as widening the street, it'd be nice not to have to do that, not to cut down the trees, and not to take the community college building and our ceramics building would be both be affected on that one side which would be a shame to have to modify those buildings. And I'm not even sure how that would work but . . . so that's my concern. Thank you.

Vice-Chairman Tanner: Thank you, Sherry. Question for the speaker? Ray?

Mr. Shimabuku: I got a question for you. In the presentation of the new building, would you be in favor of the new building or against the new building?

Ms. Williams: I'm not against the new building. The plan that I saw a few years ago, it looked reasonable. The ingress for the parking I believe was on Gay Street.

Ms. Shaw: Well, Gay Street for staff. It is off of Sixth Street . . . (inaudible) . . .

Ms. Williams: Yeah, so it didn't enter on Houston, so it would've all worked . . . you know, we would've had parking behind. And we talked about putting up a fence or something for the kids and making the art campus sort of a central thing with a center so they'd be safe. So I guess I don't have a problem with the new building. I have wondered why they would take property right in the middle of town for a clinic, but it's kind of been answered because I guess there's a significant number of people that could work there and make it more accessible to the community. So if that's in fact the case, then I understand. It was just I always thought that it'd be more likely a little bit on the outskirts. I know they've done their EIR and it's a hardship to have to do a whole new EIR on your property. I realize that, too, so hopefully, we can harmoniously make it work. I think if you use the existing buildings, you're gonna probably have a hard road to . . . 'cause those haven't been occupied in some time.

Ms. Shaw: . . . (inaudible) . . .

Vice-Chairman Tanner: After we finished with public testimony then you can come back up and make some more comments.

Ms. Jacqueline Haraguchi: I have a question.

Ms. Williams: Yes?

Ms. Haraguchi: Is there any current traffic congestions right now?

Ms. Williams: No. We don't have congestion on Lanai.

Ms. Haraguchi: Do you foresee an increase in traffic by 20, 50, 80%?

Ms. Williams: No. The only thing that might increase, because I don't know, but if you have a clinic, you probably have more garbage collection. No? It's just once a week? So, OK. So as far as car . . . they'd be more pedestrian, probably.

Ms. Haraguchi: But do you believe in walkable communities?

Ms. Williams: Absolutely.

Ms. Haraguchi: So do you think Lanai is a livable, walkable community?

Ms. Williams: Absolutely.

Ms. Haraguchi: OK.

Ms. Williams: Yeah. Is that it? Thank you.

Vice-Chairman Tanner: OK. I'm gonna go with Bart Baldwin? Am I close?

Mr. Bart Baldwin: Yeah. So my name is Bart Baldwin. Not related to the ones over on Maui, but I do wanna correct about the traffic congestion. About, let's see, 7:40, 7:45-ish on your way down to Manele to try and catch the 8:00 a.m. boat, sometimes you get traffic congestion where people are all rushing to catch the same boat, but not in town.

Definitely, I'm in favor of the Lanai Community Health Center, and then being able to build a new building. I think it'd kind of be a waste to use the existing structures but I understand if you have to act by a certain time to use certain monies, then you do the best you can. But I really think it'll be an addition to our community. And I'm in favor of them having the variance as it would not affect other streets and buildings that already exist. So that's all I have. If you have any questions for me, I'll wait.

Vice-Chairman Tanner: Thank you, Bart.

Mr. Baldwin: OK.

Vice-Chairman Tanner: Ron.

Mr. Ron McOmber: This is a special, special thing for me because my wife and one other lady on this island started doing this health center. Phyllis McOmber was . . . and Jackie Woolsey started this, basically. And this is near and dear to my heart.

As you look around this town, there isn't a lot of space within the commercial district that you could put this. And I think they've done a wonderful job looking and seeking out this area. It's basically to the whims of the company. There's other lands that are bigger, but they didn't wanna come up

with that. When Murdock was here, he wanted to go behind the art center, the place over there, and put a 15,000 square foot grocery store which would've not passed. The Planning Commission said, no, you're not gonna do that. And he really got hoo-hoo about that. So if I don't get my 15,000, I'm not gonna put a . . . what was it?

Unidentified Speaker: A pharmacy.

Mr. McOmber: Yeah, a pharmacy. So you're not gonna give us 15,000, I'm not gonna make room for a pharmacy. That's the way he did. The new owner, we don't know yet. We haven't really talked to him. Talked to his people. And we were very fortunate. We have Kurt Matsumoto, which was on the Planning . . . or the CAC on the last one. And he's born and raised on Lanai. So we have a little bit of an inside. But this is really important to Lanai. Whether they tear . . . and they gotta tear those old buildings down and really gotta go forward, but to take that much street . . . And look around. We went through this many times on Lanai. We went with the Blue Ginger. We're gonna have to put a paved road by Blue Ginger. That's ridiculous. This town isn't gonna grow to 5,000 people in a blink of an eye. We need to service the people of Lanai. And I can't think of a better . . . Go up and look at their clinic. They took an old plantation house and made it their office and their clinic right now. They've done a wonderful job, but they're running out of space. They need to expand that for the services that they wanna give the community. And I urge you to look at this variance and take into consideration what Lanai is.

I sit on the CPAC. And we're gonna be discussing this as we go through the CPAC and the community plan, and see what we're gonna . . . how we're gonna fit this into the community. We've waited a long time for CPAC. Now, we're gonna . . . we'll also be addressing this same situation. So I urge you folks for the . . . for Lanai residents, do this. I think it's really important for Lanai to do this. So thank you very much.

Vice-Chairman Tanner: Thank you. Any questions? Ray?

Mr. Shimabuku: Looking at the property, next to the property in the corner on the west side, there's a building with sidewalks, curbs, and gutters. What do you think of that situation where that's the only one that has sidewalks, curbs, and gutters?

Mr. McOmber: Are you talking about the property you're talking about?

Mr. Shimabuku: It's the property that's right . . .

Mr. McOmber: Oh, you mean this building right behind here? The blue building?

Mr. Shimabuku: At the end of the street.

Mr. McOmber: Well, this apartment house.

Mr. Shimabuku: Talking about that curb and gutters and the sidewalks.

Mr. McOmber: Well, that was fine for what they did. They built the building. The company did that. The company came in at their expense and built the building to fit so they could put the sidewalks,

and the curbs, and gutters because it was close to the school. A lot of that has to do with access across the street to the school and the parking that went in adjacent to that. This is completely different, I believe. This is . . . if the company was doing this, the company would probably come in and cut the pine tree down, and do whatever they had to do, and it would be a much smaller operation than what they're asking for. Because the more room that you take on the roads, the more you're gonna take away from their space to do what they envision for the community.

But just to here, first of all, this is ugly. This is not appropriate Lanai. This is . . . they had to make a special variance to put a two-story building in that corner which there is no two-story buildings in Lanai City in the city proper. We had another application, I think, maybe some of you were on that that there was an outfit up here wanting to do a two-story hardware, blah, blah, blah thing. And because the community plan says there'll be no two-story in Lanai City, for some reason, it slipped by. And somebody gave them permission to build it, and we argued that point before the Council, and they backed off of it. This community is very, very in-tuned to keeping the high density and the high buildings . . . keep it down to what Lanai's about.

Last night we had the argument, what do we call . . . the Planning Department said, what do we call Lanai now? It's the Pineapple Island. It always has been the Pineapple Island. Whether the new generation that are coming up now disagree or they don't understand, the basis of this island, folks, was pineapple and a very strong labor force. And we still have that. And their health center has done a wonderful job taking care of the people that don't have insurance, have little insurance.

And I'll tell you something else we need, folks, we may be coming back to you, we need Hospice and we need care, care homes. And we may have to work that into the community plan somewhere, but it's really important here. We don't have Hospice. Lanai City . . . Lanai Community Hospital is not authorized to have Hospice. That's insane. Why should old people that have lived here for 40, 50 years have to go to Oahu or Maui to die? This is not right, folks. So please help the health center. We need that. It's just one leg of this health situation. Thank you very much.

Vice-Chairman Tanner: Any more questions?

Mr. Shimabuku: I agree that the thing looks ugly . . . (inaudible) . . .

Mr. McOmber: Let me say something else, wait till the wind starts blowing. Why did they paint it blue? Wait till the wind starts blowing. It turns red on 'em. They're really gonna be embarrassed.

Vice-Chairman Tanner: Thank you. Pat Reilly?

Mr. Pat Reilly: Aloha. My name is Pat Reilly. I'm a 34-year resident of Lanai. I was the school counselor here for 31 years and retired recently. I'm in strong support of this project. I can tell you that through the years I've been here and sitting on the Planning Commission and some other committees, what we're really struggling with is trying to retain the present layout of Lanai City. Every tourist I ever talked to, this is the kind of community they wanna come to. And of course, tourism is our . . . now. We don't have pineapple anymore, but tourism is our main occupation.

The next thing I'll say is that to me and I think to a lot of us, it's a miracle that Larry Ellison bought this island. I mean, I . . . if you could ask a multi billionaire to come to your community and put

some money into it, he's doing it. Three or four years ago, our employment rate was going up. People were moving off island. And I see my former students now able to work and have hope of raising their family.

This community health center is very important to medical services on Lanai. I think we've heard that before. Right now, most of us have to leave the island, go to Honolulu or Maui for any medical services that are beyond minor. So we're still struggling. And as Ron mentioned, with pharmacy . . . we don't have a pharmacy here, right? A lot of us, Molokai Drugs, you gotta get your medicines from Molokai. And they've been a very . . . they've been a blessing to us. And Judy used to be the school nurse over here.

So we will . . . in fact, just last night, as Ron mentioned, we're doing the community plan. And the big discussion will be tonight, and the company will make a presentation, how to retain the present street roads when you have something that was built in the 1920s off the sugar plantation model and now you apply modern codes to it. How does that all work because this whole city is a plantation town? Every testimony I've heard is that's the way we wanna keep it, if at all possible.

I would . . . you know, you mentioned the issue of this sidewalk on this side. Being an old guy and I kinda got a bum hip, and I walk. At least we have sidewalks on one side of the street. And I kinda go to those sides of the streets where we have the sidewalks so I could live with this. Most people love these trees although they're getting old and some of them will have to come down, but again, we wanna retain as many of the Cook Pines within the city as possible. Fire, I completely understand the need for accommodations for fire. And I don't know the details of it, but I know enough about where I lived in some of the cities there. You have a larger fire truck now and some of those roads are pretty narrow. But I don't know what we're gonna do about that. We can't plow down the whole city and nobody wants to do that. We talked about maybe even making this a historic district. So I strongly support this, and bless Phyllis and Jackie and these people for sustaining their efforts to bring this to Lanai. The residents need it. Thank you very much. Appreciate it.

Vice-Chairman Tanner: Thank you, Pat. Are there any questions? Thank you. Art Bingham?

Mr. Art Bingham: Oh, yeah. I got a captive audience. I'm Art Brigham. I'm the Pastor of the Lanai Baptist Church. I've got 15 minutes? Our church sits on Sixth Street and across from the new and proposed health center. And I'm for the health center. In looking at if you demand that they widen the street six feet, if you go down and look at our church, if you widen it three-foot, somebody can jump open their car door, walk right in front of it. And I'm here to say I hope you grant this variance but you cannot possibly . . . if you widen Sixth Street, we're gonna have to tear down the front of our building because it'll be . . . (inaudible) . . . So I'm for the health center. I'm actually for the new building. You know, I'm for it. . . . (inaudible) . . .

I've been here for a couple years but, you know, the city has its own character. And coming from the Mainland, OK, in a large city, I haven't figured out why, and since I'm new . . . (inaudible) . . . that all of the things that apply on Maui apply over here, and we have to adhere to that when it's two different . . . it's like horses and cows. I had a farm. So it's like horses and cows. What I did to the cows, I can't do to the horses. I haven't figured it out, guys. And I know that this is part of Maui County, but I'm dumb on this, OK? I don't know. But if you do grant the variance, you all come

over and park your car in the front, and . . . (inaudible) . . . and step right into the door. Thank you all so much. Any questions?

Vice-Chairman Tanner: Thank you, Pastor. Excellent sermon. Cindy.

Ms. Cindy Sagawa: Thank you. I'm Cindy Sagawa. I'm a long time resident of Lanai and I was here long enough to see pineapple go. And I would like to say up-front that I strongly do not like to speak at public dakine. I do not like my name and everything I said placed on the Internet web hitherness. And that is why I do not speak at these things because it goes out there, and it's there for years, and I don't like my privacy shared with every people. You, I don't mind.

I am all for the health services here on Lanai of which I have also used the health center myself, and I found them very welcoming and encouraging, and took care of me nicely. I think sidewalks are nice. I'm not that concerned about it, but they should've planned them when they built the other subdivisions, and nobody thought about it. And I like the trees. And I don't mind if you wanna cut one down because I have one in my neighborhood, and I'd like you to come take it down as well if you're gonna take that one down. So when you hire the guy, come see me.

But let's talk about the health center itself. I am concerned about the, as you mentioned, the storm surge and runoff on Sixth Street. It is a problem when there is rain and a lot of water comes down that street. And it would be causing problems to the house and the church house that sits on the other side of the property where the . . . (inaudible) . . . like to be, and I would like that addressed. It's currently a problem now.

The discussion about the encroachment of the buildings on Houston Street, which would have to be addressed, which is also the art center building, it is also a nonprofit, and it would also be a hardship if you take part of that building away to take care of that street problem.

The surface parking on Sixth Street which also fronts the church house and the house on that street would also create some egress problems for the people who are entering that home and that church house on any given day during daytime activities and weekday activities as well. Those create a hardship for that non profit as well and will be considered a problem. And could also be injurious to people entering those properties if you take the three feet onto the Sixth Street side, which would bother the property regarding the house and the church house.

Vice-Chairman Tanner: Thank you. Any questions? Thank you, Cindy. Sally?

Ms. Sally Kay: My name is Sally Kay and I'm a resident here on Lanai. I live like two blocks from here so I'm very familiar with this area. I concur with all of the emotional and good things that people are saying about the clinic.

What I'd like to talk about is the inequity that would exist if this particular variance was not granted. It would for all the reasons people have addressed disturb the makeup and the community flavor that we fought for generations to preserve. And I would just point out, Vice-Chair, that this building that you like so much got a variance. OK? Pele's got a variance. Coffee Works got a variance. Blue Ginger got a variance. No Ka Oi Grindz got a variance. This is typical because—and James can attest—I used to be on the Planning Commission. Time after time, Maui Island specific

regulations were imposed over here. And we always were very cordial about saying, just look around, it doesn't work. And we would recommend back to County Council that they exempt this much as Molokai. So for years the community has fought to try to preserve this. I think that we need to really balance struggling to maintain the character of our community with progress. This building is a perfect example. The old building was falling down. And there was a lot of push back when it was first proposed and now everyone loves it. And I think the same will be true of the community health center once it's built.

I would just like to add that there is, as far as I know, a completely done drainage system for the city. It was completed by R. M. Towill years ago. And Castle & Cooke just never wanted to fund it. So again, it would be very inequitable to impose on this particular project, Maui specific regulations that others have gotten a variance from and that would be inequitable.

Vice-Chairman Tanner: Thank you, Sally. Any questions? That is the last name I have on my list. However, we'll keep public testimony open if anybody would like to come forward and . . . with comments. Please do.

Ms. Winifred Vasquez: Hi. Good afternoon. My name is Winifred Vasquez. I've been on this island coming February 28th going be 50 years. I've seen a lot of changes. OK? When I came here, it was pineapple already. All the way pineapple. Day and night, day and night the pineapples was growing. And of course, there were three different shifts. Early in the morning, the whistle would blow 4:30 in the morning. The whistle would blow for start work, fire, emergency. And there were codes: two short/one long or two long/one short. That was for telling us there is a fire, there is an accident, there was a tsunami coming in. That was taken away by Mr. Murdock because he say he didn't want it. We are used to that kind lifestyle.

But now we talking about Lanai. OK, fine, if you folks have the money to put up to make the center. Who's gonna be the construction workers? Who's gonna be doing all this labor work? Who is going do all the permits? And of course, you know . . . Hi, Eddie. I know Eddie from small time. We go way back. But the thing is I seen . . . It would be good if had a new health center on the island. I tell you why. I've been working for Lanai Community Hospital for 22 years as a paramedic. I was retired. I started in 1979. I retired in 2001. I took care of people. I had one nurse in the morning and me. That's all had on the floor. And I used to drive an ambulance picking up people, dead ones and alive ones. You know, it's kinda I didn't want that job because I get to pick up the people and take 'em downstairs. Forget it. But the thing is when you see this kind stuff, the health is very important. It's crucial on this island. Like they say, there's no more pharmacist on this island. There used to be way back before, but that went out. That was Lanai Community Center. That was by the company. And Dr. Willy was the one who took care of the hospital as well as the clinic. He was the one who did everything. He didn't have to have it air-vac out. He took care of the death and the dying. And I tell you, he was remarkable when I saw him when he took care of my babies.

You know, being that I've been on this island, Lanai, going be 50 years, it's been changed. But now we have this new malahini come in with the kala. That's "money" in Hawaiian. And he say, "I wanna do this. I wanna do that." Sure, it's good progress for the people. The economy on the island is very, very hard because you . . . like Ron said last night, there about 17, 18 people in one two-bedroom house. How can people live like that?

When Mr. Murdock came, I hate to say, I going tell you straight, you know, he promised, "Oh, I give you jobs. I'll take care of you." No way in hell he did. He never take care nobody but himself. He took care only about his money. Why? And if you would . . .

There are 3,500 people on this island. Who comes to the meeting? Ron, Pat, and me. Ron, Pat, and me. That's the only one that would come and meet. We talk about issues on this island. Like the one, the Manele Drainage Task Force, was me, Ron, and Pat. Nobody else. And you talk about flooding down Manele, Manele Bay Hotel, hey, I got the pictures for that.

But coming back I saying is if it would be good if had the building in the back of the laundromat because that is a big space. It's a big parking area. But people can walk. Why do you need a five-dollar gas which it is now, five dollars, almost six dollars, per gallon when you can walk? Or have somebody come take you. You don't need to have a parking space there. You lucky they no have the kind meters that you gotta pay. You know what I mean? The meter. Or you get somebody come and close the gate, or you gotta pay. Hell, no. No, we are not that kind style. We are really I can say aloha for Hawaii, aloha for Lanai. Being that people here grew up, they live on this island. And yet, now, here comes the variance. Good if have all this kind stuff, but who's putting up the bucks for repair, bill, pay the labors, pay the machine? Who's gonna pay all that? Question? Anybody?

Vice-Chairman Tanner: Well, we're here just for the variance of the widening of the road.

Ms. Vasquez: Yeah, but the thing is that, who's gonna pay for it if the thing comes up?

Vice-Chairman Tanner: Yeah, but if I could ask a question? Are you in favor of or opposed to the variance?

Ms. Vasquez: Opposed.

Vice-Chairman Tanner: OK.

Ms. Vasquez: Thank you.

Vice-Chairman Tanner: Thank you. Any further public testimony? OK. At this time, we will close the public hearing. And I'll give the applicant an opportunity if they would like to speak to any of the public testimony.

Ms. Shaw: I really just wanted to clarify a couple of the things that came up. Regarding the temporary building question, the only reason we would be looking at doing something for a temporary building and using the old dorms is if the variance is denied. If the variance is denied, we will not have funds to basically, take care of widening the road, putting in sidewalks, and building a new facility. That will fall on our shoulders. It will not fall on the company's shoulders. It will not fall on the County's shoulders. So if indeed the variance is indeed denied, that's when we would start looking at something of that nature. And basically, we haven't done any planning along those lines. We would have to look towards doing that planning.

The other thing that you mentioned also was the location. The location is perfect for us because

of a number of reasons. It is walkable. I think we've talked about that, an awful lot about our community, and the type of services that we provide. We really try to encourage people to be their own wellness advocate by doing walking and various other things of that nature. We also have a five hundred-dollar grant from the Feds to do school-based health. And the location is perfect. You can walk . . . you know, you can either walk to the school and provide services, or one of the plans that we have is tele-medicine for pedestrians. So that if the kid needed to basically have some sort of consult, we would could provide that consult easily and without any difficulty in making either, you know, other arrangements to get off island or whatever.

I think that the only other thing again that I wanted to basically say is that if we are indeed . . . if the denial of the variance goes through, the additional issues, even if we could find the funds, and maybe somebody steps forward and gives us the funding to basically, cover the additional costs, and we're able to build our new building, the size of the building goes down. Currently, we're looking at a 6,800 square foot building. That building provides us with the ability to have two dental operatories. And again, I will emphasize how important that is. Our local dentist will come over, provide services. The kids can come to us. We can do the dental varnishing. We can do a lot of stuff there that we cannot do now. And it's not covered by most insurances especially, for adults. And we won't be able to necessarily have the same type of facility as far as the number of consult rooms, the speciality services that we plan on bringing in. I mean, there are a number . . . it's just basically a cascade of effects. So I think that there's a lot riding on this particular variance for us.

Vice-Chairman Tanner: Thank you very much. At this time, could we have staff read the recommendation?

Ms. Murdock: . . . (inaudible) . . .

Vice-Chairman Tanner: Quickly, please.

Ms. Murdock: OK. On the site location, just one more thing. There were three other sites that we studied before this one, so it wasn't just that we took this one site and decided to put it there. There were studies done for three other locations.

And secondly, to address Sally's question on the storm surge, by Maui code, we're not allowed to put any more runoff onto the streets, surrounding streets, than what is currently occurring now. So in our proposal, we have detention basins along the top on Houston Street and a detention basin along Gay Street that retains the water on site. So we're actually holding water on site than we need to just for that reason because we are also going for LEED certification for this building. If the sidewalks are put up along Houston Street, the concern about more water coming down on Sixth Street actually will concentrate the flow, the runoff, along the sidewalks and then onto Sixth Street. So that flow of water becomes more concentrated with the sidewalks.

Vice-Chairman Tanner: Thank you. OK. If we could have staff recommendation?

Ms. Kapua`ala: I'll have to defer to the Department of Public Works and Fire.

Vice-Chairman Tanner: OK. At this time, we'll open for Board Member discussion, and I'll start by asking our Fire Chief present if he would speak to the variance as it pertains to the Fire

Department.

Mr. Paul Haake: Thank you, Chair. Paul Haake from the Fire Prevention Bureau. For this project, the Fire Code is requiring a 20-foot wide access for the subdivision. During the site visit, it was noted that the fire protection is off of Houston and Gay Street, and both of those streets are less than 20 feet in width. The properties do have roads that are 20 feet in width that serve them which would be Sixth and Seventh, but the fire protection is not located on those streets. Did you need more, Chair?

Vice-Chairman Tanner: No. Thank you, Captain. Any questions from the Board? Discussion?

Ms. Bernice Vadla: Yes, Paul, I have a question then. Is there a problem now that . . . getting to the access from those streets: Sixth and Seventh?

Mr. Haake: No, there's no problem. However, the fire protection is located on Gay and Houston. So if we were to respond to any emergency, the fire trucks would have to be on those roads.

Ms. Vadla: And are the fire trucks too large to be on those roads?

Mr. Haake: No. The fire truck will fit on those roads, but they are less than 20 feet in width and the requirement for the subdivision is to have Fire Department access roads, 20 feet in width.

Ms. Vadla: OK. Thanks.

Vice-Chairman Tanner: Any further questions or discussion from the Board? OK. Seeing none, the Chair will entertain a motion.

Mr. Shimabuku: Mr. Chair, based on the information provided with the summaries, I'd like to make a motion to approve the variance with the hold harmless condition.

Ms. Haraguchi: I'll second.

Vice-Chairman Tanner: So I have a motion to approve the variance with the standard hold harmless agreement and a second. Staff?

Ms. Kapua`ala: Is this for Title 16 and 18? Or are you just acting on 16 which Paul spoke and Lance didn't, Fire's recommendation. Also, would the Board like to entertain the insurance requirement to be attached to that hold harmless agreement?

Mr. Shimabuku: We'll make it for the . . . (inaudible) . . . and then attach a standard . . . what is the insurance?

Vice-Chairman Tanner: One million-dollar.

Ms. Kapua`ala: For the record, for the applicant, what this means is that you will sign an agreement, a hold harmless agreement, and with it is an insurance, liability insurance, in the amount of one million dollars in the case of any accident, or injury, or lawsuit that arises as a result of the granting

of this variance.

Ms. Shaw: . . . (inaudible) . . .

Vice-Chairman Tanner: Maui County would be named as an additional . . .

Ms. Kapua`ala: Insured.

Vice-Chairman Tanner: Yes.

Ms. Shaw: But we wouldn't have to . . . (inaudible) . . .

Vice-Chairman Tanner: OK. So we have a motion to approve the variance with the standard hold harmless agreement and one million-dollar additional insured, and a second. Any discussion? OK. I'll do a roll call vote from my right. Teddy?

Mr. Teddy Espeleta: I'm in favor. Aye.

Ms. Haraguchi: Aye.

Ms. Vadla: Aye.

Vice-Chairman Tanner: OK. Normally, I would not vote, but to make the fifth quorum, I vote in favor. Ron, you vote for your motion? Ron's . . . (inaudible) . . . motion.

Mr. Shimabuku: . . . (inaudible) . . .

Vice-Chairman Tanner: Ray? What did I say?

Ms. Haraguchi: Ron. (Laughter)

Vice-Chairman Tanner: Oh, I'm sorry. Ron's out here. Ron made an impression on me, so I just . . . we'll let him vote. OK.

It was moved by Mr. Shimabuku, seconded by Ms. Haraguchi, then

VOTED: To approve the variance with the standard hold harmless agreement and one million-dollar additional insured,

(Assenting: R. Shimabuku, J. Haraguchi, T. Espeleta, B. Vadla, R. Tanner.)

(Excused: K. Tanaka, P. De Ponte, B. Santiago, G. Abbott.)

Vice-Chairman Tanner: **We have a unanimous vote in favor and you have received your variance.**

Unidentified Speaker: Thank you.

Vice-Chairman Tanner: Thank you. And thank you very much, Lanai, for having us here. It is always a pleasure. And our next meeting is February 7th.

There being no further business to discuss, the meeting adjourned at approximately, 2:20 p.m.

Respectfully submitted by,

TREMAINE K. BALBERDI
Secretary to Boards and Commissions II

RECORD OF ATTENDANCE

Members Present:

Rick Tanner, Vice-Chairman
Bernice Vadla
Jacqueline Haraguchi
Ray Shimabuku
Teddy Espeleta

Members Excused:

Kevin Tanaka, Chairman
Bart Santiago
Gene "Clark" Abbott
Patrick De Ponte

Others:

Carolyn Cortez, Staff Planner, Planning Department
Trisha Kapua`ala, Staff Planner, Planning Department
James Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel
Lance Nakamura, Civil Engineer, Development Services Administration
Paul Haake, Captain, Fire Prevention Bureau