

**BOARD OF VARIANCES AND APPEALS  
REGULAR MEETING  
SEPTEMBER 26, 2013**

**(Approved: 10/10/2013)**

**A. CALL TO ORDER**

The meeting of the Board of Variances and Appeals (Board) was called to order by Chairman Rick Tanner at approximately, 1:34 p.m., Thursday, September 26, 2013, 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 Rick Tanner: The meeting of the Board of Variances and Appeals will now come to order. It is now 1:34 p.m. and we have a quorum. Will the staff read the agenda item and state the purpose of this application?

**B. PUBLIC HEARINGS**

- 1. DAVID JENKINS of CREATION DESIGN COMPANY representing the MILTON H. KING TRUST requesting a variance from Maui County Code, §19.36A.070 to delete the requirement of providing four-foot (4') wide landscaping for three (3) parking stalls, for the after-the-fact building permit (B T2011/1634) for two (2) office spaces, for the Wesco Warehouse located at 330 Papa Place, Kahului, Hawaii; TMK:(2) 3-8-065:005 (BVAV 20130013).**

Ms. Trisha Kapua`ala read the agenda item into the record and presented depictions of the proposed site and surrounding area.

Ms. Kapua`ala: So with that, I'd like to introduce the applicant. Representing Milton King is David Jenkins from Creation Design Company.

Mr. David Jenkins: Good afternoon, Mr. Chair, and Board Members, and members of the Planning Department. Thank you, everyone.

My client, Mr. King, could not be here today. He's on the Mainland. And briefly, because the Planning Department is basically concurring with our position, I won't go into great detail. What I'll do is just kinda run through things real quickly, and then I'll be available for questions. Does that sound like a good way to go?

Chairman Tanner: Sure.

Mr. Jenkins: OK. All right. What we have up on the screen here is the site plan that was submitted for some after-the-fact permitting. The large rectangle you see on the property is . . . This large rectangle here is the steel building which was built in 1970. That's when the site was developed and all those parking stalls you see were all put in place at that time. In 1987, the dotted area that you see on the left there that is not hatched, that is . . . that was put in with the building permit.

What I was hired to do was to get an after-the-fact permit for the little hatched area in the upper lefthand corner there. That is the subject of . . . that we're dealing with here. The Planning Department . . . Well basically, on that after-the-fact permit, all the departments signed off except Planning. And the only issue there was just that three of the stalls that were required for that small hatched area, because they were required for that work, they needed to be landscaped. We did tell them in a communication that all those stalls were existing. And so they said, well, if you give us a plan from the work that was done in 1987 that shows all of those existing stalls, we could sign off. And so we submitted a plan. I got one from my client and we submitted it. Unfortunately, that's the plan right here. In the upper right corner there, you can see the parking stalls and it labels them as 12 stalls in place, existing stalls in place, at that time. However, this . . . although it wasn't an official plan, a site plan, from the architect with the stamp and signature, it just was not the official permit set. The original set probably got degraded on site during construction as they normally do, and the County set was destroyed with mold and fire damage across the street in the Federal building sometime ago. So anyway, that's why we're here. Since we don't have the official permit set of that plan, we don't have proof that those stalls were always in existence though they were.

So what we're basically dealing with here now, just skip to the present, is the three stalls. If you could back to the original exhibit there, Trish? Thanks. The three stalls, they're shown there pushed back four feet towards the building. That's . . . these are the stalls in question. And they're shown there as they would have to be pushed back towards the building in order to put in the landscaping and the irrigation there. The safety issue, though, that we need to consider is the front . . . This is right . . . Actually, to familiarize you folks with the lot as well, this is now the site of the Salvation Army Thrift Store. So they're the current tenant. And their main door for folks to come in and out is right here. And so it's a concern if the parking stalls get pushed even farther to that main door. They're already backing towards the main door. If they get pushed even farther towards the warehouse, that's a safety concern. So I think that's about all I have to say. And I'm happy to answer any questions either now or if you wanna call me back up.

Chairman Tanner: OK. I think at this time, we're gonna open the floor for public testimony. If there's any members of the public that would like to speak on this agenda item, they can do so now. OK, seeing none, we'll close public testimony on this item. And have any questions from the Board?

Mr. Chad Fukunaga: I have a question. OK. So looking at that drawing that's up there, to the right of the three parking stalls in question, that triangular piece, do any cars currently park in there? I know it's not marked as a stall, but is it utilized . . . ?

Mr. Jenkins: Not any time that I've been there. I've been there several times and I haven't seen anyone park there.

Mr. Fukunaga: Could you perhaps maybe landscape that area instead of the frontage of . . . ?

Mr. Jenkins: We did suggest that, but that was not amenable to the . . . that's not the way the code is written. The code needs to be right at the head of the stall.

Mr. Fukunaga: I see. OK. No further questions from me.

Chairman Tanner: Any further questions from the Board?

Mr. G. Clark Abbott: Yes, where exactly is the entrance to the parking lot to the building? Is it to the far left?

Mr. Jenkins: On the left there, you see at Papa Place? This is the entrance, and then folks drive through, park, back up, and then exit this way generally through Alamaha.

Mr. Abbott: So the exit's on Alamaha?

Mr. Jenkins: Yes, entrance on Papa, exit on Alamaha.

Mr. Abbott: Can they enter through the Alamaha entrance?

Mr. Jenkins: They could. They could. It's not marked. It's not . . . it's not restricted to only entrance and exit. Folks generally, I think when they see the parking angled like that, they generally think that they may as well pull in that way. But the driveway is . . . This actually . . . this view that we're here on Google view, this shows when the previous tenant had building materials set on the property. When they left, they took out all the building materials and their fencing, and all the stalls were back in play again. When they were doing that, I believe they had the right to do that because the original building and the 1987 renovations only required the stalls that they were having remaining there. And so they just kinda captured the last few that weren't required, used them for storage, but when they moved out, they put them back in.

Mr. Abbott: Can you give me a guesstimate as to the amount of footage from the end of the parking lot to the entrance to the building that we're talking about possibly people running into? Is it a car length?

Mr. Jenkins: It's approximately, 20 feet from the back of the stall to building, and so it would take it from 20 to 16.

Mr. Abbott: So the original are 20. The ones we're talking about is 16? So it's shorter?

Mr. Jenkins: Right, yeah, yeah.

Mr. Abbott: OK.

Mr. Jenkins: And originally, there were also there were 12 stalls that were put in 1970, but back then, your stalls only had to be eight feet wide. When they re-stripped it, subsequently, they made them eight and a half foot wide per the current code, and so there was only room for 11. But 11 is all that the Planning Department was requiring for this permitting.

Mr. Abbott: Thank you.

Chairman Tanner: Any further questions or discussions from the Board? I'd like to thank staff for the detailed analysis and report they gave us on this. And thank you, sir. At this time, is anyone prepared to make a motion?

Mr. Abbott: I'll make a motion to approve the variance according to all of the indications listed by the staff's recommendation.

Chairman Tanner: So I have motion from Mr. Abbott to grant the variance based on staff recommendation.

Mr. Ray Shimabuku: Second. I'll second.

Chairman Tanner: We have a second from Ray. Any discussion? All those in favor? Any opposed?

It was moved by Mr. Abbott, seconded by Mr. Shimabuku, then

**VOTED: To grant the variance based on the Planning Department's recommendation.**

**(Assenting: G. Abbott, R. Shimabuku, P. De Ponte, C. Fukunaga, J. Haraguchi, H. Kihune, B. Santiago.)**

**(Excused: T. Espeleta.)**

Chairman Tanner: **The variance is granted.** Thank you, sir. Trisha, could you read the next item of the agenda into the record?

- 2. MICHELLE COCKETT of VISIONS and JO-ANN RIDAO, DIRECTOR of the COUNTY OF MAUI'S DEPARTMENT OF HOUSING & HUMAN CONCERNS requesting a variance to allow the provision of 55 parking stalls instead of 56, as required by Maui County Code, §19.36A.010, for the Imi Ikena Affordable Housing Project, located at 511 Imi Place, Wailuku, Maui, Hawaii; TMK: (2) 3-8-037:028 (BVAV 20130014).**

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

Chairman Tanner: Thank you.

Ms. Michelle Cockett: Good afternoon, Members of the Board. My name's Michelle Cockett and I'm a project and permit facilitator for the Imi Ikena Affordable Housing Project, a 28-unit multi family rental project funded by the County of Maui. And it's currently under construction right now at 511 Imi Place in Wailuku. This is actually located right above Home Maid Bakery side on the ridge. And some of you, as you past, you'll be able to see them in construction. It's a four-story structure with two separate buildings. Please let me introduce you to the people who are affiliated with this project.

Mr. Abbott: Can you turn the sound up a little?

Ms. Cockett: Can you hear me? OK.

Chairman Tanner: There you go. That's better. Bring the mike down a little bit for you there. There

you go.

Ms. Cockett: OK. I'm gonna introduce you to those who affiliated with this project: Ms. Jo-Ann Ridao, who's the Director of Housing and Human Concerns, she's the co-applicant of the project; Mr. Dave Billings of Imi Ikena Housing Partners, he's the land and project owner; Mr. Mike Dega of Scientific Consultant Services, he's the project archaeologist; Mr. Kevin Carney of EAH Housing, property managers of the project. Also present is Mr. Hinano Rodrigues, cultural historian, State Historic Preservation Division.

I'll give you a little bit of background to understand the nature of the variance request. I did wanna give you kind of an idea of the project site. And I don't have a power point presentation. I'm just gonna kinda keep it really simple here so you can get an idea.

This is obviously Lower Main Street. It is up on top on the ridge area, Pio Drive. The property itself does traverse two streets: Imi Place and Pio Drive. It is located in an A-2 apartment zoned district. It's a three-quarter acre property. It traverses Imi Place on the southeast and Pio Drive on the north side. And it does have significant grade changes as you . . . as initially. During our site and mass grading, we did install retaining walls which accommodated for those elevation changes.

Within the context of your packet, there should be some references to maps as well. It is . . . The project was reviewed during under the building permit process. Approved for 56 parking stalls per Maui County Code, Chapter 19.36A.010, Off-Site Parking and Loading, which requires two parking stalls for each apartment unit. And this is done through the parking calculations which is your first exhibit. Each apartment was assigned two tandem parking stalls located at three different grade levels on the property. And that is noted also in the topo and the parking plan.

To give you an idea, this is the Imi Place parking area. There is a total of six stalls there including ADA. They're already proposed. And you can see the location of the actual structure to the property line which is where the dust fence is. So it's a limited . . . limited onsite on top.

During the site and mass grading, and installation of the retaining walls for the project, archaeological monitoring was conducted. And over the course of several months, six iwi or human burials were inadvertently discovered. SHPD was informed at each discovery. It was then determined that the iwi be preserved in place. The preservation site is located in the area as shown in the parking plan which was to be Parking Stall No. 8. Now, due to the physical constraints of the property, the layout of the buildings and the size of the parcel, there is no other area to replace Parking Stall No. 8, hence our request for a variance to remove the parking stall entirely.

Just to give you another idea, this is the lower level. There are three levels. The top is the Imi Place parking lot which has the six parking stalls. That's where the entrance to the structures are. Down below on the lower level of Pio Place has 40 stalls. They're all 20 tandem stalls. Nothing is being affected on this part. However, Pio Place upper level parking lot, you can see this, this is our building up over here, there's ten stalls down here. Originally proposed is ten. We need nine at this point because in the back over here is the preservation site where all bodies have been interred.

Looking makai, this is the preservation area that is going to actually have a buffer around it and

railings to preserve in place, and the parking lot right below it. This is the preservation area itself. It's pretty substantial.

We couldn't have known that any of this iwi would've been discovered during the construction of this project. And we're really, really grateful for the cooperation of everyone involved specifically, SHPD and County government agencies. It is with great respect that we actually . . . to know that this iwi has been interred in a proper manner.

The parking code compliance affects the project's certificate of occupancy requirements. Without the variance approval, the Planning Department cannot approve the occupancy of the buildings as the project would not comply with the off-site parking ordinance. Imi Ikena is a sorely needed housing project for Maui's community. We respectfully request approval of the variance so as to give families an affordable place to live and raise their families. That's it. You have any questions?

Chairman Tanner: Thank you. At this time, we're gonna have public testimony before we go into questions. So for those of you that have signed up, I'll call on you. You'll have three minutes to make comments. Please keep your comments specific to this variance and not anything else. If you hear somebody before you saying exactly what you planned on saying, you can come up and say "ditto," or you don't need to take the whole three minutes and repeat the same thing. I do appreciate everybody being here today. And we wanna get you out in a reasonable time. So first name on the list, is it Claire? Please speak into the mike and state your name for the record.

Ms. Claire Gibo: Good afternoon. I'm Claire Gibo. I'm one of the residents on the Imi Drive. The main reason for me to be here today is to ask that maybe there not be a ruling because if you look at the map and the residents on Imi, Pio, and Liholiho never got notices on the hearing today. And we are getting directly impacted by parking and the traffic right now.

So the yellow properties are the owners that we've been talking that never got any notices about this variance request. Some have gotten some notices. You know, I personally have never gotten any. And even with the construction right now and the overflow of traffic, it's creating a very dangerous situation. With this project, it took parking, roadside parking, on Pio Drive as well as Imi. It's already heavily congested. And so the other owners had asked me to come down, too, because they wanna say . . . you know, have a say in it, but nobody found out except a few days ago. And a lot of people are elderly so it's not like they can run down here. So if you could just, you know, give everybody a chance that are getting directly impacted by this, you know, some time to look at it, and say something.

Chairman Tanner: OK. At this time, Trisha, could you tell me what the process is for public notice, and how those are given, and . . . ?

Ms. Kapua`ala: Sure. Miss . . . Claire, the Board's rules, the County code, they only require that adjacent property owners are notified. So unlike the special management area, special use, conditional use permit process that typically goes before the Planning Commission and County Council, only adjacent property owners are notified and not within a 500-foot radius. So that would explain why the highlighted parcels did not receive a written notice via certified mail. Other than that, the County does publish 30 days prior in the *Maui News*, as well as the applicant publishes three times prior to the hearing in the *Maui News*. So that is the requirements by law for the open

hearing.

Ms. Gibo: OK. So is there a way to request like more time because they didn't know about it? And now that, you know, more people are aware . . . Some people did get like a construction postcard. Not everybody, you know, out of these houses. So I don't know why those notices are sent to some of the residents.

Chairman Tanner: I think only the adjacent ones would get that, correct?

Ms. Kapua`ala: As far as this public hearing, correct.

Ms. Gibo: Well, that's for this public hearing. But even like just during the construction process, some of them got cards, some didn't. So we weren't sure what the process. But everybody does have concerns because the parking, and the cars, and the traffic is definitely coming down and impacting the houses there. So if maybe we can get some time and people can send in how it's affecting their property, I don't know if you can do that or not.

Chairman Tanner: We can discuss this.

Ms. Gibo: Yeah? OK. Thank you.

Chairman Tanner: OK. Thank you. And we'll continue with public testimony. Chris?

Mr. Chris Simon: My name is Chris Simon. I represent ERA Pacific Properties, the managing agent for Puuone Hale Alii addressed at 480 Pio Drive. The association's board of directors asked me to come to give their opinion on their behalf. They feel that this variance is going to directly impact the onstreet parking that is currently at Pio Drive. If you look on your TMK maps that Claire just passed out, the property located directly above next to the cul-de-sac above Imi Ikea is 480 Pio Drive, Puuone Hale. And we are constantly impacted by that cul-de-sac and various residents of Pio Drive parking any kind, any way they want, on that cul-de-sac such to the fact that about five to seven years ago, Puuone attempted to have the County re-pave that cul-de-sac, but since we could not remove those vehicles from those areas because we don't have a towing contract, we weren't able to actually address those issues. And so the actual cul-de-sac is in major disrepair. The onstreet parking is incredibly hard and difficult for anybody to get up there including during this construction time. And by removing one parking stall, you basically give residents of this new association, this new building, almost a precedent to go and park onstreet which, I mean, if everybody's supposed to have two parking stalls in order to get an "X" amount of apartments into the building, we would believe that that's because we don't wanna increase onstreet parking concerns. So the removal of one parking stall without reducing the occupancy doesn't address the fact that that unit would still probably have two cars if not more. And if they're not allowed to park on the property, where else would they park but on the street? And in today's day and age, two cars are expected in most family situations if not more. As soon as kids start driving, they're gonna need a car too. So the association's basic position is that please do not grant this variance at this time. It'll directly impact the onstreet parking when this building is built, and there's already a huge problem with that. Thank you.

Chairman Tanner: Thank you. I believe the next one is Larry.

Mr. Larry Ohashi: Hi. My name is Larry Ohashi. I live at 480 Pio Drive. Actually, there's a simple solution to this thing: just knock one of the units off. And the other thing is that whenever you put up a condominium or apartment, I understand the transformer to supply electricity to the unit supposed to be on the property. But in this case, they built it about 50 feet up the road on the opposite of Pio Drive. If they had put it on the site, they would've had to eliminate another parking. So because this is a County project, they got away with all kind of, you know . . . That's all I have to say.

Chairman Tanner: Thank you, Larry. Neal?

Mr. Neal Bal: Good afternoon. I'm Neal Bal. I'm an owner at 480 Pio Drive. We've had to listen to this construction all along. I'm amazed that during your original planning that you didn't come to realize that when you dig in sand, you're gonna find what do you suppose here in Hawaii? So if you didn't plan correctly, that's not our problem. I agree with Larry—knock off one apartment and then make it an office or whatever else you want to, but no more onstreet parking. I cannot agree with that variance. There's a lot of people that are of the same opinion but just couldn't make it here. Thank you.

Chairman Tanner: Robin?

Ms. Jo-Ann Ridao: I'm Jo-Ann Ridao, but Robin is very, very nervous. This is the first time she's ever done this so I promised her I would come up with her.

Chairman Tanner: I'll give you guys six minutes together.

Ms. Robin Canto: Hi. My name is Robin Canto and I'm retired from the County of Maui. I'm very fortunate and excited about being chosen as a tenant of Imi Ikena Affordable Housing. I'm a single person. I only have one car and I don't expect to get another car. So I'm asking the Board to approve this variance request so I'll be able to move into a new apartment when it's ready. Thank you.

Chairman Tanner: Thank you, Robin. Jo-Ann?

Ms. Ridao: Thank you. As I said, I am the Director of Housing and Human Concerns. And my role as the Director of Housing especially, is to create as much as I can of affordable housing for people who cannot afford market rent. In this case, the units will be available to people at 60% and below of the median income. And there will be, I believe, a couple of units for people that are 30% and below of the median income. So I am very much in support of this project because as we all know, rentals on Maui is almost impossible at an affordable rate unless you live in public housing or you receive Section 8 assistance.

This project is very, very exciting for me because it is the first tax credit project on this island. And I am hoping that it will attract further tax credit affordable housing projects for Maui.

I just wanted to make a couple of points. The management firm which is EAH has already gone through 26 applications. Of those 26 applications, there are only 24 vehicles associated with those applications, and we have 55 stalls. So I am just kind of giving you a little bit of the facts.



And I wanted to also take this opportunity to thank the developer and to thank Hinano for resolving the issue of the iwi. And that was done in an honorable way. And I think . . . you know, I'm kind of excited for the tenants who are gonna live here that can take care of that little space that the iwi are at. So thank you for hearing me and I ask for your approval of this variance. Thank you.

Chairman Tanner: Jo-Ann, if you would, I've got a question for you. I don't wanna make any assumptions. You might not be able to answer the question, but if you can, it was brought up earlier in public testimony that each apartment would expect to have at least two cars, maybe more. This is not a typical apartment complex. This is a low income type of thing. To me, it seems, but I don't know, again, I don't wanna assume that in that type of environment that you wouldn't necessarily have, you know, two cars or more. That maybe you're gonna have those that are gonna rely on public transportation and so forth. Do you know if there's any information to say that that's accurate to assume or . . . ?

Ms. Ridao: You know, I can only tell you from my experience. My prior life for 30 years was the executive director of Lokahi Pacific. And Lokahi Pacific managed about 90 units of affordable housing for persons with disabilities as well as for persons of low income. And every project that I did, although they were all very small unit projects, maybe about 25 units and less, we never had a parking issue with the tenants 'cause most of them did not own a vehicle. So I would say . . . I shouldn't say "most." I would say 60% of the tenants owned a vehicle and 40% did not.

Chairman Tanner: OK. Thank you. OK. So I've gone through my list here. We'll remain in public testimony. If there's anybody who's not on the list that would like to come up and speak and this time, just state your name for the record, please.

Mr. Kevin Carney: Thank you, Chair. My name is Kevin Carney. I'm vice-president of EAH Housing. We are the property management agent for this property. For those of you who don't know us, we are a nonprofit developer and manager of affordable rental housing. We strictly do tax credit property management for the most part serving those at 60% and below of the area median income. And we currently operate on three islands in Hawaii and have little over 1,800 units under our management right now.

Just to clarify a few things on the parking regarding your latest question, it really depends on where that site is and what the makeup of that site is as far as the tenancy. We have projects that are family properties that also have a lot of seniors living there. And most of those seniors don't have vehicles at all. So I have properties where we actually rent out spare stalls. But then I do have some properties where parking is at a premium and people have to park on the street.

Concerning this property, what we did is we . . . as Jo-Ann indicated, we've looked at lots of applications. We had a lottery for this property. We had over a hundred names in the lottery. We've already gone through a lot of those names. We're very strict when it comes to allowing applicants into the property. They have to pass a credit check. They have to pass a background check. They cannot have a criminal history. They can't have any bankruptcies in the last few years. They have to have a good tenant reference and those types of things. And one of the things we ask them on the application is, do you have a vehicle, if so, how many?

We looked at 26 applications that we're just about finished going through right now. In other words,

they passed all our initial checks. Of those 26, 18 households said they had one car, and three households said they had two cars. So that's a total of 24 cars so far for 26 applications. And the property has 27 units and one manager's unit. So that's where we are right now. That could change depending on . . .

The critical point is when we can start signing leases once we get our C.O.O.'s and start lining people up, because people apply, they go through the process, and then something else comes up, and they may not be able to move in on our schedule, and then we'll have to go to the next application and start the process over again. But that's where we are at this point in time as of today.

Ms. Jacqueline Haraguchi: OK. I have a question. So since there are a limited amount of cars rather than parking stalls, are you considering renting out parking stalls to other owners or other renters?

Mr. Carney: We cannot at this property because of the financing on it. We cannot . . . and we cannot charge for parking either. So we can't charge our own tenants for parking, and we can't rent out to outsiders.

Ms. Haraguchi: Are you thinking or working on something to solve the issue where parking can be available for the other units if needed?

Mr. Carney: Well, right now . . .

Chairman Tanner: You've got a surplus right now.

Mr. Carney: Right now we have a huge surplus so we're not too concerned about it, but there is no other parking. We are . . . we came under the new code, so we're parked two stalls for each apartment. Everyone in the surrounding neighborhood is parked one stall per apartment. And so that's why you see a lot of onstreet parking. The onstreet parking that . . . the congestion they see now is construction workers who are working on our property. It's about 90% complete at this point in time. And so that's all the construction workers that are adding, really, to the parking that's available on the street right now.

Chairman Tanner: If I'm understanding you, you don't have the ability, then, to take your surplus parking and lease that in any way to anybody else.

Mr. Carney: Cannot.

Ms. Haraguchi: What about under an agreement with the lessee? Can you create a non . . . where you don't pay . . . ?

Mr. Carney: I think I know what you're getting to. Each tenant is entitled to two parking stalls, right? So if they're not using the two parking stalls, yes, we can assign that to someone else who lives onsite, who lives at the property.

Ms. Haraguchi: Yes.

Mr. Carney: Yes, that, we can do.

Mr. Fukunaga: And we should point that they're tandem stalls so you can't just readily use just stalls. If you get blocked from behind, then you would have to really coordinate when you come in and when you come out. So I don't think it really lends itself to sharing stalls with other households.

Mr. Carney: It's not gonna be that easy, but it can be done, I think. It just depends on how it works out and who . . . (inaudible) . . . Maybe move somebody over to one side and we free up a whole tandem. It's just . . . we'll work with it.

Mr. Bart Santiago: I have a quick question. Are you looking to gate the property?

Mr. Carney: Yes.

Mr. Santiago: OK.

Mr. Carney: I'm sorry. I miss spoke. It's not gated, but it is fenced.

Mr. G. Clark Abbott: You spoke as each unit has two parking stalls, supposedly.

Mr. Carney: Yes.

Mr. Abbott: If that unit only requires one parking stall, do you have to have the owner of that unit release the other stall?

Mr. Carney: No.

Mr. Abbott: 'Cause technically, he does own it.

Mr. Carney: No, he does not own it. This is a rental property.

Mr. Abbott: OK.

Mr. Carney: If he needs two stalls, we can give him two stalls, right, but if they don't need two stalls, then we can use that and they go into the pool. So if somebody has three cars, we have a pool there, and it's kind of a first-come, first-serve. And what we'll do is if they need a third one, we'll have them sign . . . Basically, they're renting it for free on a month-to-month basis, is what it comes down to.

Mr. Abbott: But they're still signing a lease.

Mr. Carney: They are signing a lease, yes.

Mr. Abbott: For that particular property and . . . (inaudible) . . .

Mr. Carney: For the apartment, not for the stall itself, yes.

Chairman Tanner: OK. At this time, is there anybody else who would like to speak on this item?

Mr. David Billings: Board, I'm David Billings. I'm the owner of the Imi Ikena Affordable Housing Project. An interesting fact: the community surrounding us is all parked one-to-one. And we, by code, are two-to-one. We have the 56 units for the 28 units. Now we're at a point with the iwi that the one space has been requested by the State to be preserved. And we recognize and honor that. And as such, we are. Our management is taking, you know, efforts to recalculate what is the need of our resident base. And as you can hear from the testimony, it's . . . there's a much greater supply than there is a need onsite. The . . . there is an alternative to this in that we could restrict one unit rather than as recommended to eliminate one unit, but we could restrict a unit to one space. So we could . . . you know, the manager unit has one car, and that eliminates the issue while preserving the iwi in space as required and requested. OK? So any questions for me, please.

Mr. Fukunaga: I have a question, a followup. So how can you restrict them from parking on the street? I mean, you can restrict them from parking in more than one stall, but how do you restrict them from parking on the street? Say if they just so happen to get another car, an expanding family, or kids grow up and start driving, how do you . . . ?

Mr. Billings: There's rules within the lease of the occupancy. It's truly . . . affordable housing and such is truly . . . it's not a by right. And there's rules that we all have to live within. And as such, parking is one.

Mr. Fukunaga: You mentioned some rules in the guidelines. What specifically or what does that language entail?

Mr. Billings: Well, there's occupancy, you know, the income verification, the house rules of how you maintain the outside of your property, the parking. The management is onsite to insure that if the rules aren't being met that there's strict compliance. And if you don't comply with the rules, then maybe you don't honor your responsibility.

Mr. Fukunaga: But your rules will basically just govern your property, not . . . and I don't . . . it really shouldn't govern the side street parking because it's a County right-of-way. But realizing that it's already a congested area, is there any . . . I don't know if method, or way of getting, or qualifying your tenants, or restricting your tenants to a certain number of vehicles?

Mr. Billings: Kevin, you wanna answer . . . (inaudible) . . . ?

Mr. Carney: The short answer is no. It's a free country. They can go out and get a vehicle if they want to. The same answer to your question about restricting them from parking on the street, we don't have any control over that. We have no power of enforcement once they're outside.

Chairman Tanner: But from an incentive standpoint, why would somebody park on the street when they can park on the property?

Mr. Carney: Right now, that's really not a concern of ours because we're looking at 20-plus stalls excess, if everything hangs tight. And then the 26 we've looked at, if they're telling us the truth on

their application, that's another thing. We don't go out and check license plates. So that's all we can do.

Mr. Fukunaga: I think the reality is when you have a tandem stall and you have a multi unit building, you know, you're upstairs in your apartment, and you're parked in the front, your house mate is parked behind you, and you gotta leave, both of you have to go down. Your house mate has to move their car just so you can get out. So it becomes a question of convenience. And at some point, they may say, I'm not gonna deal with this. I'm just gonna park on the street if I see parking on the street.

Mr. Carney: That's a supposition. It could happen, yes, or you could just switch keys and switch cars. Lots of things could happen with tandem parking, but that's the way it was approved as far as the design's concerned.

Mr. Fukunaga: How large are the units? Are they all the same size or do they vary? What kind of units are you marketing?

Mr. Carney: The square footage size for the two-bedroom units are 885 square feet, and the three-bedroom units are 1,119 square feet. So they're nice sized units. And they all . . . I may say, they have granite counter tops. They have microwave ovens. They have nice appliances. So it's all . . . We've tried to do everything as far as meeting the LEED level as much as possible as far as making it as green as possible. So it's gonna be a nice project.

Mr. Fukunaga: Do you have any visitor, or employee parking, or loading parking stalls?

Mr. Carney: There's no guest parking.

Mr. Fukunaga: There's no guest parking. Are there any employees?

Mr. Billings: There's an onsite manager.

Mr. Fukunaga: There's an onsite manager, but he would just be assigned, I guess, one of the tandem stalls?

Mr. Carney: Well, he'll be in the pool. We'll see how the pool goes. So he's our ace in the hole, if you will, if we run into a bind on parking.

Mr. Fukunaga: Is there any stalls for loading or maintenance purposes?

Mr. Carney: There is a loading requirement, right, in the parking? There is no loading requirement? Oh, OK. I guess there is none.

Mr. Fukunaga: Where is the nearest bus stop? Is there one nearby adjacent?

Mr. Carney: I don't know where the nearest bus stop is.

Ms. Gibo: . . . (inaudible) . . .

Ms. Kapua`ala: Oh, were you asking about public transportation?

Mr. Fukunaga: Yes.

Ms. Kapua`ala: OK. Let's see. This is the subject property. And as you come out of Imi Drive down onto Nana, you go to Liholiho towards Wailuku, down Lihi Street, and as you hit Kanaloa, there's a bus stop. There's the crosswalk and here is the bench for the bus stop. And there's one more?

Ms. Gibo: By Rose of Sharon.

Ms. Kapua`ala: By Rose of Sharon. So as you are going towards Kahului Beach Road, this is the other way to exit the area. You can either come down that Lihi Street or come down towards what used to be the Rose of Sharon Church. So here. Thank you very much. Here is the bus stop. So if we go up this and around, we'll come back to Imi Place. And again, this is Kanaloa Avenue looking towards Kahului Beach Road.

Mr. Fukunaga: Has there been any effort to reach out to the County to adjust their bus routes or to try to get a bus stop located closer to the area?

Mr. Carney: No, we haven't, not at this point in time. We could do that if we find that we have a parking issue, yes.

Mr. Fukunaga: I think that'd make your neighbors happy.

Mr. Carney: We're willing to join in with our neighbors in some type of an effort with the County to do that if that's what they wanna see. It would benefit all of us.

Mr. Fukunaga: I think it would. Can I ask you . . . ? Oh, sorry, I got one more question. Approximately, how many workers do you have working at the site?

Unidentified Speaker: Sixty-five.

Mr. Carney: Did you hear that? He said 65.

Mr. Fukunaga: Sixty-five, OK. So the . . . and they're parking off-site, I suppose, right? They're not parking onsite?

Mr. Carney: There's no parking onsite at this point in time.

Mr. Fukunaga: So the amount of parking that the neighbors are realizing right now is temporary and probably greater than what they may anticipate once the building is completed and operating.

Mr. Carney: We would expect so, yes.

Chairman Tanner: Probably a hundred percent more than what you would expect to see later.

Mr. Carney: Yeah, we were just up there. It's hard to find a place to park on the street.

Mr. Santiago: How long has this project been ongoing?

Mr. Carney: When did we start construction? I forget.

Unidentified Speaker: Fifty-four weeks ago.

Mr. Carney: Fifty-four weeks ago.

Chairman Tanner: We're still actually in public testimony so at this time, I'm gonna give an opportunity if there's anybody else that hasn't already spoken that would like to speak on this before I close public testimony. You've already spoken.

Mr. Simon: I understand. I have a question for . . . (inaudible) . . .

Chairman Tanner: Well, the challenge I have here is you're speaking on behalf of somebody else. We don't know that you have the authority to do that. I haven't seen the minutes of the meetings where you've been given authority. So that's the challenge here. So at this time, I'm gonna close public testimony. And we're gonna open up if the applicant would come back up, and we're gonna open this up for the Board discussion and questions. So, Board, further questions for the applicant?

Mr. Shimabuku: I have a question. It looks like there's a single parking right in front of the building at the cul-de-sac.

Ms. Cockett: There are two ADA stalls that are on Imi parking lot. There are four that are going to be for the units, two per unit, so for two apartments, and then two ADA parking stalls up on top. I did wanna make a comment as well too. The construction will be completed by the end of October so we're about done.

Chairman Tanner: What time do you anticipate, if all goes according to plan, for the first residents to start moving in?

Ms. Cockett: We are intending to have the Building A be completed by mid-October. And that would require a certificate of occupancy for them to be able to move in. And then the end of . . .

Unidentified Speaker: . . . (inaudible) . . .

Chairman Tanner: First of November?

Ms. Cockett: Yeah, Building B.

Unidentified Speaker: . . . (inaudible) . . .

Mr. Billings: It would be within a two-week period of the first of November.

Mr. Howard S. K. Kihune: Mr. Chair, I have a comment. You know, I'd like to applaud Jo-Ann, and Mr. Billings, and the County of Maui for really putting this project together. This is the first of its kind, and I think like Jo-Ann had mentioned, if this all works in a direction that I think all parties involved envisioned, this could really open the door for other opportunities and projects of this sort throughout Maui, which I think would benefit the community as a whole. So I just wanna state that for the record. I think it's a great concept and I look forward to seeing other projects like this come forward.

Chairman Tanner: You know, I'm sensitive to the needs of the surrounding community when something like this comes in. It's always a challenge with regard to traffic, with regard to parking, and so forth. However, to me, on this, it seems like the property, because they have to meet the new codes will actually be providing far more onsite parking for their residents than all of the surrounding folks do. So the challenge with the street parking are with the properties that already exist, not necessarily this. And it appears that under a best case scenario, they're gonna have a surplus. Under a worst case scenario, you may just have adequate needs and a little bit more. I understand Chad's concern with the stacked parking. You may have people feel like, you know, well, it's maybe more of an incentive to park on the street. I don't know. From a safety standpoint, I think I would probably lean towards the hassle of having to move a car than parking a car off-site. But none of us will know until it moves forward and happens. I agree with Howard. I think this is something that Maui County needs. I personally believe long term that they're gonna be a positive impact on the community that they're in as opposed to a negative one. Further questions for the applicant?

Mr. Shimabuku: I'd like to make a comment too. You know, we're just talking about one stall. And having it seems like adequate parking for the whole building itself providing with two, and their study that they're having, some of them only have one car. Definitely, they're feeling the impact of the construction because I've been there myself, and it is kinda like a mess right now, but understandable with all the guys trying to make this big building. So I don't know. It's a tough one because you want this project to go ahead and yet there's a lot of opposition to it from people who living in that area. And I understand their concern, but with the information provided with the adequate parking, I truly believe it'll be OK and have enough parking for that area.

Chairman Tanner: I would also like to address one other item that was brought up in public testimony. And that was the request that we postpone a decision based on the opportunity for more residents to give input. And I'll open that to the Board. My personal opinion is that all the requirements were met for public announcements and notices were placed. And immediate neighbors were given certified mail. It was in the paper and so forth, but I'm open if somebody else wants to discuss that.

Mr. Shimabuku: I agree with you, too, that adequate notice was provided. I mean, the building is almost done, a month away. Construction started 54 months ago. Only now this thing comes up. It's still unfortunate but it's still something that we gotta deal with.

Ms. Cockett: If I can make a quick comment too? The iwi were located over a series of months, about five months, during the mass grading. So it wasn't as if we found one set . . . all six at one time. It was one almost a month as we went. And we had to come to a consensus on how it was gonna be handled. And gratefully, Hinano was very kind to allow us to inter them all together in one



area because they were located in different areas on the property.

Chairman Tanner: Thank you.

Mr. Abbott: Mr. Chairman, I find it unfathomable to think that one parking place is going to change the entire outlook of this whole thing. It just isn't reasonable. If you have to have a parking place, remove the bicycle parking and put it somewhere else. But to say one parking space is going to create a congestion of heinous portions on the street is just ludicrous. I'm sorry. I just can't . . . It doesn't make common sense.

Chairman Tanner: But we do have a detailed staff analysis and recommendations, and I appreciate that from staff. So at this time, if there are no other questions or comments . . .

Mr. Fukunaga: I have one more question for your management.

Chairman Tanner: Michelle? We have one question for you, Michelle, if you . . . Chad?

Mr. Fukunaga: So from a managing standpoint, when you . . . ? The tenants, they have to specify specifically who the tenants will be and how many tenants will occupy the unit. Are there . . . in general, do you choose applicants on the number of tenants that are occupying a certain unit? For example, if you have . . . What was the smallest unit? A two-bedroom was your smallest?

Ms. Cockett: Correct.

Mr. Fukunaga: If you have a seven, eight-member family in a two-bedroom unit, which would seem quite a tight fit, how would you handle that kind of situation?

Mr. Carney: We do have occupancy standards. And the rule of thumb in the industry is two plus one. So in other words, for a two-bedroom unit, you can have five people maximum. So in our two-bedroom units, we allow five. In our three-bedroom units, we allow seven.

Mr. Fukunaga: And you guys will, I guess, monitor that? As families grow, what happens if they have more kids? Do they get kicked out or . . . ?

Mr. Carney: They become what we call "over housed," or "under housed," excuse me, "under housed." And we do have residents that are under housed and over housed. And what we try to do is move them around when we can within a property. But if they start exceeding the tenant occupancy level then, no, we do not kick them out. There's provisions for that, as long as they're paying the rent. But if other issues come up, then we would move to evict, but otherwise, we wouldn't kick them out, no.

Mr. Fukunaga: OK. Whichever way this voting goes or the decision goes, I encourage you to reach out to your neighbors. I encourage you to reach out to the County to see if they can adjust their bus routes and their bus stops.

Mr. Carney: Well taken, yes.

Mr. Fukunaga: Thank you.

Chairman Tanner: Any further questions for the applicant? Seeing none, I will close . . .

Mr. Abbott: Go ahead, sir.

Chairman Tanner: I'll close and call for a motion.

Mr. Abbott: I'll make a motion to approve the 55 parking stalls in accordance with the suggestions of the Planning Department and their . . . what do you call it? Yes, their requirements.

Chairman Tanner: OK. And those requirements as stated are the million-dollar liability insurance policy and the hold harmless agreement.

Mr. Abbott: Right.

Chairman Tanner: OK. Do I have a second?

Mr. Santiago: Second.

Chairman Tanner: OK. Any further discussion?

Mr. Shimabuku: Yeah, I'd just like to make a comment. You know, it's always hard when you have so much people testifying in this matter especially, when it's gonna affect your neighborhood. I understand that the recommendation by the staff is for approval. It's kinda like tearing me apart right now because I can feel for the people who live in that area. But looking at overall, the plans, the requirements, and the people that's gonna live there, I mean, one stall like as Gene was saying, I can see if it was a lot of stalls. Then definitely, I would deny or vote to deny. So I just wanted to say that I'm kinda torn apart at this point.

Mr. Abbott: I agree. I agree, totally, but it's just . . .

Chairman Tanner: So we have a motion and a second. Any further discussion? I'll call for a vote. All those in favor? Any opposed?

It was moved by Mr. Abbott, seconded by Mr. Santiago, then

**VOTED: To approve the variance and conditions as recommended by the Planning Department.**

**(Assenting: G. Abbott, B. Santiago, D. De Ponte, C. Fukunaga, J. Haraguchi, H. Kihune, R. Shimabuku.)**

**(Excused: T. Espeleta.)**

Chairman Tanner: **The variance is granted unanimously.** Thank you very much. I'd like to thank everybody for attending. We appreciate you doing that. At this time, we'll move on to the next item of business on the agenda, which would be the approval of the August 22<sup>nd</sup>, 2013 meeting minutes.

**C. APPROVAL OF THE AUGUST 22, 2013 MEETING MINUTES**

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

**VOTED: To approve the August 22, 2013 meeting minutes as presented.**

**(Assenting: G. Abbott, J. Haraguchi, D. De Ponte, C. Fukunaga,  
H. Kihune, B. Santiago, R. Shimabuku.)**

**(Excused: T. Espeleta.)**

Chairman Tanner: **The minutes are now approved.**

**D. DIRECTOR'S REPORT**

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

**E. NEXT MEETING DATE: Thursday, October 10, 2013**

Chairman Tanner: The next meeting is scheduled for Thursday, October 10<sup>th</sup>. So at this time, unless there's any other reason, I'll call for an adjournment.

There being no further business to come before the Board, the meeting adjourned at 2:35 p.m.

Respectfully submitted by,

TREMAINE BALBERDI  
Secretary to Boards and Commissions II

**RECORD OF ATTENDANCE**

**Members Present:**

Rick Tanner, Chairman  
Jacqueline Haraguchi, Vice-Chairman  
G. Clark Abbott  
Patrick De Ponte  
Chad Fukunaga  
Howard S. K. Kihune  
Bart Santiago, Jr.  
Ray Shimabuku

**Members Excused:**

Teddy Espeleta

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**Others:**

John Rapacz, Planning Program Administrator, Planning Department

Trisha Kapua`ala, Staff Planner, Planning Department

James Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel