

**APPROVED: 7/9/2015**

**BOARD OF VARIANCES AND APPEALS  
REGULAR MEETING  
May 28, 2015**

**A. CALL TO ORDER**

The regular meeting of the Board of Variances and Appeals (Board) was called to order by Chairman Abbott at approximately, 1:35 p.m., Thursday, May 28, 2015, 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 Abbott: Board of Variances and Appeals meeting is now called to order. It's approximately 1:35 p.m., let the record show we do have a quorum.

**B. PUBLIC TESTIMONY**

Chairman Abbott: I noticed there are a lot of people who may give public testimony. At this particular time, if there's anyone in the audience that wishes to give public testimony on an item that they can't be here when it's presented, I will give you time now. This is for the second item on the agenda. Seeing none, ok.

**D. PUBLIC HEARING**

1. MELVIN A. AND SUSAN F. MENDES of KAHAKULOA HOMESTEADS SUBDIVISION, is applying for a variance from Maui County Code (MCC) §18.16.210 "Shoreline and other access rights-of-way" to delete the shoreline right-of-way requirement where one is required for property located at 3400 Kahekili Highway, Wailuku, Hawaii; TMK (2) 3-1-001:041 (BVAV 2015/0007) (C. Rabago)

Chairman Abbott: Ok will the staff read the agenda item?

Ms. Chelsea Rabago: Good afternoon, my name is Chelsea Rabago. I am a planner with the Planning Department. *Reads item into record.*

Chairman Abbott: Thank you very much.

**C. INTRODUCTION OF NEW MEMBERS-Juanita Reyher-Colon & Max Kincaid Jr.**

Chairman Abbott: At this particular time, I did that on a purpose. I'd like to introduce our two new Board members. We have Juanita Reyher-Colon and Max Kincaid Jr., welcome

to our Board. If you give us a little knowledge of what you're doing, of what about you, before we get started.

Mrs. Juanita Reyher-Colon: I'm - -

Chairman Abbott: Please speak into the microphone Juanita. It's very important we capture every word because it's a verbatim ticket.

Mrs. Reyher-Colon: I live on Moloka'i. I'm the General Manager for Kawela Plantation. It's a residential subdivision with a water system. I also serve on the Moloka'i Land Trust as their Board of Directors.

Chairman Abbott: Thank you.

*Mr. Raymond Sung: Walks into meeting at approximately 1:40 p.m.*

Mr. Max Kincaid Jr.: My name is Max Kincaid, I'm from Lana'i. I'm presently retired from the Police Department and have been involved with the CBSFA Creation on Lana'i and I commercial fish. Thank you.

Chairman Abbott: Good, thank you very much.

#### **D. PUBLIC HEARING (Continued...)**

Chairman Abbott: Will the applicant please come forward, speak into the microphone and state your name?

Mr. Melvin Mendes: Melvin Mendes, the owner of the property.

Chairman Abbott: Mr. Mendes, are you agreeable to waiving of the reading of the staff report?

Mr. Mendes: Uh, yeah.

Chairman Abbott: Ok, thank you. Now, will you begin your presentation?

Mr. Mendes: Ok. This is the portion of land, it's kind of – yeah this is the portion of the land right there. And I want everybody to understand, this is not a subdivision . . . what we call it right . . .we're putting up boundaries so my kids can build. If you folks would say my kids can build the property without subdividing, there wouldn't be a subdivision.

This land is from 1943 I believe. My dad and grandparents was there. So I'm just trying to pass it on to my kids without leaving a nightmare for them later on. And that's kind of

the reason and you folks can see this cliff area. We all work around in the farm. The last 15 years, that's my sole business is the farm and having a trail with public . . . and I'm not talking about the locals, because locals never came in all the years I've been there on the property. . . it's the tourist, that's the ones I'm really concerned with.

That they're going to - - that's my home on the top and they gotta come all the way down here and that's about a little over a mile from the highway down to the bottom. And when you get to the bottom, it's a lot of clay dirt, it's slippery, it's brittle, there's erosion going on. I mean I just recently moved my fence 12 feet back, just to be safe.

And that's clay, it's slippery. When it's dry, it's brittle, when it's wet, it's like stepping on ice and I don't know what else really to do because my insurance manager had a big chuckle when I told him, "you know what, I might have to get insurance for this thing", and he said "who in the right mind is going to insure you to have people standing on the cliff here with all this erosion and all of this - - this is very very dangerous".

I don't know what else to. . . You know, we got a mile of fence line that we've gotta put in if we do the easement. I mean that's over \$20,000 just in material, because I gotta fence to keep the people in, try to keep them in. And tourist never stays in the fence lines. You know, they're going to be jumping over.

I got cattle, I got goats, I've got a whole farm full of - - but you know, people don't understand about livestock. They're going go and mess with the bull, they're going to go over there and mess with the mother cow or mess with the billy and that's another liability I got on me again.

That part there . . . like I said, I can't get my . . . the easement- - I can get that insured by putting fences and all that, my insurance manager said, we can get that. But we come down to that bluff there, he said, "no insurance company is going to insure me". He said, "Because that's something that someone's going to fall" and it's not going to be . . . statistically, I think in two years, someone's going to fall and they're not going to be injured, there's going to be a death.

We patched this fence here, and I told my son-in-laws, "hook up a rope if you gotta go on the other side of this fence line", because--and we're born and raised here-- that clay is that bad.

If there was a safe way to get there, I wouldn't be here at all; the easement was in, because people belong getting down to the oceans. I'm a 100% for it. A couple of turns down from my house, there's a couple of big wide areas tourist can stop, pull over, take all the pictures they want. People walk down, they go fishing.

The first one, you can't get down to the beach but you can get to a ledge where you still can fish. You go further in towards Waihe'e, you can get down to the ocean. But out here, after you pass that, it's clay, it's dangerous. I just don't want to be- -I don't want to do this and in less than two years, I've got a lawsuit and we lose our property. And the lawsuit is so drastic that the property is gone and my kids are holding back for the rest of their lives because they've got millions of dollars of liability behind them.

So that's why we're just trying to get a variance, I mean this is . . . just trying to save my land. That's all I got to say right there.

Chairman Abbott: Inviting questions from the Board. Please come back to the podium Mr. Mendes.

## **B. PUBLIC TESTIMONY (Continued...)**

Chairman Abbott: I think we'll do the public testimony first Mr. Mendes and then we'll come back to this particular part.

Mr. Mendes: Ok.

Chairman Abbott: We're now open for public testimony. Anybody wishing to, please do so; we're limiting the time limit to three minutes if you can. Please state your name.

Ms. Jocelyn Mendes: Good afternoon. My name is Jocelyn, he is my brother-in-law Melvin, my sister-in-law Susan and my land is adjacent to theirs. If you look at the cliffs, you're looking at the Cliffs of Dover in Ireland, that's exactly what it is. It's sheer clay.

For my part, I'm going to tell you a little story and make it fast. We have animals just like Melvin does, we have horses. Our line is six feet in. I had a horse . . . favorite horse, she was down there and she was six to eight feet inside. One day she was gone, couldn't find her, we went all over looking.

What happened is . . . it's so crumbly as my brother-in-law said. She went down to eat grass and it just caved in right on her. And I couldn't get down to get to her, 'cause there's no way to get down there. She had to end up staying there until she died.

Now, we just had a house fire in Kahakuloa, I would say about three days ago. The house burnt down to the ground. Because of the road situation, there is no water, running water. They could not hook up their lines, to put the fire out to save the home. By the time they got there, it was at least an hour too late because of the windy roads.

So if you put a fence there and say "we need to maintain this" and there's an emergency, what's going to happen? How is the medical people going to come in-in

enough time to save the person that fell down when they can't even get there to put out a fire?

So my concern is more for the public and if anything should go wrong, anything should happen, is the person going to end up dying because there's no medical facility that can get down that sheer cliff, except by a helicopter? And if the helicopter goes down, where is he going to land? How will the firemen get down there? You looking at about what? Maybe eight stories down to the ground?

Just having a person down there like I had my horse, gives me the shivers because by the time you do get to them, it is too late. Thank you Sir.

Chairman Abbott: Thank you. Anyone else? Please?

Mrs. Jenny Nobriga: Hi! I'm Jenny Nobriga, I'm the daughter of Melvin and Susie Mendes. I've done a little bit of research. I work in the tourist industry, so I deal with tourist on a daily basis.

Just in this year alone, there has been nine different incidences where visitors either fell on a hiking trail or fell trying to get Cliff House, which is another trail that goes down to an ocean that's very dangerous. Chutes and Ladders is another popular one. I'm afraid that this is going to be another hike trail or an area that people want to go to because it's different and it's difficult. . . and that they're going to get injured.

Just this month alone in May, we have about three different incidences where a visitor was airlifted out of a hike or the opihi picker went down to the cliff side and he got injured. I'm afraid of something like that happening on our property.

Not only that, back in 2003 I believe, there was a father and a daughter who fell off a waterfall by the Seven Sacred Pools on Haleakala National Park, that incident, they perished, they didn't. . . it was a fatal accident, they both went over and they didn't survive. The family sued the federal government and they won their case for five million dollars.

If something were to happen like that to our family, there is no possible way we could afford something like that and I'm afraid of something like that happening to our family because we are just regular people. We can't afford anything like that.

Not only that, you guys are asking us—we all have homes, we all live in neighborhoods in different areas. Imagine having somebody, a stranger walk in your backyard every single day. Basically the way I feel is we're now required- - you're requiring us to invite strangers, people we don't know into my backyard. Somewhere where I've grown up and where I was raised and I don't know who these people are, where they come from,

what morals or values that they have. What they're going to do to our animals, what they're going to do to our animals, what they're going to do to my children, are they going to approach us?

And that's fearful for me, because I do have a daughter; I have a new daughter now. And now we have people from all over the world that might want to come here and walk through my front yard or my backyard and I don't know where they come from or who they are.

So I do want you to be aware of just our fears and concerns. Thank you.

Chairman Abbott: Thank you. Any others? Please? Thank you.

Mr. Dayton Paishon: My name's Dayton Paishon, I'm the husband for Jocelyn Mendes, we own the adjacent property to Melvin. And even the Hawaiians don't go there; I mean this is sheer cliff. The opihi pickers don't even go here. They come in by boat to get to the rocks. There's no way to get there. And if somebody gets to the edge and that thing is slippery, they fall . . . how you going to get 'em?

Just a couple of months ago we had that- - further down from where I live, towards Waihe'e, a helicopter - - there was a man stuck on a ledge, a helicopter came and had to get him off the ledge. Took the guy two hours to get him off the ledge. And he was stuck there.

For me, it's like- - for me looking at the picture, it tells the story. You're going to have somebody- - if there's a trail going up- -you're going to have somebody think that they can go down there. That's just human nature. You're going to have somebody that's going to go, "ahh, I going try this", yeah but then who's going to come up with the insurance? Who pays? Should this wonder boy decide to go down the hill?

I don't think this is a tough one at all. Look at the cliff, it's a cliff, you can't get down to the ocean, there's no way. Thank you.

Chairman Abbott: Thank you very much.

Mr. Thorne Abbott: Aloha. My name's Thorne Abbott, I'm speaking on behalf of the Audubon Society and I really appreciate your comments and your passion and your knowledge for this particular site because that's really, really valuable. But there were a couple things that I wanted to speak to in regards to that.

First off, there's been a lot of concerns expressed about liability. And the State, when you create a shoreline access point or any crossing of recreational- - crossing private land for personal or recreation, the State is on the hook for liability. Just like. . .

...(inaudible discussion from audience)...

Mr. Abbott: Ok. Well there is. . . and I'm not a lawyer so I won't speak to that, but I think it should be explored, because there is a State Law that the State has to be pursued first. That's item one. And I agree. If I was a homeowner or landowner, I wouldn't want to be liable for that.

The second thing is, about tourist coming. They may, but as far as I know, there's no requirement to put up a big sign that says, "Hey, shoreline access point, come down here". There's a requirement to have a trail, it's not required to be paved, it's not required to be fenced. There's lots of trails all over the island on cliff sides and people aren't falling off or jumping off 'em. Sometimes they do, on the Pali, people have had accidents and fallen off of.

The other thing is, I think it'd be brilliant if you could even get down there. There's a bird colony off shore, they're not endangered, they're not threaten ...(inaudible)... there are Wedge-tailed Shearwaters and you can't see them. You can't see them because you have no access to this point, this overlook to observe those. If that was available, I think, I'm sure Audubon Society would be willing to work with the landowner to arrange safe access onto the site.

And then last thing I'd say is this is a unique circumstance, I don't argue that a bit. However, from a planning context, a long term context, once this shoreline access goes away, it goes away forever. Many, many, many generations. I respect he's probably making these homes for his children. But at some they're going to sell them to another people. Maybe they won't, maybe they'll keep it in the family for a hundred years.

But there's that possibility that somebody else will take it over and that privatizes that area and so you might have three different families. And I don't mean any disrespect to the Mendes in this regard. But that's just a fact. And that would change this area quite a bit, because it cut it off, cut the access for all of us to that area, if it was three different private owners.

So maybe there's a way for him to build his three homes for his family, which would require two SMA permits . . . major SMA permits and I believe coming back to the Board of Variances to build three homes on one lot. So maybe there's some alternatives that should be explored and in addition I'd ask you to look into the liability issue, because I do think, I'm confident that there's a State Law that puts the State on the hook first. That's not to say that some lawyer wouldn't go after the family, it's just the State is primarily liable. Thank you very much for your time, mahalo.

Chairman Abbott: Do we have any letters of support or opposition? Go ahead Mr. Brown.

Mr. David Brown: Hi I'm David Henderson Brown. I'm testifying as a citizen of Wailuku today. Accesses are under strained, I've heard everything. I agree completely with them, I just came in from hiking today in some remote places. Now Kahukuloa Homestead Subdivision is seeking a variance to delete its shoreline and other access rights of way. Now a subdivision is a social contract between the sub dividers, whether it's a family or whether it's 1,000 homes and the people of Maui. And your Board represents the people of Maui.

The social contract is, we let sub dividers build multiple homes, subdivide and make money, that's fine, I'm not against making money. But because they do that or in this case help that family, and that's fine too. They have to give something to the community. What they give in the community is access. Access is variable; I don't want to go over the accesses.

I've seen accesses near Holokai where they have a fence along each side. You get to the end there's a rope straight down and unfortunately we can build better accesses and trails but we can't build better hikers.

In a lot of hiking instance they always get in the news. If your grandma breaks her hip in the bedroom, it's not going to get on the news. So in deed, we're in a society where we ...(inaudible)...

Now, you represent us citizens in this social contract. The social contract has already been written and the Planning Department and the Homestead sub divider. And it's up to you to make sure the people of Maui get some benefit out of this.

As much sympathy as I have for the home people and I agree with the last speaker, maybe they need to have a condominium, maybe they need to go some other way than subdivision. But if you're going to have a subdivision, you need to have access. And that's the law. And whether the access is difficult or not, that could be worked out later.

But anyhow, that's my feeling on access. We should have access and I will say one thing. The Planning Department has no record of the accesses on Maui. Isn't that shocking? And that's because people hide them. And so I'm developing a list for our website pathmaui.org to have every access on Maui. But at present, there's no list of accesses on Maui. Thank you very much.

Chairman Abbott: Thank you. Next?

Mrs. Kelly Medeiros: Hello. I'm Kelly Medeiros, I'm Melvin's older daughter. I work in the medical field as well as the tourism industry. I think if we have this access, there's the Maui Revealed Book, I'm sure a lot of you are familiar with that and tourist do find a

way whether it's locals providing the information or just people that seasonally come here.

So once something like this is done, regardless yeah, tourist might not all know about it, but it gets published say in a book, or just word of mouth and it really is dangerous. I work in Wailea in the tourism industry and there are number of places that people come with this Maui Revealed Book, and I'm like you just don't go there. Yeah it shows and it says all this great description, but it's not safe and honestly that's my family's biggest concern as you heard is the safety of others.

You know as far as the shearwater birds, I think that's something that could even be worked out if there's a way to protect the bird colony. That's not something that an easement say needs to be . . . or a shoreline access needs to be created, where we could work with something like that. That'd be an awesome thing to put together. But I don't believe that this shoreline access will be necessary for that.

Chairman Abbott: Thank you.

Mrs. Medeiros: But, as long as this goes through, people will find out about it and people will always try. And there's even Big Beach, you know a lot of public beaches and stuff just aren't safe for tourist. They come here and they're accustomed to lakes and safer hiking trailers. Not lava you know? And Hawaii is very different from what a lot of these people are accustomed to. We come with a whole slew of different things here and I just feel the concern would be a lot greater if this was granted. Thank you.

Chairman Abbott: Thank you.

Ms. Nicole Mendes: Hi! My name is Nicole Mendes, that is my uncle, which is my dad's brother and mom. Our property is adjacent to where this easement is being talked about. The law states that you need this easement to have access to the beaches and shorelines. There is no beach; you can see that, it's not a problem to see that.

Shoreline surely means where the ocean meets land. That would mean that's down below on a cliff. That's not up above on a cliff, that's down below. There's clearly no access to this.

The reason for the subdivision, is because you can't go out and take out a loan to build a house, 'cause you need to have it subdivided. It's three children, two children. This property has been in our family for generations, my great grandparents. It's passed down now to my cousins, same way it'll be passed down to me someday.

This isn't to build condominiums. We are ranching family; our family background is ranching and farming. He owns a pig farm, a ranch farm, that's just all it is. We're not

looking to making billions of dollars. We work at the County, we work at the hotel industry, I work in the automotive industry. We're not millionaires. We're everyday citizens. Our home is unique. We have been blessed, abundantly blessed to live where we are and we just want to maintain that. We just want to build a house like everybody else does.

The only thing is we are blessed to have something like this as our backyard. We have been brought up knowing to stay away from areas that are dangerous. To have to access come and see it. We're trying to protect it also. To public, everything gets developed. We're lucky enough to have something that doesn't have to get developed, it's our personal place.

I can almost guarantee you, in 30, 40, 50 years from now, it's going to be us. This is the family. That's why we're here to support each other. And this family isn't going to sell it, because we haven't. We have no intentions of doing so. We love where we live and we just want to keep ranching and farming as we've always done.

To have the public come down, there's nothing there to see. Except for animals, that's it. There's no beaches to access, there's no swimming- - I fish, I dive, I gotta go across the island to go fishing 'cause there's no place to fish here. I gotta go across the island to go diving 'cause there's no way to get down there.

I completely understand that there's things out there that are untouched. Yes, that's because we don't touch it. We're not down there trying to do something we don't belong in. My God mother is great in Hawaiian Culture, talk to her about it, there's nothing there for anybody to go and do gathering rights, not at all.

All we want to do is subdivide, which is a termination for the law to be able to split up between family so we can go ahead and build a house. Like everybody else has the option to do. To have people come down, it's not necessary. You want to see it? Great, take a helicopter tour. You can see all of Maui, it's beautiful. We just want to keep it green, full of animals and for the family.

I think it's a great law to have, I understand why the law was made and that is to keep access for the public to go to beautiful beaches and such with all the development that has come. But there's nothing here to access, nothing at all. Thank you.

Chairman Abbott: Thank you. Ok. Let's open up questions from the Board now. If there's no other public testimony, then we'll open it to the Board. Board members, questions for Mr. Mendes or anyone in the audience?

Vice-Chairman Fukunaga: Chair, I have a question for staff. Lance? Reading the ordinance §18.16.210, and the way I read it is they are required to dedicate the area. Is that correct or is it an easement or a dedication?

Mr. Lance Nakamura: I don't think that's well defined, it would have to be determined.

Vice-Chairman Fukunaga: Ok. And as far as the . . . what kind of improvements are they typically- - or is there any requirements for improvements on their part? Or is that something typically the County would take care of?

Mr. Nakamura: The standard requirement is for land dedication or providing the land an access. The code says that you have to provide 15 feet. If the Director can allow less dedication, but they would then have to provide . . . potentially then provide improvements to make up for that. They could provide improved pads or parking areas are different things, if the Director were to say, "Give us five feet instead of fifteen" or . . . that could be negotiated.

Vice-Chairman Fukunaga: And in cases like this, where there's a safety concern, is there any requirement on their part or on the County's part to provide some kind of barrier or safety measures to protect the public?

Mr. Nakamura: I think that would be lumped in with improvements that would potentially be required. But, it's not clearly defined in the code.

Vice-Chairman Fukunaga: Ok.

Chairman Abbott: Question?

Mr. Howard Kihune: Mr. Mendes?

Mr. Mendes: Yes?

Mr. Kihune: Thank you. The three lots, can you just tell me what size the lots will be divided and subdivided into?

Mr. Mendes: I believe two is about 13 acres and the last one is about 9 acres.

Mr. Kihune: Thank you.

Mr. Kincaid: Mr. Mendes, how much livestock ...(inaudible)...

Mr. Mendes: Over the cliff?

Mr. Kincaid: They don't get any more sure footed.

Mr. Mendes: No they don't.

Mr. Kincaid: That would be an interesting- -

Mr. Mendes: You know I lose about . . . Every now and then I lose a few- - I started raising goats. The ones that gotta go down because the cows . . . just when you lose them, it's too much money and they fall too easy. And every now and then, there's goat's that fall over and some of the time, they land right on that little edge, so they don't die.

You gotta go from the other side. I go from their side cause that's the only way I can see it. And you just gotta . . . you gotta put 'em down and just leave it there, and that's it. We lose goats, I don't know maybe five a year.

Mr. Kincaid: We know of one horse and goats.

Mr. Mendes: Yeah. . .and from- - like I said, I grew up there. . . we lost cattle and then we started raising. . . my dad said, "You know, let's put some sheep out there, and let's see if the sheep will eat the grass on the edges, trying to keep the cows away." And that didn't work too much so we started to add the fence. The fences don't last too long, every two years you gotta go redo the fence lines. But that's the cost of living there.

Mr. Kincaid: Now it's my understanding that the shoreline belongs to the State.

Mr. Mendes: Yeah, and you know that's a part- -I was listening to these questions here. See, I approached Land and Natural Resources, I told them "Hey you gotta help me with this County deal". You know.

Mr. Kincaid: From my experience Mr. Mendes is the State owns lands up until the vegetation.

Mr. Mendes: Right.

Mr. Kincaid: So that would be right at the edge of your cliff.

Mr. Mendes: Right at the edge of the cliff. Yeah.

Mr. Kincaid: Ok. And again another question that I have is about how long is your fence line? Give or take? Which is adjacent to the cliffs? You say you've got 12 foot setback now?

Mr. Mendes: Yeah. I did about 200 feet . . . about 200 feet, I moved back to about 12 feet, just moved it back. The rest . . . it's ok. It's just certain areas . . . I guess the way the wind blows, the way the rains come. It just started gets erodes and it kind of undermines. So I moved the fences back. It doesn't happen that often that I have to move it back, but recently I had to move it back with this rains that we've been getting.

Mr. Kincaid: Ok, so what I'm actually asking Sir is - -

Mr. Mendes: I'm 12 feet- -

Mr. Kincaid: That 12 feet from the shoreline vegetation line, but how long would that be to encompass your entire property?

Mr. Mendes: Oh, the whole property?

Mr. Kincaid: Yeah.

Mr. Mendes: You know what honestly, I've got fences there; I've never measured the thing. But uh . . .

Mr. Kincaid: A questimate works.

Mr. Mendes: The whole property across? I've got about 500 feet of fence line on the shore and then the rest down below doesn't have any fences.

Mr. Kincaid: My last question I guess is, in seeking this variance . . . in the advent that there needs to be an emergency effort, does your property itself, the way it is now, would that assist say Fire or the Police Department in getting to an area where they might have to rappel - -

Mr. Mendes: Yeah, I think we can. I have the road going down, I mean we could. But it's going to be a recovery; it's not going to be . . . it's just going to be recovery. But I have a road that goes right down the center of the property and if any case if this doesn't go, the variance don't go, that's the only way I can put the easement in, is in the middle of the property along the road. But the road would be the easement basically.

Mr. Kincaid: Thank you.

Vice-Chairman Fukunaga: Mr. Mendes?

Mr. Mendes: Yes.

Vice-Chairman Fukunaga: So you noted that there's an area. . . I guess down the road, I believe you said, where tourist can stop to take- -

Mr. Mendes: Yes.

Vice-Chairman Fukunaga: Approximately how far down the road would you say it is? Half a mile?

Mr. Mendes: If you're driving on the highway, I would say about less than a quarter mile.

Vice-Chairman Fukunaga: And is there any other areas before your property on the Wailuku side of where- -

Mr. Mendes: That's Wailuku side.

Vice-Chairman Fukunaga: That's Wailuku side?

Mr. Mendes: Yeah. There is an ancient Hawaiian trail, next to the property line, where border C.Brewer, there is an ancient Hawaiian trail that goes through there. And it's on some ancient maps, I've seen it before.

Vice-Chairman Fukunaga: Can you point it out on any of the --?

Mr. Mendes: I don't think we have any of those. . . Ok, it would be- - yeah show them the Jocelyns'. Yeah, right there.

Vice-Chairman Fukunaga: Is that in the state land?

Mr. Mendes: It used to be owned by C. Brewer and now it's. . . C. Brewer owned it then it went to Betsill Development and now it's some guy named Gordon who owns it, I don't know who owns it. But, see there is a Hawaiian trail right there. If I could find that map, we wouldn't have a problem I think. But I can't find it. But there's an old Hawaiian trail right there on that border there. And my property line less than 300 feet away from that property line. But like I said, I can't find that trail. I can't find that old map.

Vice-Chairman Fukunaga: And that trail, does that lead to the water's edge or does that just go to the edge of the cliff?

Mr. Mendes: No, it just goes to the bottom. It just goes to the top of the bluffs.

Vice-Chairman Fukunaga: Oh ok. And are there any other points of access for the public to get to the coast line?

Mr. Mendes: It would be a gulch over, would be Makamakaole side or further Waihe'e side. There's a Land and Natural Resources owns that . . . we call it Makamakaole Gulch, there is access there, nobody uses it because it's too far. But there is an access there to get to the beach and it's actually safe. There's a trail where you can walk right down, it's comfortable. If you stumble . . . well, you might get a little scrape up a little bit. But you can stand up and continue.

But I said that's another quarter mile the opposite side of me. So there is access to the ocean, quarter mile on either side of me. It's just not that 1,500 feet that the law says it has to be.

Vice-Chairman Fukunaga: So here's what I'm struggling with, and there's been some discussion on being able to get to the water. I guess I see it a little differently. We're on an island and we're surrounded by water, and my opinion, if we are unable to get to the coastline, it feels like we're very confined.

And I think what the public, in trying to protect the public's interests is protecting access to the coastline, not necessarily the water but just being able to get to the coastline. To look out into the ocean to enjoy the view, much like the Pali Lookout. The Pali is not getting to the water but being able to enjoy the coastline.

Mr. Mendes: You know, I really understand all that and if you could stand there, and they would be safe, I say fine, I wouldn't have a problem. But, they're not going to be safe there. I mean I can just about guarantee you within two years; we're going to be picking up at least one dead body on the bottom.

I get trouble- - we got trouble, where I live, they're over my fences picking guavas, which I turn around and say "Please, just come up my house, I'll give you a picker, don't mess up my fences", you know they climb over it. I reach home; they're on my deck having lunch. Tourist will do the craziest things and further over up to the last few years, everybody that fell over, the Fire Department called us, "Hey, can you help us?", "We don't know how to get there."

And honestly, I'm tired of looking at mangled bodies and I don't want to see it in my property. I know it's going to happen. It's a liability that we can stay away from. Land and Natural Resources supposed to be responsible, well they told me, "Well, you created the easement, you're responsible 'cause you let people there on our property, when we don't want them there."

So I talked to my attorney and my attorney tells me "You know, that's a battle for the courts." They said, "The County's forcing you to do it, but they don't want the liability", from what I understand. This easement is for me, I have to put it as of the course of maintain it. I have to observe the course of insuring it. The County doesn't want nothing

to do with it. It's just they want it there. So, it's kind of rough on the homeowner where you know what's going to happen.

And the birds on the island, for people to look at, there's wild pigeons down there. That's the flock of pigeons down there. I'm sure there's other birds further over that's in the mountains. We see 'em, those 'Iwa birds and those little birds there. But they're further over.

Vice-Chairman Fukunaga: Mr. Mendes, I guess my point, I think being able to access the shoreline is a good thing, but I don't believe we need to be able to access every point of the shoreline.

Mr. Mendes: Yeah.

Vice-Chairman Fukunaga: You know navigating the entire island 'cause there are some areas that are just not accessible. To my earlier questions, I was asking about other areas that may be accessible in proximity of your property.

Mr. Mendes: I'd say- -

Vice-Chairman Fukunaga: I'm hoping you can, I guess satisfy or need to have some kind of access in the area so that the public can enjoy part of the coastline without having to go through your property.

Mr. Mendes: Well I say, because this place hasn't been developed to ocean side, there's no legal place, except for the old Hawaiian trail that's there, that we can't find the map for.

But, further towards Waihe'e, there's several areas. People do go fishing; they go pick opihi down there. A quarter mile, probably less. A few turns down from my boundary there's all the access in the world. Nothing illegally, it's just C. Brewer been allowing people to go down there and go fishing and nobody stopped them.

And then a quarter mile on the other side of the direction of me. There's that whole river bed that Land and Natural Resources owns. And people then welcome to go down there and go fishing too. This is all safe areas. But like I said, it's about a quarter mile on both sides of me. And they're safe. Not all the places are safe but people do go fishing and there's a few places you can get to the ocean, I mean you can get to the top of the ocean, where you can fish. You can't get to the shore yet, you have to go a little further towards Waihe'e. But there is places to get down. In certain areas there.

Vice-Chairman Fukunaga: Thank you.

Mr. Kihune: Question?

Chairman Abbott: Go ahead, please.

Mr. Kihune: Mr. Mendes, how much erosion do you think your property has had over the last 60 years in the area that this proposed easement should be or shoreline access should be? I mean, has your property . . . have you lost x amount of feet over the years because of wind, rain or whatever may be?

Mr. Mendes: We lose very little. It's just. . . I think this last big rains we had it just for some reason came down the wrong direction. I'm not sure, maybe from my brother's side, the water came. I don't know if he did anything there. But a good size section got kind of eroded.

But I said the wind and the rain just eats away slowly and that's why I've got irrigation systems now in there to stop this erosion. But the wind and the rain eats at clay and of course you know, it takes a long time before a section gets undermined enough where it just drops off.

Mr. Kihune: But it has?

Mr. Mendes: Yeah, it does.

Mr. Kihune: My concern with having an easement like that would be that over time, the state or the county is going to want to encroach on some more of your property because the easement has eroded. And I don't think that's something that. . . I don't feel that-that's something you should have to deal with. And I think you're going to have to deal with. So I was just trying to get an idea of how much erosion you guys had. Has it moved five feet, three feet?

Mr. Mendes: I mean, like I said this is the first time I had to move this drastically, the 12 feet. I just felt it was safer, I got grandchildren, they're all starting to work on the farm. I want to keep them back from those edges. I could've gone about three feet less probably. But, moving back 12 feet keeps it safe for them.

Chairman Abbott: Thank you.

Mrs. Reyher-Colon: Question:

Chairman Abbott: Please Juanita.

Mrs. Reyher-Colon: You mentioned that you spoke with DLNR.

Mr. Mendes: Yes.

Mrs. Reyher-Colon: Have you tried speaking with Maui Coastal Land Trust? About doing a partnership with the maintenance of their shoreline or any other land trust? Or I know there's programs through USDA that could help pay for the cost of maintenance and also installing fence lines for the protection. So have you looked into that at all?

Mr. Mendes: I worked with . . . they call it Soil Conservation.

Mrs. Reyher-Colon: Yeah.

Mr. Mendes: Yes. I worked with them and yeah we came together, planted some grass, that's why I got irrigation going, just to keep the grass and to see if some kind of grass will grow. So we've tried different ones, which grew there. It's kind of holding but it's still clay. Nothing really wants to grow on clay.

Mrs. Reyher-Colon: Have you tried looking into a conservation easement? To set aside a portion of that shoreline in a conservation easement in perpetuity for your family? They have such a thing apparently.

Mr. Mendes: For the shoreline?

Mrs. Reyher-Colon: Yeah.

Mr. Mendes: We're fencing the shoreline. It's just I can't fence the whole property off. It'd be because like I said the shoreline itself, just about every year, we have to replace the fence. So to take the whole fence line, I couldn't afford it.

Mrs. Reyher-Colon: Yeah, so these conservation easements would actually provide funding for those maintenance.

Mr. Mendes: Ok. I'll check back with them on that.

Mrs. Reyher-Colon: Yeah.

Mr. Mendes: I know the last one I did with them was the five years. You maintain and they help you with it. You have to keep it up for five years. I told them, "It doesn't last for five years." He says, "Well, mines comes out of your pocket." But if I don't keep it up and they come back and inspect it, then all the money they gave me, they'll want it back.

Mrs. Reyher-Colon: Yeah.

Mr. Mendes: Yeah.

Mrs. Reyher-Colon: Thank you. I have another question.

Chairman Abbott: Juanita, please.

Mrs. Reyher-Colon: I'm not familiar with this area, but can you tell me or confirm that part of your property is within a gulch system?

Mr. Mendes: Yes.

Mrs. Reyher-Colon: It's what this picture looks like?

Mr. Mendes: Yes it is.

Mrs. Reyher-Colon: So there's no other points of access, through the gulch?

Mr. Mendes: No, I don't know if you can see the road. . .

Mrs. Nobriga: I'm Jenny Nobriga again. The road starts here, and it goes through the property, through some steep driveways, keep that in mind, and then it comes down through here, and then it comes down . . . and then there's a couple sections in here that you might not really be able to see. But it comes and makes deeps turns and then it comes around like that, and it stops there.

Mr. Mendes: And then that whole center area is a gulch.

Mrs. Reyher-Colon: So where is the state highway in coordination with the - -

Mrs. Nobriga: Right here. So the path way would be very long. It would be a very long path way with all our livestock roaming through the entire property. So that's another thing that we're kind of concerned about. If the livestock will be friendly or the people will be friendly? You know? Either way it could go bad.

Mrs. Reyher-Colon: Ok. Thank you.

Chairman Abbott: May we have the staff's recommendation please?

Mr. Nakamura: The Department of Public Works does not object to the granting of the variance.

Chairman Abbott: They do not?

Mr. Nakamura: That's right.

Chairman Abbott: Anybody have any further questions regarding the staff's report? John, you have any?

Mr. John Rapacz: Thank you Mr. Chair. No questions but as always, whatever decision the Board makes, it would be very helpful to us in drafting the Decision and Order, if you were to walk through the criteria and establish whatever facts are necessary to support your decision on each criteria.

Chairman Abbott: Ok. Any further questions or discussion? Chad?

Vice-Chairman Fukunaga: So, the way I see this ordinance and it's attached to the subdivision requirements. But here's my opinion, there's all kinds of subdivision and I think common sense kind of tells me that this requirement was kind of pointed towards the type of subdivision that you're carving up a whole bunch of lots and creating a roadway system for public use.

But this proposed subdivision is more in the intent of the family use. Not really trying to create a bunch of lots or a public roadway system. I guess in my opinion to be able to provide the type of access and protection for the public use to enjoy the coastline, doesn't seem to be taken into account.

*Mrs. Reyher-Colon: Steps away from Board @ 2:29 p.m. and returned @ 2:31 p.m.*

Chairman Abbott: Any other questions or comments?

Mr. Kincaid: In the event that they approve this subdivision and somewhere along the line – future . . . right now, it's just three of the Mendes' families right? Divided up for the family to use. In the event that one of the family members decides to sell out and create a regular county subdivision, they would have to go through this whole process again, am I right?

Chairman Abbott: Is that correct?

Mr. Kincaid: That works for me. Thank you.

Chairman Abbott: The Board will entertain a motion if there's no further discussion, or question or whatever.

Mr. Pat DePonte: I make a motion to accept these variances on behalf of the health and safety of the property and the landlord.

Chairman Abbott: You're putting all of the- - does that include all of the recommendations in the staff report? The insurance and all the things that are required?

Mr. DePonte: Yes, that's correct.

Mr. Raymond Sung: I'll second that motion.

Chairman Abbott: Pardon?

Mr. Sung: I will second that motion.

Chairman Abbott: We have a motion and a second. Any discussion?

Mrs. Richelle Thomson: If you could, as Mr. Rapacz suggested, please walk through the criteria and just state for the record the facts that support the decision to approve a variance. So if you could take a look at the staff report page 7 and you'll see reference to the BVA Rules 12.801.74, but it goes through those criteria in your rule making. And if you could just state your reasons on the record, that you are either in favor or of or opposed of the granting of the variance.

Chairman Abbott: Should we have John do that?

Mrs. Thomson: Maybe I can give you a little bit of assistance with that. So number one in your rules, are there special geographical or physical circumstances or conditions affecting the property. That are not common to other—to all property in the area.

So there's been a significant amount of testimony from the public and also information from the applicant, discussing the nature of that property being cliff side, the condition of the clay soil. . . so it's those kinds of things. If those are contributing to your deciding, but this variance applications meets that criteria. That's why I'd encourage you to put it on the record.

Vice-Chairman Fukunaga: So would that be basically adopting exactly how it the context is said? I would suggest that we move the last sentence; it says "The creation of this shoreline right-of-way is akin to a gangplank on a pirate ship."

Ms. Thomson: I think what you could do is just say generally that the applicant's submission that you found was credible, that it's cliff side, the swell conditions are dangerous. But yeah, you don't have to adopt it verbatim.

Chairman Abbott: Everybody understand? All the requirements necessary. A vote then. All those in favor? Say "aye".

Members: "Aye"

Chairman Abbott: Any Opposed?

Mrs. Reyher-Colon: Opposed.

Chairman Abbott: One opposed. The **motion is carried**. Thank you very much the **variance is granted**.

It was moved by Mr. DePonte seconded by Mr. Sung then,

**VOTED: Motion to approve variance request as stated in application and Staff Report.**

**(Assenting: C. Fukunaga, P. DePonte, T. Espeleta, H. Kihune, W. Greig, R. Sung, M. Kincaid)**

**(Dissenting: J. Reyher-Colon)**

Chairman Abbott: I'm going to declare a five minute recess please.

*...Recess ...(2:34 p.m. to 2:43 p.m.)...*

**B. PUBLIC TESTIMONY (Continued...)**

Chairman Abbott: Meeting now called back into order. Is there any public testimony? Seeing none.

**D. PUBLIC HEARING (Continued...)**

2. HUNTON CONRAD OF HUNTON CONRAD AND ASSOCIATES, INC representing TATIANA BOTTON, is applying for a variance from §19.36A.010, Maui County Code ("MCC"), "Designated number of spaces", to delete the requirement that three (3) off-street parking spaces be provided for an office addition of 668 square feet when MCC requires that one (1) parking space be provided for every five hundred (500) square feet of floor area of building, provided that the minimum shall be three (3) parking spaces for property located at 77 Hana Highway, Paia, Hawaii; TMK (2) 2 6 002:004 (BVAV 2015/0008); (M. Balberdi)

Chairman Abbott: Will staff please read the next agenda item into the record please?

Mrs. Balberdi: *Reads item into record.*

Chairman Abbott: Thank you. Will the applicant please come forward?

Mr. Marty Cooper: Introduction. Representing Hunton Conrad who is currently on the mainland. ...*(inaudible)...tape failure...*

Mrs. Balberdi: Gives short power point presentation of location. ...*(inaudible)...tape failure...*

Mr. Cooper: ...*(inaudible)...tape failure...*

Chairman Abbott: Are you agreeable to the waiving of the reading of the staff report?

Mr. Cooper: Sure.

Chairman Abbott: Question. ...*(inaudible)...tape failure...*

...*period of tape failure...no recording available...(questions and discussion between Board members and applicant/representative)...*

Mr. Sung: ...*(inaudible)...tape failure...* Long term solution to continue with the one size fits all sort of rules and regulations and then having the individual property owners come to ask for relief from this Board. Thank you.

Chairman Abbott: What is the staff's recommendation?

Mrs. Balberdi: The Planning Department recommends denial.

Chairman Abbott: Further discussion? Juanita? You looked like you had a question.

Mrs. Reyher-Colon: No. Well, can you explain why the denial?

Chairman Abbott: It's in your packet if you've had the time to read any of it.

Mrs. Balberdi: Ok. If you look at criteria number one on page 10, our staff analysis states that "The applicant does not describe the unique physical or geographical condition which exists on its own property." It actually pertains to the whole entire Paia Town. For number two where it says "That strict compliance with the applicable provisions of this title would prevent reasonable use of the subject property."

Staff analysis says . . . we have three criteria here. Area variances are typically considered less serious deviations from the zoning scheme. Thus, a lesser burden of proof is required for an area variance-than the burden of proof for a use variance-because the impact of an area variance is viewed as being much less drastic than that of a use variance. "Practical difficulty" is the standard usually applied to area variances. For the most part, practical difficulty is a relative concept. In this case, pertinent considerations or questions to ask in determining "practical difficulties" are as follows:  
A. How substantial the variance is in relation to the requirement.

*...Mr. Sung leaves meeting at 3:01 p.m....*

Mrs. Reyher-Colon: Ok. Thank you.

Chairman Abbott: Any further discussion? Questions? Do we have a motion on the item?

Mr. Kihune: I'd like to make a motion Mr. Chair that we approve the variance with the following conditions as mentioned in 14 and 15 in our staff report, which includes with the Hold-Harmless which also runs in perpetuity with the land.

Chairman Abbott: Ok. We have a motion.

Mrs. Reyher-Colon: I'll second.

Chairman Abbott: Motion is seconded. Any discussion? John?

Mr. Rapacz: Mr. Chair, if I could. You're probably going to get tired of hearing me make this request but I'm going to continue because it's my job and the Board's job as well.

Chairman Abbott: And we appreciate it.

Mr. Rapacz: We need to prepare a Decision and Order on this and especially for the new members. Once you folks vote on something then we have to draft what's called "Findings of Facts, Conclusion of Law, Decision and Order". That means that we have to state in a document the specific facts that you folks relied on when you made your decision.

We have to apply the specific criteria to those facts and conclude either that it met each criteria, one by one. Or that it did not. And then based on that, if any of the criteria are not met, then we would say . . . that the decision . . . that's why you would've denied a decision. Or if all of the criteria are met, that's why you would've approved the order and made that decision.

So right now in this staff report for example, where we have statements from the applicant. The applicant's statements are all obviously in favor of granting the variance. Where the Department has recommended denial, the Department's statements are generally finding that the criteria are not met.

So there are conflicting statements for each of those five criteria. If the Board does not want walk through those, then we would have to rely on whatever the applicant said as being your reasons. So in effect, if you're not going to walk through criteria, you are adopting the applicant's statements about those criteria, if you vote to approve. If you vote to deny, then again if you don't walk through the criteria individually you would be adopting the Department's analysis of those criteria.

But for the record, it is better to be clear and walk through the criteria and make a decision. For example, on the first one. On the first criteria on page 10 and 11, "Is the situation on having difficult parking access, small lots, historical buildings, is that unique to this property in Paia?"

And you would need to find facts in the records supporting that "Yes, this is unique to this property in Paia." If you find those facts to be true, then you can move onto the next criteria and examine that one and see if there are facts in the record to support your decision one way or the other way, on that criteria.

And I know it takes some work and it can be tedious, but it is the way that we can produce the best Decision and Order. It will be the most defensible if there's an appeal. If decisions - - and I'm not saying in this case in particular. If decisions are appealed, the courts going to look at it and they're going to say, "Exactly what did this Board rely on, when they made their decision?" And if you have not made those findings for each one of the criteria, it's going to be difficult to tell what you relied on.

I know Richelle will ask you the same thing again when I'm done. So it would be helpful.

Chairman Abbott: Thank you.

Mr. Kihune: Ok. I would be happy to go through that process real quick.

Chairman Abbott: Please. Let's keep everybody happy.

Mr. Kihune: With regards to number one. The unique exceptional unusual geographical condition, based on the facts and looking at the maps and looking at what the applicant has prepared for us to view. The property is landlocked and an inaccessible area in the back of the property, would create hardship to not go tear this building down, which

is unique in this historical area. For that one reason or those reasons, I think the applicant has met the criteria for item number one.

Am I going along the right lines John?

Mr. Rapacz: You're along the right lines. The question would be whether - - what you just described, with those facts, whether that's unique in Paia. Whether it's unique to have a landlocked area kind of building.

Mr. Kihune: Right. Well, I think it's very unique to Paia as a whole. Being a historic town. So I'm going to add that in.

Number two, strict compliance with the applicable provisions of this title would prevent reasonable use of the subject property. It's a small piece of property, again we would create a hardship for the business or the property owner to try and again add three parking stalls to the back of this property to meet the criteria. And it would subject them to unreasonable or prevent them from using the property to its fullest potential to some degree. And for that reason, I think the applicant has met the criteria.

And then number three, the conditions creating the hardship were not a result of previous action by the applicant, and they were not. What the applicant is here for is to add some additional office space and again because of the particular property itself being landlocked, there is hardship. But he didn't create it himself.

And I think in general Paia Town has created what we discussed earlier. The parking and the way Paia is set up, we'll be having more of these issues I think in the future. So, I truly believe the applicant has not created the hardship him or herself prior to this application.

Is that ok John? All good.

Mr. Rapacz: Thank you. And it's not - -

Mr. Kihune: It's not easy.

Mr. Rapacz: It's not to my satisfaction. I just really appreciate that you did walk through each criteria. That's what we need for the record. Thank you.

Mr. Kihune: Alright.

Chairman Abbott: Alright, we corrected the motion. Everything gotten verbatim, the verbiage's down and everything. Do we have a second?

Mr. Teddy Espeleta: We have it.

Mrs. Thomson: So really you're in a discussion on the motion, so it would be a time if anybody else has other reasons why they would either vote in support of or against the motion based on the criteria, you can go ahead and put those reasons on the record. Or if you would agree with what's been said then you could vote to approve it on those basis.

Mrs. Reyher-Colon: I just have a comment.

Chairman Abbott: Yes, please.

Mrs. Reyhe-Colon: On why I seconded. I think with the extension or the addition onto the current property, the owners have actually caused the need for the additional parking. However, because they're in a district that there is no room for parking, is the reason why I voted to second that motion.

Chairman Abbott: We have a motion and a second. Any further discussion? All those in favor for the variance say "aye".

Members: "Aye."

Chairman Abbott: Any opposed?

Vice-Chairman Fukunaga: Me.

Chairman Abbott: I. So we have six ayes and two nos.

Mrs. Reyher-Colon: I was an Aye.

Chairman Abbott: Max were you an Aye?

Mr. Kincaid: Yes.

Chairman Abbott: Ok. **Motion is carried**, six to two.

It was moved by Mr. Kihune seconded by Mrs. Reyher-Colon then,

**VOTED: Motion to approve variance request as stated in application and Staff Report along with comments from Board members.**

**(Assenting: P. DePonte, T. Espeleta, H. Kihune, W. Greig, J. Reyher-Colon, M. Kincaid)**

**(Dissenting: C. Abbott, C. Fukunaga,)**

**(Excused: R. Sung)**

Mr. Kincaid: May I say something?

Mrs. Thomson: If you can comment on anything generally, if you're talking about the motion that's already passed, just if anything would change your mind, you could have a motion to reconsider. But I'm not quite sure what you want to say.

Mr. Kincaid: The only consideration I have is ...(inaudible...concern to bring attention to the Police Department of the parking issue in Paia Town)...

Chairman Abbott: Understand. Good point.

#### **E. APPROVAL OF THE MARCH 12, 2015 MEETING MINUTES**

Chairman Abbott: Ok. Next motion of business, approving the minutes of the March 12<sup>th</sup> meeting. Any corrections?

Mr. Kihune: Motion to approve.

Mr. Kincaid: Second.

Chairman Abbott: Motioned, seconded by Max. All in favor?

Members: "Aye."

Mrs. Reyher-Colon: I abstain.

Chairman Abbott: You're abstaining?

Mrs. Reyher-Colon: Yes.

Chairman Tanner: Ok. One abstention. **Motion approved.**

It was moved by Mr. Kihune seconded by Mrs. Reyher-Colon then,

**VOTED: Motion to approve the March 12, 2015 Meeting Minutes.**

**(Assenting: C. Fukunaga, P. DePonte, T. Espeleta, H. Kihune, W. Greig, M. Kincaid)**

(Abstaining: J. Reyher-Colon)

(Excused: R. Sung)

**F. NEXT MEETING DATE: *Wednesday, June 10, 2015***

Chairman Abbott: Ok any other meetings or anything to be presented? If not, the next meeting date Wednesday, June 10, 2015.

**G. ADJOURNMENT**

Chairman Abbott: Seeing nothing else, meeting's adjourned.

There being no further to come before the Board, the meeting adjourned at 3:14 p.m.

Respectfully submitted by,



CHALSEY R. K. KWON  
Secretary to Boards & Commission II

**RECORD OF ATTENDANCE**

**Members Present:**

G. Clark Abbott, Chairman  
Chad Fukunaga, Vice-Chairman  
Patrick De Ponte  
Teddy Espeleta  
Howard S. K. Kihune  
William Greig  
Raymond Sung  
Juanita Reyher-Colon  
Max Kincaid Jr.

**Members Excused:**

Raymond Sung (came into meeting at 1:40 p.m. and left at 3:01 p.m.)

**Others:**

John Rapcaz, Planning Program Administrator, Department of Planning  
Carolyn Cortez, Staff Planner, Department of Planning  
Malia Balberdi, Staff Planner, Department of Planning  
Chelsea Rabago, Staff Planner, Department of Planning  
Richelle Thomson, Deputy Corporation Counsel, Department of the Corporation Counsel  
Lance Nakamura; Department of Public Works, Development Services Administration