

**HANA ADVISORY COMMITTEE  
TO THE MAUI PLANNING COMMISSION  
REGULAR MEETING  
SEPTEMBER 8, 2022**

**A. CALL TO ORDER**

The meeting of the Hana Advisory Committee to the Maui Planning Commission was called to order by Chair Ward Mardfin (Chair), at approximately 4:41 p.m., Thursday, September 8, 2022, at the Wananalua Congregational Church, Mother Alice Hall, 10 Hauoli Road, Hana, Maui, Hawaii 96713.

Chair Mardfin conducted a roll call of the Committee Members and a quorum was present. (See Record of Attendance).

Chair Mardfin: We're at the Wananalua Congregational Church, Mother Alice Hall on 10 Hauoli Road. We are here for one item and one item only as far as I know but I need to call to order so I am going to do a member call. If you're here, please indicate so. Becky, here. Clayton Carvalho. Not yet. Scott Crawford.

Mr. Crawford: Here.

Chair Mardfin: Mary Ann Kahana. We anticipate her coming a little bit late. Lipoa Kahaleuahi.

Ms. Kahaleuahi: Here.

Chair Mardfin: And Dean Wariner is on the Mainland so I think it very unlikely that he comes and I'm the Chair Ward Mardfin. And I hereby call this meeting to order. Before I start, we're going to take public testimony today in the beginning of the meeting, but it is going to be timed, 3 minutes, maybe an extra 30 seconds if you absolutely need to finish up. Secondly you will get a chance to talk--speak once and only once, so if you use it, I don't want you interrupting during the rest of the meeting. Next, there's what is called ad hominem arguments. That's arguments that gets manned. It is not a proper way to debate or discuss things; therefore, we should not be saying this person or that person is mean, evil or anything like that. Similarly, just because it's a good person doesn't mean that they should get whatever they want. This is--we are here to make a recommendation about the supplemental, I keep forgetting it, yeah, right. Excuse me, I'm sorry, an SMA use permit, special management area. Okay, and let me read the document into order. The Unfinished Business is Mr. Gary Stice and Hana Beachfront Associates requesting a special management area permit, use permit in order to build two single-family residences and regulated improvements that are outside of the shoreline setback area on 1.478 acres of land in the interim district at 175 Haneoo Road, tax map key 2, which means Maui County, 1-4-008:001, Hana, Island of Maui. The Planner is Mr. James Buika who is sitting over here and has his hand up. To my left is Daniel Kunkel, he is the Corp. Counsel, who will be giving me legal advice if I need it. On my right is Linda Kim, she is basically making sure things are recorded and in order. At the table with Jim is Clayton Yoshida who is an Administrator with the Department of Planning which is basically administering the SMA or managing it. And at the end of the table is Michele McLean, who is the Director of the Department of Planning.

**B. PUBLIC TESTIMONY**

Chair Mardfin: Okay, I asked Linda if she would get names of people who would like to give testimony and do you want to call them up or you want me to?

Ms. Kim: Mice.

Chair Mardfin: Mice, you are first.

Mr. Kahookele: Test, test.

Mr. Stice: Can you hear me?

Mr. Buika: Gary is on line. Yeah, okay.

Chair Mardfin: Please.

Ms. Kahula: Alright. So my name is Mice Kahula and I'm here testifying on behalf of my family the Kahula ohana. I will turn this in to as a documentation of my testimony. So we reside on 350 Haneoo Road, right across the local Haneoo fishpond. So I'm here today to ask the Committee to recommend a denial of this special management area because our concern is a septic system being too close to the Haneoo fishpond and our ohana has shared an interest in this fishpond. My dad, Jacky, always talk about him because he's been, you know, he's past now but he's past now for almost 15 years but he's still coming to the Committee and if he was here today, he'd be right here testifying. And so, my dad you know, has monitored the fishpond for many years. He knows it like the back of his hands. And so I'm here today to ask of you to recommend a denial of the special management area use permit to build these homes. Mahalo.

Chair Mardfin: Thank you very much. Should I ask if Gary Stice wants to make a comment at this point. If he does, Jim can you relay it?

Mr. Stice (via cell phone): Can you hear me? Can you hear me? I don't have any comments.

Mr. Kahookele: Yeah, we can hear you.

Mr. Stice: ...(inaudible)...I don't have any comments on that testimony.

Mr. Kahookele: For the record he said he had a hard time hearing so he has no comments for the testifier.

Mr. Stice: I can hear you better now.

Mr. Kahookele: I think the last testifier was um testifying about the fishpond septic system, ,,,(inaudible) if you have any comments for the testifier.

Mr. Stice: We are ...inaudible...septic system will not impact the fishpond...(inaudible). Thank you.

Chair Mardfin: Please convey to him our regrets that his wife has Covid and that he's not feeling well.

Mr. Kahookele: Chair Mardfin said to convey his condolences to Aunty with regards to the Covid and that he pray that you're doing well.

Mr. Stice: ...(Inaudible)...Thank you very much.

Chair Mardfin: Who is second on the list to testify?

Ms. Kim: Doris.

Chair Mardfin: I've been reminded that I should ask if any of the Committee Members have questions for the testifier for Mice. Seeing none, we're moving right along.

Mr Kunkel: Just ask if everything she's about to say the truth...

Chair Mardfin: Doris, is everything you're about to say the truth the whole truth.

Doris Buckley: Yes.

Chair Mardfin: Thank you. Please introduce yourself.

Mr. Crawford: Your mike's not working.

Ms. Buckley: How's this? My name is Doris Buckley and my husband and I live on Haneo Road are very concerned about the possible building of these two houses. But my question is not included on this agenda: is how high is the deck upon which this house is going to be built, that's my question. And I have another question and that is, has there been a recent report on the water level of this property. What I hear and have seen is the last one that has been brought to us was taken in 2020. Um, or it might have even been a little later than that and there was also one in 2016 that was never certified. We need a much more update on this. Thank you.

Chair Mardfin: Thank you, Doris. It's not customary for the public to ask questions of either the planner or the applicant or anything else. But you've stated what your questions are and members of the Committee can answer the questions themselves if they care to. Does anybody want to ask Doris more questions? Seeing none. Does Mr. Stice want to say something?

Mr. Kahookele: They're asking if you want to testify regarding the questions that Doris Buckley just raised?

Mr. Stice: Um, I heard something about height? Can you summarize the question?

Mr. Kahookele: Yes, she asked about the height of the deck of your house and something to do in regards to the water if there was a recent study as she thinks there should be. Go ahead.

Mr. Stice: Okay, yes. Can you hear me out there now or you're just going to relay it for me?

Chair Mardfin: You could be heard Mr. Stice.

Mr. Stice: Oh good, okay, so we have filed according to the rules of the Building Department and have the next, which would be the living level of the house, about 10-1/2 feet above ground level. Because the ground level is about 6 feet so if you add that to the required flood zone height, we are I think another 6 inches or a foot above that per safety factor. This is the calculation made on the under year wave and the ideal course in this design is that should there be a tsunami, of 100-year height record it would go under the house, and the back wash is the most damage of a tsunami--not the up rush as a lot of people think. So when the water rushes back, the water will flow through the house instead of slamming into ...(inaudible)... and taking the house down. So the house is designed for 100 years tsunami. Does that answer the question or is there some other aspect?

Mr. Kahookele: There was another part of it regarding the water. I'm not quite clear on that but there was a study done I guess the water table and she said was done like in 2020 and she thinks there's supposed to be a more recent study; I don't know.

Mr. Stice: Oh, we have a working state authorized well on the property which we are getting automotive water and this is a fresh water ...

Mr. Kahookele: She's referring to the shoreline setback.

Mr. Stice: Oh, yes, we have had a shoreline study dated 2017, we have one previous to that back about 10 years before that. The two studies were ah, so no significant change, no known effects of rise of sea level and so we have that data that the shoreline is stable.

Mr. Kahookele: Okay, I guess her concern that she raised before the Committee is that we should have another study because maybe the first two, three, four studies wasn't correct.

Mr. Stice: Yes, so we have gone through this process for decades. We have possibly taken the shoreline study up-to-date with the time requirement. I think the Planning Department has determined that with the second study which we introduced when we were having our meeting in 2018, we were supposed to have been ...(inaudible)... viable recent information and it's being approved there. We have the same shoreline as there was no significant differences in the two studies that we made which were ah as many years apart.

Mr. Kahookele: Okay, that was the two questions that she posed before the Committee so.

Mr. Stice: Okay, thank you.

Chair Mardfin: I just want to note for the record that a fifth member, Mary Ann Kahana, just arrived and is sitting at the table. Linda, who is the next person on the list to testify?

Ms. Kim: Fushia

Chair Mardfin: Fushia?

Ms. Pua: ....inaudible... I want to be last and put on the bottom.

Ms. Kim: On the bottom? Okay. So the next one is Sharon Mynar.

Chair Mardfin: Sharon Mynar, do you swear to tell the truth the whole truth and nothing but the truth. Could you come up so that we don't have to swing wires across. Thank you.

Ms. Mynar: You're welcome. Hello everybody, I just want to say I'm going to make my thing real short. I was spoken today by one of my kupunas, okay? He's here right now; you don't have to believe me. I do have some family in here that's in our geneology, what I'm going to say right now is whatever's going on with the land it's not good. This morning, I found the two heiau papers; I gave it to my nephew. He's going to tell that the holy land is an illegal land to build anything on. The gentleman bought the land, that's okay because he didn't know the legend of the land because a family member of mine didn't say that. I was a young girl then but at my age now at 73, I pray that this land goes back to our family. As I was cleaning the gravesite yesterday I just want to share with you, I had prayed to God to show me evidence that the land should go back to the family that should have been from the beginning. The sand is already sucking inside the gravesite. I also spoke to one of our people, Kekahuna, I spoke to him, Keoki, yeah, he would crack that grave one more time and that one more time is there. And I thank God for Kekuna Bray, she's my cousin. I'm learning so many things from her. Anybody with the name of Maryann, Juliana are connected to our family. I walk down to the gravesite down there, there's a Maryann Pina who has connection to our family. That gravesite was shared with me by the Lono family; we are all connected. If I'm shaking, I have somebody here with me right now. If you all don't believe that, I'm on the ground of God right here, Malama lua; at one time was a battleground by land and today, we're supposed to take care of each other. He said go mouth to mouth, sit and enjoy ourselves as family, he will help that land. But as far as I'm concerned, I don't want anything back on that land. That land showed at one time that two heiaus on there. Today I look at the land, kapulu. It's not cleaned well. How I see all the wires on the ground. I had asked my Grandpa Ben ...(inaudible)...come show me how the heiau started. The stones are all coming up. It's the same thing what I did with the Burial Council. I didn't know where the house was, I went down early in the morning. There's a boy I passed in Hana, Craig Kaukini or whatever, thank you Craig. He sat there with me and he watched me what I was doing on the ground. I was praying to God and my great grandfather and my tutu Maryann. I was praying to both of them. The next morning we had to get up early to go to the Burial Council meeting, he showed me where the home was okay? My husband was a witness. So I want to tell you folks I only can speak as much as I can on helping my family and I'm helping the Lord of our Heavenly Father in Heaven. He was the one that gave us all this different areas as our home. Don't take it from

somebody else and give it to somebody else. Before the person buys the land, as the family give them the legend. Don't go for the people that buys the land and backup the people, this is not how us Hawaiians work. We're supposed to help each other. Any land, bay area, from Hana to Kaupo. Princess Kehiehe is my great great relative too. She speaks to me okay? Now I'm starting to shake, I got four of them by me right now. If you don't believe what I say yeah, ask for forgiveness to God because through him, he gave us all this land. Don't let anybody come in and take, I want to let you folks know this morning on the news, yesterday before the news I saw I went to the fishpond after I was down in the Loko. I went by the fishpond and I ask God, hey you are our mighty creator, you are want to take this land back, yeah, bury us under the water again and start all over. And it's already happening. The water is already coming up to the road. I pray hard today to protect my people, and the other thing is the news what I heard and saw this morning, 634 homes all on the oceanside, all of the hotel area...

Ms. Kim: Three minutes.

Ms. Mynar: Don't stop me, okay? Don't stop me. All of the hotel area will be under water. I'm just going to share with you folks right now because I believe in the God Almighty. Mahalo nui loa.

Chair Mardfin: Thank you, Sharon. Would any Committee Members like to ask any questions? Would Mr. Stice like to make any response?

Mr. Kahookele: Asking if you have any comment to her testimony?

Mr. Stice: Yes, I would. First of all, that land did have two residences which were right next to the burial sites and ah, we have gone through all of the procedures with the Burial Council to make arrangements to be sure the site is protected. We are custodians of this land. We have done a lot to help with the maintenance of the cemetery there now and we will continue to do that. We have a great deal of respect to this land. We have shown through our ability by clearing the land and making it usable and viable which is the old Hawaiian style, make use of the land, don't let it stay vial. What happens is if it becomes overgrown, it becomes the Haneoo site as it was before. Are we going to repeat it? We are ohana and want to use this land for the benefit of the Hawaiian community. Thank you.

Chair Mardfin: Thank you. Sharon, I have a question for you. Can you tell me--I'm reasonably familiar with the land the way it's laid out, and I know where there are some burial remains. Can you tell me where the heiau was?

Ms. Mynar: Okay, oh wait a minute. I have the paper right here. Leo has the paper. You want to hold the paper up?

Chair Mardfin: Is it directly on the property?

Ms. Mynar: Yes, it is. This is, okay—this is from the Bishop Museum. I had it for a long time. And it's funny, last night I went through all my papers; this is the one I pulled out. So there is somebody there showing me where this paper was. Sometimes you stay there, you look for what you want? It's not there. Here, this is it—do you want to look at it? Look at it. There's two heiaus over here, gives you the size and everything. There's one here and the other one is here. It's somewhere in here. But anyway, this is to let you folks know that it's like going to Piilani Heiau. Unless someone decides to sell that, that's part of my family too. Before you go and destroy the land, you destroy your heart and soul for the people. Ten years ago, I met a Hawaiian minister that took me up to the Heiau Piilani, and I said I'm not allowed to go there because I don't belong up there. I'm a female. He said no you come with me. I wish I remembered his name. He's not from Maui, he's from another island. But he was the one that took me up to the heiau and guess what you think I saw up there. I saw how the Hawaiians lived there, he told me the story what this Piilani is all about. We are all connected to Piilani. I have a whole bunch of family that's in my geneology and know the ones that helped me, this man is family of ours too. Because family runs from the north, the south, the east the west. This is what we have to understand. We are family help each other. If anybody comes from the mainland, our job is to share our true Hawaii aloha to the people that come to the islands. And that's it, okay so they can learn something from us.

Chair Mardfin: Thank you very much.

Ms. Mynar: Mahalo nui loa.

Chair Mardfin: Who is next on the list to give testimony? Oh, please come forward and introduce yourself and do you swear to tell the truth, the whole truth and nothing but the truth? Please introduce yourself.

Mr. English: I do. My name is John Bull English. I'm from Haneoo area, what we're talking about now and I gave this testimony a few months ago and I'm just going to read it as I read it last time. There was a lot fewer people that time. So just to be clear, I oppose the building of Mr. Stice houses. I work for a company called Holani Hana. And we're known for building most of the traditional style Hawaiian haies in Hawaii. What most people don't know is that we also restore a lot of ancient Hawaiian fishponds. And just in the past two years alone we helped restore Hawaiian fishpond for harbor, Waikalua Fish Pond in Kaneohe, Loko Ea in Haleiwa, Pahonu Waimanalo and Paepae o He'eia in Kaneohe. So we actually work with more fishponds than haies. Um besides those ponds, my family also own and maintain our own fishpond in the very same water that Mr. Stice wants to build his home. Every time an organization approaches us about their fishpond or doing their own, the rules are always the same. They want to feed the community, they want sustainability and they believe they can get there by restoring this pond or that pond. And the truth is, it's very difficult to have these conversations with these organizations because we know that restoring a fishpond on Oahu at least, um with their intentions are basically impossible. As you see there, there are a few components that make a Hawaiian fishpond successful. You know one component is the source of fresh water that flows into the pond to create brackish water. If you look at all the locations for all of our current fishponds and ancient fishponds in Hawaii, you'll notice that they are almost always located on a peninsula. Now this is

because aquifers that come down from the mountains will usually end up as spring water and the shoreline of those very peninsulas. This is why fishponds in Hana are located in Haneoo and Waikoloa, both of them are peninsulas. Also fish cannot spawn in the same area that they live. So fish in a pond is let out to spawn in the ocean every November and by mid-March. The fish including the newly hatched fish will return to the very same pond. This is when you would close the gate to the pond and remove any predator fish. The fish will always return as long as there's a healthy flow of fresh water. Unfortunately, on Oahu building foundations, underground utility lines and septic tanks have disrupted or limited that flow of fresh water due to over developments and developing in sensitive areas. Many places in Hawaii have forever lost the ability to raise and produce fish the way that our ancestors did. And although Loko Nui fishpond is not in full operation as a fishpond, there is still a heavy flow of fresh water from underground springs and fish can come and go as they please. So the area still has an abundance of fish. And actually the salinity levels across Hana were recently tested, and we can get the information if that helps but it showed that Haneoo has the highest salinity level in all of Hana. I would like to add that Hana's cost of living is amongst the highest in Hawaii. Many of us including myself live in multi-generational homes and our access to resources are limited. So for many of us, our shoreline fishing is a way to offset that high cost of living and limited access to resources. Because of this, fishing is not a sport. It's a way of life and a means of survival for many. And developing right next to Loko Nui and the shoreline feels like a threat to our livelihood. That's all I got. Thank you. Any questions?

Chair Mardfin: Gary and I have questions. The fishpond is not on the property we talked about developing.

Mr. English: Right next to it.

Chair Mardfin: It's next to it, but it's not on it.

Mr. English: That's what I said, yeah.

Chair Mardfin: Do you have, um whether it's--you have the property-development that we were talking about that it would adversely affect the fishpond?

Mr. English: Right, good question. I also stated in my statement that the shoreline has an abundance of fish because of the fresh water flow, the abundance of fresh water flow into the area. You know that's why it's heavily fished by our local residents mostly and so it's not necessarily just the fishpond. I cannot prove to you that the aquifer springs are located right on his property and end up in the very pond. It may very well be so. I can't prove that but I am certain that it does flow into the shoreline in front of that property which helps, you know to attract the fish back to the area.

Chair Mardfin: Thank you.

Mr. English: Your welcome. Thank you.



Chair Mardfin: Russell, does Mr. Stice want to say something? Mary Ann?

Ms. Kahana: Being that your experience is having to upgrade the current local fishponds of Hawaii; so my question to you is, do you think--I don't know if you've done your studies or research being that the development is in close proximity of the development is very nearby, um the Loko Nui, so my question to you, will it be detrimental with this development that we plan to do with the Loko and the resources you explained to us?

Mr. English: That's a really good question and I think about that question a lot. I think the most important thing is the example that we set now and if we just allow development then we create a problem like we have on Oahu and their problem is too late. There is no solution to it. You can't fix that problem and so for us in Hana with many of the things that we face, it's about preventing problems from happening rather than fixing problems. And so really that's where I am sort of like looking at this development from is, how do we prevent problems from happening. I cannot tell you—you know, I just know that you allow problems to happen, you just allow it to happen and then it becomes a problem and it will affect our marine life resources like it has elsewhere. You know, we don't have that problem right now and we just got to fight to keep it that way. You know our family one of the very few families who have a home on the makai side of the road. And it was built back in 1926 actually it moved location from a tidal wave in 1946. And we have 5 acres and my father had 3 children so we could easily subdivide and build homes for us, but we refused to do so as we understand it's a sensitive area you know. So even we sacrificed.

Ms. Kahana: Mahalo.

Mr. English: Thank you.

Chair Mardfin: Russell, did Mr. Stice want to say something?

Mr. Kahookele: He asked if you want to comment.

Mr. Stice: Yeah, that was a great testimony and I support everything he was saying as part of our objective. We want to make that area as protective as possible. We want to do hydroponics but I'm telling you that again the idea that our septic system which is aerobic; I mean you can almost drink the water coming out of that ... (inaudible) as what's testified, it is not going into the fishpond and I will reiterate that if I have my house there, my cesspool when we dug it, hit the ground water which is falling in the Loko Nui Pond right now under the road. And all the fresh water coming in there is coming right through that ground water which contains raw sewage. It is not created a problem for the pond. I've maintained it to increase productivity in the pond so our high grade high level septic system, which is putting almost fresh water back into the ocean is not going to impact negatively on the shoreline. And I support the idea of trying to make that to restore the fishpond, which in the past, our ohana has tried to cooperate to help restore that fishpond. This is a community effort, we want to support that, we want to be in on that. But we can't do these kinds of things without a facility in which people can live and work on the land. This is our problem and this is what's happening. A minimum amount of housing. This is a 1-1/2 acre lot which as I

said could be zoned to take more other residences and we're only asking to replace the two residences which were there prior time. So we're not adding anything, we're not making a development, we're only going back to what was there before and better than that, we're treating the sewage which is not being treated by all the other houses on Haneoo Road. I appreciate that testimony, very supportive of it.

Ms. Kim: (Three minute timer went off) Sorry.

Chair Mardfin: Mr. Stice, you said that you're just replacing the two houses. Do you know what sizes they were?

Mr. Stice: No I don't. That was in the 1940's and I guarantee you that by now it would be substantial because there's better houses now than there was then in all of Hana that were small, but I don't know the size. My house is a modest size that fit in with the community. We don't have some big out of place....(inaudible)...We just need a facility where people can come and work on the land and work on the projects that we want to promote, including cooperative effort when restoring that fishpond.

Chair Mardfin: Thank you. Who's next to speak?

Ms. Kim: Leo.

Chair Mardfin: Leo Caires, do you swear to tell the truth the whole truth and nothing but the truth?

Mr. Caires: Yes sir.

Chair Mardfin: Thank you. Please identify yourself.

Mr. Caires: Aloha mai kakou, my name is Leo Caires and I live in Kula. I came out this afternoon to testify on this project. I am in opposition. I submitted my testimony via email to you folks and I hope you folks received it. The difficult part for me has been hearing a lot of conjecture from the applicant and that's something I have been having a hard time dealing with this project. Um, the Coastal Manager, Jim Buika, as we speak about evidence for example the Surfrider Foundation announced their study last month, very high enterococcus bacteria levels in the Haneoo region. Surfrider Foundation conducted in those studies and it is under the purview of the Planning Department to understand and in the rules that it does state that in the context of cumulative study that greater studies should be done. And that has been overlooked and essentially ignored as part of the rules and um it is in the packet, and I have read that time and time again and I just keep hearing this notion that the septic system will not have any impact when you look at Maalaea, you look at the impact there, you look at Kanaha Pond, you look at the impact there from all of the leakage of waste going into the ground water and contaminating the ground water. There was a question about evidence of fresh water speaking of the kane earlier before me, and it is true that there is fresh water and it is evidence by visual evidence on the coastal land you can see the seepage of the fresh water and when we step in the pond, you can actually feel the cooler water entering into the fishpond from the underground and that is continuous around that coast

as well. The difficult part I'm dealing with is Haneoo is a complex and it was identified by Dr. Hammatt. I spoke with that old gentleman. He's an old gentleman but sharp as a nail, and he mentioned that that place was worth protecting and that is a part of my earlier testimonies that I cited in communication with him. And his work was done through state agencies and Hawaiian agencies to protect that place. And the state archaeologist decided that arbitrarily the Haneoo complex shouldn't exist, and we should be parched out with something we've had difficult time in dealing with. Um, there was so much issues around this project, we don't even know who Gary Stice partners are because it's associates and he hasn't disclosed that there are other partners, and we don't know who they involve. I wish we would know and that he make that disclosure. You know at the end of the day, it's not the community's fault that this project is denied. It's not our fault. This is a process, a due process that we're going through and I believe when I came here earlier tonight, I took my keiki down to the Hana Bay and I saw all those keikis playing in the water. I speak, I speak to everybody here but I'm speaking to the record in the future because one day our children...

Ms. Kim: Three minutes.

Mr. Caires: I will wrap up. Other children will read this record and I want them to be able to read what we have fought for so they can continue on, on the good work that is needed for this area and for their own future. The septic system is so dangerously close to this fishpond and you cannot even--dangerous compounds no matter what Mr. Buika had stated on the records, state of the art system. You cannot claim to be an expertise in a technology which you do not have expertise. But I thought was misleading to the public and I mentioned that earlier in my earlier testimony. And lastly, I just want to wrap up by saying that to me buying the land from Mr. Stice and letting Brother Russell and all of these other Committee Members being involved is the better path forward. I have established a nonprofit--willing to offer it to help facilitate the acquisition of this land and I think if we have discussion--then enough already with all the bad, making each other kind of feel bad about each other. I don't like it. I think there's a better way for the kids and this place, and we would like to you know ask for acquisition of this property. I know our family are committed to working with the community to provide a place so that this fishpond can be for everybody to enjoy as well and learn about ecosystems and sustainability, just like the other comments before me. Mahalo.

Chair Mardfin: Thank you, Leo. Does any Committee Members have any questions?

Mr. Crawford: Thank you Leo. When Aunty Sharon spoke earlier, she mentioned about the heiau and the paperwork that she had found. And she mentioned that you were going to bring that up but we saw her had a copy of it but I'm wondering if it's possible to submit a copy of that—if you have a copy that you can provide it to us so we could actually look at that. The paperwork that she alluded to.

Mr. Caires: Can do, Scott. I'll answer the question and with technology, we can definitely scan it here and then email it to the Planning Department so they can distribute that to the Committee for archive and submission.

Mr. Crawford: Yeah, I'd like to if possible have access to it today during the hearing so we can take a look at that.

*(Document Received at Meeting)*

Mr. Caires: Sure absolutely. Oh happy to do that.

Mr. Crawford: Thank you.

Mr. Caires: Your welcome.

Ms. Kahaleuahi: Aloha. On that same topic, can you share—while we're doing this meeting—can you share of the location of those two heiaus and potentially any dimensions?

Mr. Caires: Um, so the one—okay if you are having your back towards Haneoo Road facing the property with the graves on the left, there's the larger heiau towards the point. And last time I was there, it was difficult to see because there's a lot of landscaping debris that was piled against the rock formation so I don't know if you folks were actually able to delineate the actual scale of the heiau because of the waste that was leaning against a lot of the location. But it does extend above—it's pretty significant and is large but not as large as the Piilani heiau. But it is there and that's the one that I'm most familiar with on that location. And more importantly, the entire complex in itself is a heiau too. So that sometimes gets lost in translation that a heiau is a sacred place—a sacred place to worship. And the whole complex that extends into Mr. Stice's property makes up this heiau.

Chair Mardfin: Thank you. Are there any other questions? Sharon, what are you going to do?

Ms. Mynar: I just had a voice spoken to me right now.

Chair Mardfin: Yes.

Ms. Mynar: Remember there's a place...

Chair Mardfin: I've been reminded that you've had your chance to speak.

Ms. Mynar: Okay, sorry.

Chair Mardfin: That's okay.

Ms. Mynar: ...(inaudible)...

Chair Mardfin: Thank you very much. Thank you very much. Mr. Stice has any questions?

Mr. Stice: Yeah. ...(inaudible)...we've approached that many times, restoring the fishpond, kind of bringing that area back to what it was. But if we're condemned because we can't build anything

on it. We're going to be forced to sell it to somebody if we won't be able to do something on it. We are the best choice for the land and keeping it is ... (inaudible)... we support anything going on in that fishpond and enhancing it, but again I'm saying we cannot do this stuff without a decent facility on the land to help promote this. And we're asking for the minimum acceptable development or I shouldn't say development because it's not--facility to do an effective job in restoring this land and bringing it back into productivity as the life in the past. We support all of this, and we have been dealing extensively with dozens and dozens and hundreds of communications through all. We've gone to State Historic Preservation--we have got everything cleared and we've gone through this very long process and I think it's time for us to come to a decision, but I'm telling you that we are the best choice for the future of this lot because we definitely respect the land and ohana and we want to keep it as original as can be done that equates the land to be able to support the community and to be--enable them to give a likelihood to sustain as it was. Thank you.

Chair Mardfin: Thank you. Linda, who's next?

Ms. Kim: Julei

Chair Mardfin: Julei? Do you swear to tell the truth the whole truth and nothing but.

Ms. Kaiwi: I do.

Chair Mardfin: Will you please introduce yourself on the microphone?

Ms. Kaiwi: Aloha. My name is Julei Naonehala Naone Kaiwi. I was a resident of Hamoa. In 1946 when the tidal wave came in and took our house all the way up to where the English house is. Nothing was there. All these things that they're talking about where the water is flowing under the earth, that's been happening ever since I was a kid. I mean to disrupt that—and since 1944, this land that we're talking about to build his hale, you know it's a mind all of that ever since the tidal wave. So why disrupt it. Why? Why? I just don't understand. I just don't understand. You know, we need to leave the iwi there, leave the ohana there, leave the kupuna there, and let them be, you know. Um, why do we have to have someone build something to have us do what, you know. Eventually, in my heart, I know he takes this and probably sell it again to somebody else. You know? So what's the use, why do disrupt all this. In my heart I came back. I was living in the mainland for 57 years and I graduated from Kamehameha High School and now I've been back for 3 years. And I'm seeing all this happening—it's heart breaking. It really is. Our Hawaiians here are losing all our lands and it's not because we don't have the money. We don't, we don't have the money and it seems every time somebody wants to buy something, the price is going up and up and how can we afford? We're just surviving here. Leave the kupuna alone. Leave the iwi alone. Leave the land alone. That's all I have to say.

Chair Mardfin: Thank you. Excuse me, there may be some questions for you. Are there any questions? I have a question for you. You're the first person I've talked to who was alive that day. I was just born and I was on the mainland anyway. Do you...

Ms. Kaiwi: I was just here because of my brother.

Chair Mardfin: I was in the mainland, only 78 and was a young kid so...

Ms. Kaiwi: I'm pushing 80.

Chair Mardfin: You got me by two years. Um, are you familiar with the heiau that was on that property?

Ms. Kaiwi: No, no because I was too young. But I know there are heiaus there according to my grandmother and whatever she speaks, I believe.

Chair Mardfin: Thank you very much. Does Mr. Stice want to ask anything?

Mr. Kahookele: Do you have any comments to what Aunty Julei said?

Mr. Stice: No, I just want to repeat that the tsunami was devastating along that--the whole coastline. The family was probably unwilling or unable to do anything with the land for over 40 years and consequently, they sold it and it went through several hands. But in the meantime just doing nothing with it, which is what is being proposed I believe, it would just have it go to rubbish and nobody could see anything until we cleared that land. We spent a lot of effort in restoring that land and reviving it. Nobody in the community at that time was doing anything to contribute to care for the land. So we are proven in our intent, with our respect for the land and to keep it in good condition and to make it usable for the community. Thank you.

Chair Mardfin: Thank you. Linda, who's next.

Ms. Kim: Next is ...

Interruption: ...(inaudible)...(wants to be on the list to testify)

Ms. Kim: What's your name?

Mr. Lyons: Kahu Lyons.

Ms. Kim: Kahu Lyons. Okay.

Mr. Lyons: Mahalo.

Chair Mardfin: Okay, who's next.

Ms. Kim: Next person is Leanne—Leanne.

Chair Mardfin: Leanne? Will you please introduce yourself.

Ms. Paman: I do. I sure will. I share greetings. My name is LEEANNE PAMAN. I too—I am from this area from Hawaii. I'm generations of my family. I'm going to keep my speech really short. I am in favor of building two houses where once two houses existed, Gary Stice. Kalamai. Gary Stice, I am in favor. That is it.

Chair Mardfin: No Committee Member has any questions for you. Just a second maybe Mr. Stice does.

Mr. Kahookele: So that was LEEANNE who just testified in favor. Do you have anything to say?

Mr. Stice: Amen and mahalo.

Chair Mardfin: Okay, who's next.

Ms. Kim: Mavis.

Chair Mardfin: Mavis, do you swear to tell the truth the whole truth and nothing but.

Ms. Medeiros: I do.

Chair Mardfin: Thank you. Please introduce yourself.

Ms. Oliveira: Aloha Hana Advisory Committee and Planning. My name is Mavis Oliveira Medeiros. I've lived in Haneoo for over 40 years. We know the changes that happen over time because we wake up and go to sleep there. We drive past this site and all the other homes in the area. Up and down, two to six times a day sometimes. We don't ah—work during the day and then go home. We don't have our event and then go home. We're here 24/7 except when I am at work. We pay taxes in the area. We are um kamaaina. My husband's family was born and raised there. The changes that we've told you about in the past aren't just made up. We see every single time that the water goes over the road, Jim, and let me tell you my first couple of decades there, we'd be lucky if we saw it go over the road twice. But in the last 2 decades started to come over during hurricanes, outside super high tides with storms, but in the past 10 years, it's coming over with just regular high tides. We don't need a storm behind it or a hurricane or you can ask Mice that too. Mice lives right next to it, across from it. We live on it. So we know how high the water is coming over the years. And we hope that you guys request a certified, like Doris was saying, a certified um—what is that survey—shoreline survey to see where the high water mark is and to develop to decide where how far back they have to go to build. That's really really crucial to me, that if it came up 5 feet or 3 feet, then they would have to move it back 3 more feet. Um and I want you to know that even though we keep repeating this today, I think we told somebody else that there's so much support for this project. All the people who support it don't live there. We live there. The people who were talking against it are the people who lived there. We live there. We have to pay the taxes. There's a young boy that's a nephew to some of the ohana that's for this project—his name is Kono Ed Norris. He talked about—he talked about

gentrification. I don't know if everybody here knows what that word is. But basically, there's two really beautiful houses on the other side of us and now there's going to be two really beautiful houses over here. I don't know how much taxes they pay, I've never looked but Oprah has land on the other side of us and also another side of Gary. So what's going to happen if she sees people build and then she wants to build beautiful big mansions. You think we'll be able to afford the taxes over there? I think—I know that in Makena they had to build big houses to rent out because they couldn't afford the taxes anymore. Why, it was \$65 to \$70 something thousand a year – would we be able to live there? You tell me. I don't think so. Anyway, thank you Kono Ed Norris for bringing that to my attention. I just never thought about it.

Ms. Kim: Three Minutes.

Ms. Oliveira: Um Hamoa Village was a beautiful fishing village until this came along and you pitted Hawaiians against Hawaiians. Only you get what you want. As if 16 ocean front rentals are not enough. You just have to have 2 more. Well, I don't know if it's news to you but you already have a house in Haneoo, Mr. Stice. It's called Kilohana. If you want to live here so bad, why not repair that and live there. It has a beautiful ocean view and it's ready made, it already has a septic and you could probably fit another house in the back of it. Hokuula Loko Nui is very sacred to us. It's a place people go for respite and relax and fish, picnic or just kick back. There's not many places left like this in Hana. Our beach in Honokalani is over run with tourists. Kapuokahi Hana Bay is overrun with tourist. Koki, thanks to Mr. what's his name is over run too.

Chair Mardfin: You're out of time.

Ms. Oliveira: Can I ask for just a minute?

Chair Mardfin: Yes, one minute.

Ms. Oliveira: Okay. Thank you. Ah people starting to say you can swim there naked. Other than directing people to Koki if they want to see a red sand beach. I saw it on line a couple times. Hamoa Beach is also overrun. This is one of the last places that residents and people from Maui can come and relax. For the plans on Exhibit 5, it shows a note that says that planning setback verification was not certified. I think Doris said that too. In 2005, 2006 it was resurveyed in 2016 but there's a note saying that the resurvey was not certified. Please make sure that there's a certified survey please. It is rising that fast. If it hasn't been certified, I ask that you do a new survey. Also the boring holes that Janet Six recommended--where is she by the way. Shouldn't she be here as the Archeologist for Maui? I think it's super important that that be done. Also to determine if ...

Ms. Kim: One minute.

Ms. Oliveira: there's fresh water under the aina. We swim down there all our lives. I can tell you—I can promise you Leheula has fresh water, Koki has fresh water, the land by Stice has fresh water, Mice guys fishpond has fresh water. You go in there and you feel it. Behind our house has fresh water, our fishpond has fresh water, there's a Queens bath that has fresh water, so you



wanted to know if there's proof? Yeah when you go in the water, it's cold.

Chair Mardfin: Okay that's one minute.

Ms. Oliveira: Okay. Sorry.

Chair Mardfin: Thank you very much. Any Committee Members have questions? Seeing none. Does Mr. Stice want to make a comment?

Mr. Stice: Yes, I do just to reiterate. ...

Ms. Oliveira: I'm sorry John Buell and Ramona Oliveira wanted me to read into the record that I submitted their testimony.

Mr. Kahookele: Okay, ready.

Mr. Stice: Okay, yeah, just to again state that we've had the shoreline survey done, we certified one. The second one was the same as it didn't seem necessary to recertify because the only reason that the time laxed on it was because the process that we are going through was so extensive. So we can't keep updating things when we're going through a decade of process and there is no significant change in the shoreline. Ah so, I appreciate the concern about the water coming onto the property. Our house is designed to restrain and protect against damage from flooding, tsunami, high waves and that's why it's built according to the new code which other houses on Haneoo Road are not. We have a safer house that's more likely to withstand the weather and the tsunamis and the high waves that goes along Haneoo Road that are much older.

Interruption: ...(inaudible)...

Mr. Stice: The survey has been certified. It was redone the same as the previous survey virtually so it did not seem necessary to recertify something. Even in spite of the fact...(inaudible)...

Ms. Oliveira: How can you say that...(inaudible)...

Mr. Stice: ...(inaudible)...If I can get approval in one year.

Ms. Oliveira: ...(inaudible)...

Chair Mardfin: We're not going to be having debate between the two people. Thank you very much. Thank you Mr. Stice.

Ms. Oliveira: May I ask a question?

Chair Mardfin: We don't answer questions. Next testifier?

Ms. Kim: Earl

Chair Mardfin: Earl Medeiros, do you swear to tell the truth the whole truth and nothing but.

Mr. Medeiros: I do.

Chair Mardfin: Thank you. Please introduce yourself. Three minutes.

Mr. Medeiros: My name is Earl Medeiros and I live at Haneoo. And I just like to say that I oppose this project always. It affects the entire community of Haneoo. You know like they say, Mr. Stice, timing is everything, and I'm saying the timing is way the hell off for you. Man, so much stuff is happening you know. The Board you guys gotta look at this, look in Kona, the wave when break right over the house. You think it never happened before? No. You ever step outside your house and dive in the water out there and go look? Over there all reefs. It's a perfect place for one wave buildup and just knock that house over, or somebody can die in there. And you know for me as one Hawaiian get too many natural resources around that place too. It's flowing with that thing—I mean you know the fresh water, you got the ocean outside, we got the fishpond, we got everything in that sea. It's not ono. You got the graveyards over there, that's the worse part, yeah. The graveyard they don't got the family—it's a family graveyard. That's what you gotta always remember and you know I don't think ah, that's mother would think very kindly of that. I know she wouldn't think very kindly of that. And I don't know, you know to me we gotta listen to our descendants. The problem with man is they don't listen now days. They like fight everything that is put out there. They fight everything and then what—when it happens, then what. We can avoid this from happening right now, but you know—that's about it that I had to say. Thank you, any questions?

Chair Mardfin: Thank you. Any questions—to see if Mr. Stice wants to say something?

Mr. Kahookele: He asked if you have any comments?

Mr. Stice: No comment, thank you.

Chair Mardfin: Nope. Who's next.

Ms. Kim: I was just given this today but I don't know if Ramona Oliveira is here.

Chair Mardfin: Is Ramona Oliveira here?

Ms. Oliveiras: She asked me to submit it.

Chair Mardfin: Okay. Thank you. If she's not here to give live testimony, we can pass it out, but I don't think we can do anything with it. Um, who's next.

Ms. Kim: I can put this as a record.

Chair Mardfin: Okay.

Ms. Kim: Last is Fushia.

Chair Mardfin: Fushia, do you swear to tell the truth the whole truth and nothing but.

Ms. Pua: Always have, Ward.

Chair Mardfin: Okay. This is your time.

Ms. Pua: Aloha. My name is Fushia Pua and completely support of Uncle Gary and his plans to build. I know that everybody's got humbug about cesspools and water and all that but I don't see them applying it to themselves. It's almost like they grandfather clog themselves into the land so that someone like Uncle cannot build. Thing is Uncle, that on his property we're talking like almost 39 years ago, the Atay family sold it fair and square guys and so now that it's coming up they want to get to the property owner with couple handoffs later and try to intimidate a cool, kindhearted/bighearted blind guy, elderly, timid, so sweet. But you guys don't see that, but I know some people on you guys Board here know that because we've seen him at other venues. He always opened up for the public always with no expectations of payment. He's paid land taxes and I totally understand and totally agree that land taxes can jack but let me tell you what if he opened it. If that place is sacred as everyone is saying, especially the family, how could you guys let it get so—why would you do that? Secondly, they're referring to a heiau—I think possibly but okay Auntie said when she was here, it probably was used as a dump pile because she said it was somewhat of a pile in the back and you know I remember you guys were calling her on site. You guys recall that? Rhetorical question maybe? Okay well I know for a fact she pointed out that there's a dump on the back area where I think there's destination of a heiau maybe. Also on top of that you guys were talking about the septic system. You guys don't understand the upgrades he has in the system—it's not a simple cesspool you know, cement, walls, whatever that's leaching out. This is like fancy stuff but you guys still ignore that. I can tell you Uncle Gary and the entire Haneoo Loop and I promise you, nobody can prove it otherwise that this is true. He's the only one that leaves his property wide open for everybody to use fully. Every fisherman, every tourist, everybody ohana on the other side, non ohana, he is our ohana because of his big heart. On top of that—on another note in regards to the septic system where do you think—I know Auntie guys all the older folks here back in the day, there was no such thing as toilets. You guys had earth toilets, my husband and his step dad and so forth, every single property had earth toilets, and guess what earth toilets here, trash pile, the opihi shell pile. So that suggest to me that you guys are complaining about raw sewage that is not going to be coming from Uncle Gary's upgraded system but the raw sewage that the ohanas actually, probably, likely, but with the water the same Loko that you guys are saying that we should preserve. I agree that fresh water is beautiful and it sustains light, but you guys don't take into consideration what you guys did. I mean I heard somebody saying like bacteria. It's bacteria in the water there's you know. My assumption is—it's like doo-doo or whatever. But how is that a contributing factor to Uncle who hasn't even been in that crap or anything like that. So you guys are getting a measure of bacteria based on the family. The families that are coming here to complain about it. Uncle Gary gives access, he don't put up a fence, he don't stop. I don't see nobody complaining about

Kalani English getting like an industrial permit. Where the hell that came from in the park. These are vehicles that drip and oil all over. That's the lowest point. If you want to talk about the kids who live here or whatever, that's probably the lowest point. That one is lower than where Uncle Gary's property is. I don't see nobody stepping up for that. You know it's like they ignore that. There's a guy who said that oh Kaiopole oh my gosh so significant. I said but Oprah owns it—there is no resistance to that. Nobody wants to step up, they don't want to step up against the big whips. But someone they think is a pushover they're more than willing. I know Uncle, he supports the community. You guys--I know more than half the people in here know that he supports the community. He did it free with nothing in return. I was there 20 and now it's 28. 27 years ago me and my husband our two kids were camping back there ...(inaudible)..., we went back there. You want to know what a hell hole of a fricken overgrown jungle that was. You guys know Ed that lives in ...

Ms. Kim: Three minutes.

Ms. Pua: That dude had a big ass camp there. He had a big camp yard, coconuts, there's like bushes. I mean like choke bushes, so thick the brush. You can only drive a loop, that's as tight as you can go. We reversed in the king grass, but ...(inaudible)...actually and that's where we camped. Next to our friends the graveyard because we don't have no bad intent. And the ancestors know that. Aloha ke akua, I support Uncle Gary. His family is us, we are his family. I would think that everybody in this community which is a community from Hana would have like big hearts you know, show love, show aloha. How can you guys turn on this Uncle—I mean at least be respectful enough to voice that you're against it. And say like you know he's a really sweet guy. He really dozens family reunions, dozens of memorial services, dozens of unlimited. And Hana Arts, I was with Hana Arts with Becky. We used that venue for two years straight—two years straight as our venue and he still allows it and I still continue to do this to this day for Uncle Gary.

Chair Mardfin: Wrap it up.

Ms. Pua: Yeah, I'll wrap it up. Additionally, let me find a hype. I think it's funny that everybody can point fingers when they don't point at themselves cause Uncle, he's going the extra mile. He's not just doing the most simplest of things. He's trying to get you guys to work with compassion through you guys cause if he wanted to—I'd ask this dude and this woman of course. What is you guys stake in this because I think these guys only giving a recommendation and advisory as what should be done. But the reality of the question should be like didn't he already pass all the permits and get everything done and solidified? Cause last I heard at the last meeting it was a done deal and it just drove us over a decade. Over and over, so that place was a dump of wrecked vehicles driving him out, keep the encampment, Uncle Gary came in there with Russell's help of course and provided resources that he provided and opened up that place. Now what do you guys have to say about that? You guys rather um go to see your guys graveyards with cane grass growing over because you don't know where the stone wall begins. Because that's where we were, straight up, I mean Uncle Gary's given a lot for everybody. If you guys realize that—his place has been used as a venue way more than Helene Hall, way more than Hana Farms than any other place.

Chair Mardfin: Thank you. Do any Committee Member have any questions? Would Gary like to make a comment?

Mr. Kahookele: Chair has asked if you have a comment regarding Fushia's testimony.

Mr. Stice: No.

Mr. Kahookele: No.

Chair Mardfin: No? Would anybody else like to give public testimony before we close?

Interruption: ...(inaudible)...

Chair Mardfin: Do you promise to tell the truth the whole truth and nothing but.

Mr. Lyons: If everybody else does.

Chair Mardfin: I'll take that as a yes.

Mr. Lyons: Did everybody else swear or me the only one?

Chair Mardfin: Yes.

Mr. Lyons: Okay, okay. Originally, I just came to learn.

Chair Mardfin: Please introduce yourself.

Mr. Lyons: Oh, I'm Kahu Lyons. I think many of you remember—April 1<sup>st</sup>, 1946, my grandma came sunrise, wake us all up and said run. Run. And we made it. Three years later, my grandpa and one other man, maybe you know this man; his name was John Bull. We went to um Hokuula and we sat there. And the two of them sat there and shake their head because what was there before, no more. And he said, Bobby—my name was at that time was Bobby. Bobby, you know what that island out there is? Alau—you know what it means? It means to divide. Oh, divide what? He said divide the place for us and the other side of the island is the home of Kanaloa. And he said before this used to have two heiau over there. One was a Ko`a and one was a Kuula. There are four different types of heiau: one for Ku, one for Lono, one for Kane and Kanaloa had two. Ko`a was to to to encourage the fish to multiply. Kuula, the name of the place is Hokuula. I have to laugh because Pukui says it was probably the name of a spa. Probably, but the dictionary came out in 1956—1986—we talking about 1946. Kuula is the heiau that honors Kanaloa and that was the two heiau there. I don't know what that means but I tell you I just look at Kuula. The word Kuula for that place I can tell you—Hokuula is talking about that heiau. And I go there all the time. I always ask permission. I say eh I can go drive inside there? And I go over there and I drink awa. Why, because I honor the place. I didn't come here to oppose but at this point, I'm

really concerned. I'm really concerned about all this technology and things like that that is coming because at one time, cesspool was a technology. And then we found out no good. At one time sewage plants was a technology. Now we find out no good that technology. Hoo, what we going do. We going go until no more us already.

Ms. Kim: Three minutes.

Mr. Lyons: Was there a really good, honest impact assessment—cultural impact assessment made. Was just kapulu kine? I hear that that this was done, this was done; everything to do was done. Went off the checklist—the checklist great. But how good is that checklist? Like I said I came here only to listen and learn. My akua out there, my ancestors still there, so I can learn more. But now, I'm kind of lua about this project. I thank you. Thank you for the chance to talk. Aloha. And you know what, brother on da kine, he get plenty chance for talk. I only get two, three minutes; not fair, you know.

Chair Mardfin: I understand, but I'm following legal advice from the Corp. Counsel.

Mr. Lyons: Legal is not fair too. Aloha.

Chair Mardfin: Mahalo. Any questions? Does Mr. Stice want to make another comment?

Mr. Kahookele: He asking if you like comment.

Mr. Stice: Yeah, I just want to say that we are always trying to get as much information on Hawaiian history there. We've done a lot extensive study on the Hokuula story, and we want to maintain and preserve these kinds of things on our property and we welcome any input on this kind of information and we want to do everything we can to promote it and preserve it, hear stories about it. This is what we want.

Chair Mardfin: Thank you. Is there anyone else who would like to give public testimony? Please come forward. Do you promise to tell the truth the whole truth and nothing but.

Mr. Medeiros: Yeah

Chair Mardfin: Please introduce yourself.

Mr. Medeiros: Aloha everybody I'm Earl Medeiros Jr, known as Tokes. I'm here because to support my family and the lands down there because I was born there and I understand where my family come from. We need to protect it. And you know God protect it for our generation and our kids generations to come cause I don't want to have a kid one day and they tell me, dad what happened? Why is it all built up here? Then I gotta explain that. That's wrong, but anyways—so when my house was built, yeah we had to build 17 footings with cement totaling 4x4x4 feet. It was 750 square feet. These houses are two, three times that size the one Stice is trying to build. If we had 17, then Stice property would have take about 90 footings 4x4x4. Ah can you imagine how much cement that is going in and out of the water? This will affect the springs and the ocean

and to me, I'm the next generation like I said my kids one day will ask me that and I'm going to say, that's the way. It was all wrong. You know we gotta protect this place and keep things the way it is and like I said in the last testimony down Hamoa, I have friends and loved ones on both sides of this and I'm not here to offend anybody or anything. But I stand true to my family, my ancestors, my people, my land, my ahupuaa. I'm from there, I can say I'm from there because there's been many talks and like they said it's people that are not from that area. I am from that area. I have the koko, I have the life of that area and I'd just like to say I'm sorry but I'm against this Stice project. Thank you very much. Aloha. Have a nice night.

Chair Mardfin: Thank you. Are there any questions? Seeing none. Does Mr. Stice want to make a comment?

Mr. Kahookele: He asked if you like to comment.

Mr. Stice: Yeah, I'd just like to say that the property that we have now was old sites with local Hawaiians that's true. We are trying to promote that heritage. We have an ohana of many Hawaiian families struggling to move in Hana. They want to live there, but can they afford to live there, they have to go Kahului for a job, now the price of gas—can you even get along that way. How do you pay the rent, how do you feed your kids, what do you do about their education, wish we can live in Hana but we have to move. Our goal is to help these people sustain a living in Hana. They need to work part time just to get out to Kahului to work two days a week whatever. But it is what we are trying to promote and we've proven it with our past history and this is what the younger part of the community needs. It's almost the haves and the have not. People already have their property, people already established, people have already been there for generations—they're fine without doing anything else. But the younger generation that want to stay in Hana but cannot afford to—these are the people that we want to help to sustain themselves.

Mr. Kahookele: Okay. I understand his concern. He was referring to the footings that's going to be needed for the house and regarding the cement, that how much footings and how much cement and if there's no guarantee that it's going to affect the aquifer, the environment, or the potential fishpond—that was his main concern.

Mr. Stice: Okay. Thank you thank you for pointing that out. The building is designed to new present building codes which was not around in 1926. The buildings put up now are able to withstand all of the potential of 100 years tsunami...

Mr. Kahookele: Okay, he's aware of that. He's just asking regarding the cement for the footings.

Mr. Stice: Oh, okay. The cement footings--yes there are going to be a pad of cement footings. I don't understand the problem with that but it is all acceptable according to building code standards as a very essential part of supporting the structure that's going to be able to withstand these types of natural phenomenon. Did I answer correctly?

Mr. Kahookele: If I understand his concern correctly, he's referring to the amount of footings that is going to be needed and the impact of the cement is gonna have. That's his concern that he's

raising.

Mr. Stice: Okay. Footings are a minimal of about cement. They are approved by Building Department standards and is good because the footings are only holding up the post that are going to support the house. So there's much storm concrete than you'll have in an ordinary house just sitting on the ground. We're only going to have a print of where the footings are and we have designed the house structurally and approved to be able to use the number of footings that are on the plan. So this is engineered already and approved by the Building Department. Is that the answer?

Mr. Kahookele: Well, I'm sure it didn't satisfy his concern because only time going tell and that's the issue he's raising now. So...

Mr. Stice: So he's concerned about impact of the cement in the ground?

Mr. Kahookele: Yes, regarding the potential of the fishponds or the fresh water or anything.

Mr. Stice: Well, the whole area there I mean the cement is only gravel coral so I don't know that—I mean we're just putting in a different part of nature. The cement is formed from limestone and natural rock. So I don't think it's really going to be different that the surrounding it of material, which is mostly rubble and sand. There are not any pahoehoe lava tubes in there we heard previously, a lot of complaints were made of the lot and it is all ah sedimentary layers in which I say is really compatible with the boundary. It's just higher. I don't see that there would be anything of an impact with that, that I can think of. It is according to building code standards.

Mr. Kahookele: Okay.

Mr. Stice: I still didn't hit it?

Mr. Kahookele: Okay, it's just a concern that he raised.

Mr. Stice: Okay. It's the best I can do unless there's a second question about it.

Chair Mardfin: Thank you.

Mr. Kahookele: Okay, moving on.

Chair Mardfin: Is there anyone else who'd like to give testimony?

Ms. Notestone: I would.

Chair Mardfin: Do you swear to tell the truth the whole truth and nothing but.

Ms. Notestone: I do.



Chair Mardfin: Please introduce yourself.

Ms. Notestone: Michele Notestone. I can start now?

Chair Mardfin: Yep, you got three minutes.

Ms. Notestone: Okay, thanks. Alright, hey so I came here tonight just because I wanted to listen to what the community's concerns were about this. This is the first time I heard about um—gone to a meeting about this. I lived here. I'm not from Hana. I'm a haole. I've lived and worked in this community for over 20 years--served the community for over 20 years. After sitting here listening to people's testimony and Mr. Stice's answers to the community, I would say I don't know why he's banging his head against the wall—a brick wall. This is—that area is a very sensitive area in my eyes and the community's eyes and why, you are asking for two houses in a place where there's been a tsunami and that is going to be wiped out, I don't care what you put there structurally, when there's a big tsunami, it's gone—or it's destroyed. You just need to let things breathe along in that area. Um and then you know you say you got the permits and all that from Building/Planning and all and everything's good and you have been doing this for decades. Obviously, it hasn't really been working for you. I'm sure yeah you've given the community access to your land but I see that as maybe so you can get what you want down the road. You know maybe you've been generous that way. We have a new generation of Hawaiians here that are preserving the coast in Hana that are concerned and preserving the coast and keeping Hana beautiful—the coastline. I think they're great for doing this, you know, it's a wonderful thing and I hope more generations in the future do the same thing. You say that you're just doing two houses and threatened that you could have built a lot more. I mean I know you're an older man—who's going to take care of this when you're gone. You're not even going to be around that much longer—who's going to take care of it when you're gone. Really. And to fill more houses there? It's a shame. It would be a shame. And it's not supported by the community. I know you have a lot of other properties that you own and this is not one that you have to have. Support this community. It's a fragile and very special community. That's all I've got to say. You know, put it into conservation. Please let the people put it into conservation. Do the right thing. Thank you.

Chair Mardfin: Thank you. Any more questions? Would Mr. Stice like to make a comment?

Mr. Kahookele: Asking if you'd like comment regarding the last testifier.

Mr. Stice: Ah, what should I address. Well, okay, I understand that I'm old and I'm not going to be around here that much longer, which is why I try to preserve something for perpetuity that will protect this property. If I cannot do anything with this property, I will be forced to sell it and you're not going to deal with me. You're going to deal with somebody else unknown, probably a force from this community, maybe from China, who knows—wherever with very influence. With this permit, we are fixing the capability of building structures on this property as making the easement permanent so to her point, we are trying to move exactly towards what is being proposed here. And by letting this go as getting us out of the picture, you're only exposing this property to more potential danger but we can fix things here so that the property is limited if what other kinds of development can be done. Thank you.

Chair Mardfin: Thank you. Russell, you wanted to speak?

Mr. Kahookele: Yes, Ward, I would love to.

Chair Mardfin: Do you swear to tell the truth the whole truth and nothing but.

Mr. Kahookele: So help me God, Yes I do.

Chair Mardfin: Identify yourself.

Mr. Kahookele: My name is Russell Kahookele. But tonight I'm testifying as an elected representative for the lost Hawaiian government. And the first thing I would like to say is that I object to this whole proceedings. I hear people saying and I not only hear the concerns of my own community, I hear the concerns of my ohana. And I agree, the property taxes could potentially go up, but who is the State of Hawaii, this illegal entity in the County of Maui, even this Committee for say what we can and cannot do in our homeland. Who are they? The State of Hawaii admitted to participating one illegal act. The Federal Government also participated in one illegal act and here we are just continuing on as la-tee-dah that everything is all good and dandy. And here's this guy, Gary Stice who wants to build a house. This is not the first ah Planning or first building permit. The hotel tried to build a Sea Ranch cottages and the whole community was against it but somehow like political influence or whatever, they got their permits to build all the Sea Ranch cottages over here. Twenty years later, the Sea Ranch cottage area—the coastlines is still a viable fishing grounds and we still get access to go out there to fish. Gary Stice offered to support the community and give back. When he found out that I was a representative, he told me he supports the reinstatement of the Kingdom of Hawaii and what can he do for our community. Now I told him to put up a pavilion for our community to be used and all they have to do is ask me because Gary gave me the autonomy to use the land down there. And I supported a lot of people in this community and we never charged nobody nothing. We even had electric at one point. Now the electric box got all popopo all rotten, so Gary asked Maui Electric if they could remove the meter so he could put a better box on there. And what they did is they turned his electric off because they said he cannot stay on a temporary electric forever. But that was a permit process he had to go through where he had to pay to get that electric, right? While he's waiting to get his other permits, the box rot away and in order for him to make sure it was safe and nobody get hurt, he wanted to put a better box and Maui Electric turned his thing off. When he had a permit to build the building and to run on pump so that he can get water. Why? Cause Kalani English when stop him from getting County water. So now he has to do his own water system. Now, here we are all these years later, trying to work with what's happening here in Hawaii. Yeah? People tell me, Russell, I thought you support sovereignty; how come you supporting this guy? Well just because I want to protect our identify as Hawaiian nationals and not Americans, it doesn't mean that I want to go back and live in a grass shack. And if we're going continue in this capitalist system, then we need business friends. And Gary is a business friend, who wanted to support the reinstatement of the Kingdom and give back to our community. I don't see any other rich person out here opening up their properties for us, calling us having painas and come gather and pay for everything, you know. But yet their developments increased

the property taxes too. It also increases the property value should we ever decide for sell one of these days. Well God forbid that's not our intention, but at one point in time, the Mynar family did sell. And I'm sorry that they sold, you know? In my opinion according to the Kingdom, these errors Aunt Sharon guys they still have an interest in this land but it's only if they support the reinstatement of the Kingdom. As long as you guys County of Maui and State of Hawaii continue to perpetuate their own fraud, then this action continues and if this guy—or if like you said maybe he sell it to somebody in China who get more money or get more influence, come in and build one big whole thing over there no matter how many people in this community say no, they still do it—where's the support for our community? Where is that coming back?

Ms. Kim: Three minutes.

Mr. Kahookele: I can see one big fence going across the property saying private property because that's usually what happens when they buy it. Private property, keep out. He never did stop anybody from shoreline access. He never did stop anybody from coming on there because he supported me the reinstatement and for that reason, I support him. Thank you very much.

Chair Mardfin: Thank you, Russell. Are there any questions for Russell? Becky?

Ms. Lind: Hello, I was just wondering what your thoughts were on the idea of Mr. Leo, that is your name, have a nonprofit purchase it and put it in conservation? Just wondering your thoughts on that.

Mr. Kahookele: Well, thank you for the question Becky, but regardless as far as I'm is concerned, if I come to your house and I steal something of value and then for public notice I'd like to apologize to you for stealing it but then selling it, and the next guy sell it and the next guy sell it—profit, nonprofit or whatever, it's still one fraud. And then who's going to pay the property taxes on top of that? And it continues to perpetuate this fraud. When we go for nonprofits, the nonprofits go and they go ask for money, from where? Well from all the philanthropists out there but mostly from the State of Hawaii. And the State of Hawaii is giving monies, that is coming from the trust, that belongs to us—the heirs of the Kingdom of Hawaii, but we don't even know who we are, let alone how much money is there generating on our behalf. In fact the State of Hawaii is acting like we don't even exist. They want to get us totally recognized as Indians, something that we're not. So are we being in a position to something like that? I really believe our best bet is to work with this guy because we're not telling any American they have to leave. We're not telling anybody they have to get off their property. I know guys who came to Hana, bought properties and the issue was raised, maybe they going sell, yeah? Because there's people who did come and did a vacation rental and they actually sold the property and that when increase the property value of all the people right in our subdivision area. So it's potential as long as Americans believe they free for do whatever they like and going where ever they like. And they going get their way because that's the American way, right? Tell the truth, the whole truth, and nothing but the truth so help you God. But then they lie.

Chair Mardfin: Any questions?

Ms. Kahaleuahi: Mahalo, Mahalo Uncle Russell. You've made it clear that Gary has aspired visions to follow through on visions. What are your visions for this property, um under the ownership of Gary Stice?

Mr. Kahookele: Thank you, Lipoa. You know, when you talk sovereignty, you gotta talk self sustainability and our kupunas just like Leo and Aunty guys had mentioned, they not only farm the land but they farm the ocean. And I know when I first went to go down there what he wanted to do was restore the fishpond. So I when go talk to Aunty Ethel, and Aunty Ethel told me absolutely not. And no talk to my kids because my kid no like restore fishpond either. I spoke to Danny Mynar about restoring the fishpond and he told me yeah a vision from an old lady; that they said no Russell we cannot and I'm not going argue anybody with visions because I believe in the spirits. I do, I believe in God, I've never seen God, so I gotta believe in spirits. So if they see spirits and see visions, I cannot argue with that. But Gary Stice wanted for help restore fishponds. He went talk to Uncle Francis and Uncle Francis when come see me and Uncle Francis when go see Aunty Ethel and said no. So if we have no intention of restoring the fishponds, then I don't know what the concern is about this or that. For me, Gary like build haies, he wanted for do educational classes because I think what's really important is reintroducing our keiki into our cultural practices because we're getting indoctrinated by the American system and we're losing touch with who we are as the people of this land. We more Americanized than anything else, so Gary wanted for do cultural things, he brought in John DeLeary who when teach the kids how for do drums and all kinds stuff. And he wants to give back to the community. He wants to empower the community, but also keep in mind that we know we stay stuck in this capitalist system. We never create this thing. We cannot go back and say okay go hunting, but we cannot go hunting because get signs, private property Haleakala Reserve—keep out. You cannot go there, the ranch don't want you to go hunt and you have concerns. Now you go to the ocean and you like go fish—just last week my niece when bring akule, yeah. And I was real happy and she was real happy. So I when help her clean and cut up and every one of those akule had eggs. Now if our people don't know when the time for go catch the akule, then eventually they not going spawn and no more. So we gotta somehow teach them. But how, where's our time when we're so busy working for Uncle Sam, 7 to 11, 9 to 5 or whatever. So my vision maybe to see this thing that Hawaiian Hale restore fishponds, educate our people about—we cannot do every fish out there but at least a couple that really mean a lot to us: the aholehole, the moi; raise those fish, the spawning cycles, teach the kids when is the right time for go harvest them and when not to. Even the black crab is out there—we wanted for make a black crab preserve because how much guys come catch black crab, I check their bucket, get eggs inside. And I grab one and throw 'em out if it's still alive. And wow what you doing, you cannot catch this kind boy, you gotta let them go so the eggs can hatch—it's the law. Well, it's not going end there, I don't know the future of our opihis and black crab. No more because we never police ourselves. So this the kind of thing people I'd like to see happen. Now, the question was raised about who is all of his partners, I know he made me a partner and I never have to pay \$1. I know the Easons are partners because Sam Eason was one of the first guys who started to have a project and I know I ain't planning on going no where. So whether Gary Stice passed away tomorrow or not, the project would continue if this Committee would find to rule in favor and support for it. I understand

the concerns from my cousins and I respect them for voicing the concern. I hold nothing against them because I know everybody is entitled to their own opinion. So thank you.

Chair Mardfin: Thank you very much. Any other questions? Would anybody else like to give testimony? Do you swear to tell the truth the whole truth and nothing but the truth.

Ms. Caires: I do. Aloha, my name is Patricia Atai Caires. I was born and raised in Hana and um, I was just sitting back and listening to all the testimony and it's really interesting. As Mr. Stice is being asked if he had any comments or anything like that and it seems like he's going around in circles. Um it seems like he couldn't answer some of the questions. I couldn't even answer the questions even though I'm listening to those being asked. But anyway, I'm against the project, two horrendous homes would be a total disaster. With the next tsunami, God willing we don't get one, but if we do, that house will not stand. Now matter how high you build it, that wave will be 100 feet high. I lost family in that tsunami. Until this day, I think about that and how sad my parents were. So I understand you know they want to make a living, yeah, good for them. Also, he wants to help the community—fine, but what is he doing with all the tourist there? Are they helping the community? They're selling chicken or what have you. They have all these people coming through. What happens with the money that he's making, is it going to the community? I haven't heard that. How are they teaching the kids? Is the money going to the children, I didn't hear that. So I'm just wondering is this whole project just a waste of everybody's time including ours that we're here trying to protect our family, our land and I just don't understand what's going on here? To me, it's a total waste of time. Aloha.

Chair Mardfin: Thank you. Are there any questions?

Mr. Kahookele: I would like to address that if I may, Ward. The huluhuli chicken operation is unlawful.

Chair Mardfin: ...(inaudible)...No back and forth.

Mr, Kahookele: It's only to raise the issue about the money. Gary has nothing to do with the huli chicken operation. That's all I want to say.

Interruption: ...(inaudible)...

Mr. Kahookele: That is under my authority.

Chair Mardfin: Russell, thank you. Sorry, I apologize. Does anybody who have not testified would like to make a public testimony? Seeing nothing, I hereby declare public testimony closed.

### **C. UNFINISHED BUSINESS**

**MR. GARY STICE and HANA BEACHFRONT ASSOCIATES requesting a Special Management Area (SMA) Use Permit in order to build two single-family residences and related improvements that are located outside of the shoreline setback area on**

**1.478 acres of land in the Interim District at 175 Haneoo Road, TMK: (2) 1-4-008:001, Hana, Island of Maui. (SM1 2013/0010) (J. Buika)**

**One residence is planned to be a three-bedroom single-family residence, totaling 2,500 square feet (1,850 square foot house and 650 square foot covered lanai), and the other residence is planned to be a two-bedroom single-family residence totaling 1,600 square foot (1,200 square foot house with a 400 square foot lanai)**

**The Public Hearing on this item was held on October 29, 2018. The Hana Advisory Committee deferred this item at its October 29, 2018 meeting.**

**The Committee is requested to provide its commends and recommendations to the Maui Planning Commission.**

Chair Mardfin: And I believe we're onto decision making. And at least as I best could find it, attached to the—I have um, the purpose is to obtain a special management area use permit for these two buildings on approximately 1.478 acres of land at 175 Haneoo Road, Hana, Maui, TMK: (2) 1-4-008:001 and this is attached to deferred from an October 28, 2018 meeting and continued on to June 9, 2022 and that's the one that I happened to have here. And on page ...Oh Jim, do you want to do the analysis of this?

Mr. Buika: Yes, I would. That would be great.

Chair Mardfin: That would get us back and we can go on to decision making.

[\(Powerpoint Handout\)](#)

Mr. Buika: Okay, how's everyone doing, hanging in there? Yeah, My name is Jim Buika. I'm a Planner with the Planning Department for 16 years. I'm familiar with the property, I've done an assessment, and first of all I'd like to say that this is the Hana Advisory Committee who will advise the Maui Planning Commission on the land use decision here according to the SMA rules and certain special management area rules that look to protecting preserve, the culture and the environment as best as possible. And this as Ward mentioned, this is the fourth public hearing under the special management area process that I've gotten to know many of your names and heard many of your testimony—I think we've got eight hours of testimony and it's a privilege to hear from you and to learn from all of you and the purpose of the special management area is to include the public to understand the culture, understand the environment, to add in information that other agencies peripherally advised the Planning Department on and so I think the special management area process in this case has worked very well. And so I have done an assessment and I just want to before I lose momentum note what Ward was saying is that we do need to make a decision. I think you all have—we've been to the site, we had a meeting at October 29, 2018. That was a long time ago before Covid, we had a meeting in June, the site visit in July and now. So what I can do is reference the Hana Advisory Committee to a handout here that I printed and I have five or six additional ones for the audience and I would like to pass those out so you can follow along and I'll just reference three pages. And it is from the regulatory that the Environmental

Regulatory Cultural Zone Management App point of view. So that's my role. My role is to look at it from the land use and the special management area point of view. So Leo, maybe you can help me pass those around to whoever needs them; I think there's a clip on all those so they should stay together. Yeah, okay. Anyone who would like to grab one. I appreciate it. I think all of you have it there. I apologize I don't have enough for everyone but maybe you can all share. But you know we did—so on the coversheet to the Hana Advisory Committee, it has the four meetings that we've had. And it is to obtain a special management area use permit for two single-family residences and then various other improvements at 175 Haneoo Road. If you go to page 2 there, talks about the process that we've been through. So on June 9<sup>th</sup> we did get through parts of the process, that was our virtual meeting that we did have that went into the evening. Planning Department introduced the project and the purpose, we reviewed the special management area environmental criteria and they are in this booklet, and I will review the project relative to the environmental criteria. Cause that's my role from the Planning Department perspective. The applicant summarized the proposed project. I think we all are fairly familiar with the project. And the applicant also summarized the presentation with respect to environmental criteria that has been applied and the applicant, Gary Stice, has tried to comply with as much as possible. So no. 4, is when we completed the site visit and so now we're on to no. 5, Hana Advisory questions, discussion and deliberations and what I can do is I'll share with you so that we can get to the Planning Department recommendation with conditions that—there are conditions that can be put on these permits. What I'll do is I'll flip through—next page is Introduction of Resources we'll skip that—Purpose we'll skip that—there's a few slides on Hana Advisory Committee or Authority—so those are with a little bit of training I did—and then there is a slide how does the HAC and the Maui Planning Commission assess a special management area project. And there are 12 criteria there. And I explained those before and that's kind of our checklist. I know some testimony said it's culturally, it's not a checklist. Right, but for the environment we do have a prescriptive procedure within the Planning Department to evaluate a project. And I won't go through those right now because I'll get into a little more assessment detail later on. But then the next page is a Summary of the Proposed Project and I won't go over that—ah, there's 1, 2, 3, there's 3 pages there. But they are the two structures, they will be elevated 10-1/2 feet high, they will be behind a 60-foot shoreline setback line, and there will be two aerobic treatment units, one for each building with a leachfield located as far away from the burial plot and the fishpond as much as possible. Right, so that can always be adjusted. But the important thing on the aerobic treatment unit is that it's not a decision that if somebody did bring up I'm not an expert in the waste water treatment. Oh not me, but the Planning Department is not an expert. We depend on the Department of Health to determine that. So the aerobic treatment unit or the waste water individual waste water system will be determined after an SMA permit is authorized all the way through the Maui Planning Commission. If it gets that far, so yes, and it's not the Hana Advisory Committee's kuleana to make that determination on that Department of Health, that'll come after. It's 100 pages of soil engineering criteria and it's at a level that's much more detailed than an SMA criteria. So going to, there's some stuff on the Project Application History--3 pages there if you're still following, but if you can find there are I think 3 pages that I'll go through and then I'll turn it back over to the Chair. If you don't mind it's a Summary, Assessment and Review of SMA Criteria for this project.

Chair Mardfin: Jim, where are you?

Mr. Buika: I'm sorry, I don't have the ah...It says Summary 1 of 3: Assessment & Review of SMA Criteria. Can all of you find that? It's about 2/3 of the way through. I'll wait for the Chair, if Ward can find it?

Chair Mardfin: Is this the summary, assessment and review? I got it.

Mr. Buika: Yes sir, yes sir. So anyway I'm just going to read through those real quick. And you find that Leo? No, not yet?

Mr. Caires: Wait.

Mr. Buika: Summary, assessment and review criteria.

Mr. Caires: Okay.

Mr. Buika: So this is a summary, again there is a report that goes with exhibits that the Hana Advisory Committee does have and all of you have access to. So there are I think 12 criteria really 11. So the first one here is critical to what we're talking about: Does it involve an irrevocable loss of natural or cultural resources. Right, so there's a process for determining that so it's a through h. I'll read through those fairly quickly. Hopefully the Advisory Committee is fairly familiar with these things. But the first is the Archeological Inventory Survey was done for the land and it was completed to identify known or existing cultural resources. So that was completed. And the second point is that all the known cultural resources will be preserved and protected to the satisfaction of the SHPD, which is the State Historic Preservation Division. Okay, again we the Planning Department depends on Department of Land and Natural Resources the SHPD to review all the records for this parcel. They have been reviewing records for this parcel for—we have some documents going back 20 years, so 1998, 1999. So there's been a very high level or very fine scrutiny from again from a DLNR State Historic Preservation Division point of view descriptive process according to regulations, that's how they do it. So from that, the conclusion has been that the burial site will be protected, that's what they want, with a buffer so they have asked that the applicant before anything is done on site, build a short protective wall around the burial site and that's part of it—actually the Burial Treatment Plan. There's specifications for that. And that the lineal descendants will have full visitation rights at all times. And certainly Mr. Stice has agreed to that. So that will be the very first action. Any digging and there won't be that much digging because it will be footings as Mr. Medeiros was talking about and the two buildings will be elevated. There will be an archaeologist—certified archaeologist on site to ensure that there are no cultural resources uncovered or disturbed or found and they have the authority to stop the project immediately. If anything like that happens. So that's called the Archaeology Monitoring Plan. It's been accepted and it's been in place for all grading activities and there won't be all that much grading, but there will be grading so it'll be monitored. And that's what we'll do in cultural sensitive areas, always having an archeologist monitor on site. No. e., the property is not connected to the Loko Nui Fishpond and certainly has been a discussion here and the site is extremely and culturally and environmentally sensitive, and the fishpond. So we want to protect



the fishpond as much as possible, but when we're out on site, the County Archaeologist, Andrew McCallister, did state that there is no requirement for a preservation plan by Mr. Stice for the fishpond. And that's in writing and that was a conclusion by State Historic Preservation Division and that was emphasized on the site. Not that it shouldn't be done but it's not Mr. Stice's responsibility. And so the project has met to the satisfaction of the SHPD, multiple years of consultation have been completed and the SMA permit may move forward with conditions. And those conditions are captured by the Planning Department and can be read to the Hana Advisory Committee at the end here. Then before Covid and after our October 29, 2018, beginning January 2019, some families in the area requested consultation through OHA Office of Hawaiian Affairs, and the applicant worked through Office of Hawaiian Affairs and State Historic Preservation Division to address concerns, back and forth. So that was over a two-year process and it was concluded and I've talked with Kamakana Ferreira of OHA and there is an exhibit that did conclude that process. It's not like every issue needs to be resolved, it's just that every issue needs to be addressed and concerns met. So it's a process...

Chair Mardfin: Jim, are you referring to this letter that we got?

Mr. Buika: No that is a separate letter.

Chair Mardfin: Because you're claiming that it is all done. You're saying it's nicely tied up with a bow. And they're saying, no it isn't.

Mr. Buika: The consultation process is concluded. There is January 5, 2022. There are still issues. There are still issues and OHA took the time to address two of them. Some of them are SHPD, one of them is historical and then the individual waste water system. And they suggest how it can be. So that's of interest to the Hana Advisory Committee to consider the OHA issues. But if you read that letter, I just read it once. They are saying that these are issues that can continue. Right, it's not like ah--unless I read it wrong. But there are things to continue to improve as the process moves on. So it has to do with the Department of Health and SHPD, which are two important ones. But anyway the criterion e. consultation process between the lineal descendants, the families, and OHA and Stice was concluded. The back and forth discussions were concluded. That's all I'm saying. And I'm saying that...

Chair Mardfin: But that doesn't really mean that both sides are happy.

Mr. Buika: Exactly, exactly.

Interruption: ...(inaudible)...unilaterally...

Mr. Buika: By OHA. I don't know, what do you mean by the applicant? Okay, well it was a clear statement in the report, Exhibit 10 January 5<sup>th</sup> 2022 letter that OHA agrees that the consultation process has concluded. That's all I'm saying.

Chair Mardfin: Russell seems to think that they were misled somehow.

Mr. Buika: Okay, well, that letter is testimony from OHA to consider.

Chair Mardfin: Okay.

Mr. Buika: And then h., so in this Natural Resource, there was a Pedestrian Biological Survey completed with no evidence of endanger of floral or fauna on the parcel. So the Pedestrian Biological Survey is by a registered biologist who can traverse the property, understand the habitat in some of the Hawaiian hoary bat, the blackbird sinks moth, the shorebirds. Is their habitat for nurturing and continuing propagation of the endangered species. And there was none of that. So that was checked. So that concludes this first criteria and that's the biggest one, the most important one to consider. So flip the page to page 2, Assessment. So the second criteria under the SMA law is does not significantly curtail the range of beneficial uses of the environment. So curtailing the range of beneficial uses of the environment. So I have a. through e. there. All coastal access will be preserved. So there will be no fences, no restrictions to people: fishermen, anybody accessing the coastline. There will be no planting at the shoreline to obstruct the shoreline access. And those are both conditions that we can capture. If desired by the Hana Advisory Committee, then the third one; signage from Koki Beach side, if desired by the Hana Advisory Committee (HAC)—can be put up saying that this is a shoreline that can be accessed by anyone along the shoreline. And we have done that in various places. And there is an example of a signage in the report. No. d., multiple existing fishing paths will be maintained and e., all proposed structures are permitted by the State and County zoning and are consistent with the State and Maui Long Range Plans including the Hana Community Plan. So things that are being built there. Anybody have any questions on that so far? Keep going?

Chair Mardfin: What happens if they get the special management area permit and they start to go ahead and they're not complying? We don't make them tear down the house do we?

Mr. Buika: We would stop it dead cold in its tracks and they would deal with violations. But if we have conditions, they must meet all conditions. Some of our standard conditions require that the project must be built in substantial compliance as represented.

Chair Mardfin: But by the time you catch that, if something's screwed up—is there undoing it?

Mr. Buika: There certainly is. Our Planning Director can attest to that. We have a whole entire enforcement division that enforces things. Sometimes it takes time, but there are inspectors that scan the island on a daily basis...

Chair Mardfin: But the damage would already be done, right?

Mr. Buika: I mean you're talking hypothetical, I don't know what you're talking about, right? I mean obviously there can be noncompliance and damage, right? You're not denying what you say but there is a process in place to...

Chair Mardfin: But if you've done away with the moth? I don't know what made me thought of that.

Interruption: ...(inaudible)...If I walk the coastline over here going down...

Chair Mardfin: We're done with testimony, I'm sorry...

Interruption: ...(inaudible)...they made them feel uncomfortable down there. That's what they do...(inaudible)...

Mr. Buika: I hear you, I understand.

Chair Mardfin: Earl, I agree with you, but that's not the piece of property we're talking about right now.

Interruption: ...(inaudible)...

Chair Mardfin: We're talking about this particular property.

Interruption: If they want something they're all going for it. I know...(inaudible)...

Mr. Buika: Thank you, Earl. I appreciate it. I understand. No. 3., still on that second page there. No substantial negative impact on the economy, community, or infrastructure. So this is like the development point of view, access to the property via an easement. From the State there was a small access that was purchased by this parcel that connects Haneoo Road with the parcel. And that's been in place and that's in Exhibit with the documents. There will be no short term rentals allowed ...

Interruption: ...(inaudible)...

Mr. Buika: Alright, I'm not sure what you're talking about. This is the land—I'm not sure whether I should--this is 6,000 feet between the road and ...Ward, please.

Interruption: ...(inaudible)...

Mr. Buika: Okay, please, you know I don't need to be bullied. Thanks. No substantial negative impact ...

Interruption: You got to watch your words, Jim. You're intimidating us, for the record.

Mr. Buika: I apologize. No. 3.c., a positive impact of a rental to a local family. So there will be a caretaker, a local family, that will be there. No. 4, 5, 6, 7, I think we've addressed and 8. We don't have any more questions on those. No. 9, it's very important here, the next page. Will not detrimentally impact air or water quality...

Chair Mardfin: Jim, No. 7, what does substantially mean?

Mr. Buika: Substantially means probably having a significant effect on a rare threatening endangered species. So if there was a habitat there, if the habitat was—if they were grading or clearing and they wiped out all the habitat, if there was no other habitat in the area, right? You know there are some endangered species and protected species that have a wide range. So if you have a minor impact, it wouldn't be substantial because it doesn't affect the long-term survival of that species. Something that would impact the ...

Chair Mardfin: Is this the sort of stuff that Kathleen Flanders wrote to us about?

Mr. Buika: About the hawksbill turtles...

Chair Mardfin: And the ...(inaudible)...she's talking about flora and fauna on the property.

Mr. Buika: Ah yes, it does address those things.

Chair Mardfin: So that might be a substantial. So if it's not substantial, then it would affect the species. But she found it that it would ...(inaudible)...

Mr. Buika: Well, they did a – that was based on a professional biologist who did a pedestrian survey, walked the property and noted all of the—and it's in the report, very substantial. So they didn't find any of that critical habitat that would be destroyed by clearing of any parts of the land. Shall I go on?

Chair Mardfin: Yes, please.

Mr. Buika: Okay no. 9., thank you for your time everyone. Will not detrimentally impact air or water quality. Again there will be a state-of-the-art aerobic treatment will be reviewed for implementation by the Department of Health according to the Hawaii Administrative Rules 11-55, Water Pollution Control, prior to building permit issuance and after the SMA review process. So that's when the waste water treatment system will be reviewed in detail. And we did have Mark Tamashita comment on our June 9<sup>th</sup> meeting from DOH. Remember he chimed in so his input was very valuable. Building permits again to follow that will follow on after the SMA review process. So the SMA review process again is from an environmental point of view mostly. And no. 9.c., just to emphasize waste water system approval is not under the Planning Department's authority or the Maui Planning Commission and by extension the Hana Advisory Committee. The waste water system will be located away from the fishpond approximately 130 feet and the burial site approximately 55 feet and downslope to mitigate as much as possible. So the location is being worked out and will be worked out with the Department of Health. The parcel is flat and it drains in sheet flows, this is 9D, the absorption aided by existing vegetation cover in poor cinder soils providing the necessary capacity to absorb when oftentimes there's heavy rain. So it is an absorptive environment. So again that runoff will not impact the water quality as much as like a gulch or something like a watershed gulch type of thing cause it is flat. Going on to no. 10., any questions? Okay, no. 10., will not affect environmentally sensitive areas such as floodplain,

shoreline, tsunami, erosion-prone, coastal or fresh waters. Both houses will be elevated to mitigate the houses from any flood or tsunami according to the prescriptive rules. The shoreline setback is 60 feet and no construction or activity will happen anywhere within 60 feet of the shoreline. So the shoreline area will not be affected in coastal waters and fresh waters will not be affected. No. 11., getting to the end, does not substantially alter natural land forms and existing public views to and along the shoreline. Minimal land grading with potentially some small retention basins to improve drainage. So there won't be much grading and also the houses will be elevated and oriented to preserve view planes from Haneoo Road to the shoreline. Actually elevated 10-1/2 feet high, you potentially will be able to still see through as much as possible to the shoreline. So that's kind of a long winded descriptive legal criteria review by the Planning Department, so I'll turn it back over to Chair. Any comments/questions?

Chair Mardfin: Lipoa?

Ms. Kahaleuahi: Can I request a 5-minute recess at some point?

Chair Mardfin: After Director McLean.

Ms. McLean: Thank you Chair and I will be brief. Aloha everyone. I'm Michele McLean the Planning Director. So just to encapsulate what Jim said his criteria of what a final decision needs to be based on and so therefore what your recommendation will be based on. And so if you feel that the project meets all these criteria, then it would be likely that you could recommend approval. If you believe that the project doesn't meet even one of these criteria, then you would want to explain and identify which one or which ones any reasons why and that could be the basis for recommending denial. And when it comes to terms like substantially or detrimentally that's why we have this public and this discretionary review process because there's terms everyone has an idea what those terms mean. When it comes to your judgment in reviewing the record and reviewing the project and reviewing the criterion, saying you know I feel that it will not result in irrevocable loss or that it will detrimentally impact so that's why you guys are in the hot seat but these criteria are critical to your decision making and will be critical to the Maui Planning Commission's decision making. So as you have your deliberations I would thank you for going through those, when it comes time to make your recommendation please base them on that criteria and whether you believe the project meets them or does not and if you don't believe the project meets them if you could just specify the reasons why and that would be very helpful to the Maui Planning Commission. Thank you, Chair.

Chair Mardfin: Thank you very much Director. Ah, we will take a—please go ahead Mary Ann.

Ms. Kahana: Well you mentioned for us to ...(inaudible)...

Ms. McLean: Those are good questions. So if you have concerns like that you can discuss them and if we can come up with conditions to impose on the project to adequately impose those concerns, then you could consider recommending approval with whatever conditions you feel are necessary to mitigate or address those impacts. If you don't feel that there's any way to adequately impose conditions to mitigate those impacts, then that could be a reason to

recommend denial. So it's not difficult to say that no short term rental use is permitted, that's very black and white, that's straight forward. But some of these issues might be a little less black and white and you might not feel that conditions can be imposed that are strict enough to adequately protect what you want to protect. And if that's the case, then that could be a basis to recommend denial. Does that answer your question? Okay, thanks.

Chair Mardfin: Somebody suggested a brief—how long is brief. 5 minutes? The clock above me says 10 minutes after 7, so quarter after 7?

(The Hana Advisory Committee recessed at approximately 7:11 p.m. and reconvened at 7:20 p.m.)  
(00:01:08 of the meeting audio recording – Part 1)

Chair Mardfin: Excuse me please. James, have we had the full presentation from you?

Mr. Buika: Ah yes, the assessment. I mean we can't provide a recommendation and there are conditions. What Michele talked about, like the project is not perfect without certain conditions and those follow on after the assessment procedures. I know everybody doesn't have a copy of this but in the report there is a recommendation to the Hana Advisory Committee.

Chair Mardfin: Is this the one that's headed Agency Proposed Standard Conditions?

Mr. Buika: Ah yes, it doesn't have the recommendation in here, but there are 16 conditions in here that we proposed and the first 5 are standard conditions. Any major SMA permit, there are standard conditions. This is like the first one it's about—you want me to go through them real quick?

Chair Mardfin: Quickly.

Mr. Buika: I won't say word-for-word, but if it's approved you have to initiate the project I think within three years.

Chair Mardfin: Three.

Mr. Buika: That's the essence. Lots of details what's initiation—what the project needs, right? So that's no. 1., any questions on that?

Chair Mardfin: The second one...

Mr. Buika: The second one is if it doesn't, oh yeah it needs to be completed within five years after the date of initiation.

Chair Mardfin: That's the second one.

Mr. Buika: Right and you can extend it with some criteria in there. So that's standard again, that's straight forward. The third one is about the insurance and third parties and having insurance

going forward during any type of construction type of project and within 90 days of the SMA permit being permitted I think. So this is insurance obligations between the County and the applicant. Any questions on that, it goes on in a bigger font. It goes on to the next page.

Chair Mardfin: What's the purpose for that? To protect the County?

Mr. Buika: Ah yes, basically and the Hana Advisory Committee and the Maui Planning Commission and everyone. So okay?

Chair Mardfin: Okay. What's the fourth one?

Mr. Buika: The fourth one is ah, again this was brought up by the Committee Members. #4, that's to the satisfaction of the Commission or the Department, the applicant shall develop the property in substantial compliance with the representations made to the Hana Advisory Committee and the Commission in obtaining the SMA use permit. Failure to do so—failure to so develop the property may result in revocation of the permit and/or other enforcement.

Chair Mardfin: And that would be enforced by the Hana Advisory Committee?

Mr. Buika: It would be enforced by the Planning Department.

Chair Mardfin: So basically, you, functionally.

Mr. Buika: Well no not me, but the Planning Department. Yeah.

Chair Mardfin: Okay.

Mr. Buika: No. 5. is, so this is—no. 5. talks about compliance. Okay with no. 4., so we require a Compliance Report with many things that we ask for even prior to completion. I'm not going to read everything there, but it would require—it talks about all the location, construction of related materials. And all of this has to be submitted before any type of grading permit would be issued by the Department of Public Works not us. And a Preliminary Compliance Report and a Final Compliance Report. So those are standard conditions on every special management area permit. So then starting on the next page, there are agency proposed site specific conditions. So this first one is about Public Works and appropriate Best Management Practices plan shall be reviewed and approved for implementation to the satisfaction of Public Works as part of the grading permit process if applicable. Additionally, prior to construction, the drainage plan shall be accepted by the Department of Public Works. These accepted plans shall be filed with the Department prior to or with the Preliminary Compliance Report. So this is all done before the project really starts. So Best Management Practices, what kind of fences and dust have you controlled, bottom line we want to protect the marine environment at all cost make sure during construction, nothing happens. No. 7. talks about the archeological monitor shall be present during ground-altering activities in order to document any historic properties which may be encountered during the proposed undertaking and to provide mitigation measures as necessary. And that the applicant must comply and there must be a final report which goes to the State

Historic Preservation Division after any ground-altering activities are completed to be concurred upon by the State Historic Preservation Division. That's no. 7. for ground altering activities. No. 8., is—refers to the Department of Health, to the Department of Health satisfaction and prior to installation, the applicant's individual waste water septic system or aerobic septic system, proposed as an aerobic treatment unit shall be approved by the Department of Health as part of the building permit process. Additionally, and this came up with OHA—additionally, any requirements for a National Pollutant Discharge Elimination System Permit shall be reviewed by the Department of Health prior to installation of any individual waste water system. So this is to oversee, make sure that there is zero to minimal interaction between the waste water and the ocean. Make sure the system is placed and properly approved according to Department of Health's standards, which they're very restrictive very detailed standards for these systems. Any questions on that—good?

Chair Mardfin: This is the one that they can't do until after they get an SMA?

Mr. Buika: Yes. Right, so the Department of Health requires an SMA permit before they even review. That was a whole discussion we had at ah 2019.

Chair Mardfin: They're only good for a year?

Mr. Buika: Right, they're only good for a year. So.

Chair Mardfin: It's more than that—it said they couldn't--they're not allowed to do it, so it's not whether it's a year or not.

Mr. Buika: Right, they're not allowed to do it. Right. You're preaching to the choir—I understand, yes.

Chair Mardfin: Keep going.

Mr. Buika: No. 9. has to do with the shoreline that no landscape planting will be added that would inhibit shoreline access. Beach access for the community shall be maintained as part of the project as it exists today. The applicant shall not add planting in the 60-foot setback area on the Alau Island side or the Koki Beach side of the property. No. 10...

Chair Mardfin: Can they put it on the Loko side?

Mr. Buika: Well it comes around away from the shoreline from that side, right. I guess they can—you can modify that if you want to.

Chair Mardfin: No, I just wanted to make sure it was clear that you're only protecting 2/3 of this property. Yes, because you're not doing the one in front of the road. They can put up bushes along the road, can't they?

Mr. Buika: The way it's written—along the road?



Chair Mardfin: Yeah.

Mr. Buika: Well...

Chair Mardfin: It says the Alau side, it says Koki side ... (inaudible)...

Mr. Buika: Landscape planting would be inhibited along shoreline access. So if that includes a bush along the road, it's fine. I mean it's not a restrictive condition in here. They can. Okay.

Chair Mardfin: Okay, go ahead.

Mr. Buika: No. 10., that lighting aimed towards the shoreline is prohibited. No lighting shall be broadcast out to the ocean or along the shoreline.

Chair Mardfin: Does that include coming from inside the house?

Mr. Buika: Ah, no it does not include inside the house.

Chair Mardfin: Okay.

Mr. Buika: You can put that if you like. You mean just like turning on the light, like this light?

Chair Mardfin: Like this. We're broadcasting right out here.

Mr. Buika: Right.

Chair Mardfin: That would be allowed.

Mr. Buika: Right, yes it would. No. 8.—is that where we're at? No I'm sorry, no. 11., next page—just a signage that to the satisfaction to the Department, proposed signage for public shoreline access from the Koki Beach side of the parcel shall be reviewed and approved by the Department; once approved, signs shall be installed and maintained. Documentaton of compliance shall be submitted as part of the final compliance report. So if the Hana Advisory Committee wants signage—signage that says shoreline access here. There's the emphasis there. No. 12., has to do with complying with the Flood Development permits for this project to include that the structural floors will be elevated at least one foot above base flood elevation to comply with County Code Chapter 19.62 relating to flood regulations. And then no. 13...

Chair Mardfin: Is that the one about the 10.5 feet...(inaudible)...

Mr. Buika: Ah yes, the 10.5 feet high elevation they need. Yes, elevating it on stilts because of the tsunami zone.

Chair Mardfin: Okay.

Mr. Buika: So no. 13., has to do with State Historic Preservation and the Burial Treatment Plan and that again to the satisfaction to the County of Maui Archaeologist, a lava rock perimeter wall shall be constructed around the burial site to the specifications described in the Burial Treatment Plan as accepted by the State Historic Preservation Division. Through correspondence with the County Archaeologist and as confirmed with SHPD, an Archaeological Inventory Survey included excavation where needed for construction of the perimeter wall. The construction of the wall shall be completed and verified by the Planning Department before any issuance of any other permits and before any other ground-altering work commences on the property. I'd like to emphasize that in discussions we had with SHPD, Michele McLean the Director, myself, the applicant, that the perimeter—where they're going to put this perimeter wall which will be 2 feet high, 18 inches wide I think. I may have my 18 and 24 inches mixed up, but it will be a perimeter wall and there will be a footing. The area for that footing was part of the Archaeological Inventory Survey. So they actually dug out that with an archaeologist, that area there where they will put the wall during the Archeology Inventory Survey. So they're able to do it right now. The point is they don't need to do any more Archaeology Inventory Survey to put in that wall. They will put in that wall where it's specified. Perimeter wall which will protect the burial site.

Chair Mardfin: Did they stop testing or did they...

Mr. Buika: No, evidently the archaeological inventory included excavation where needed for construction of the perimeter wall. So they excavated the area where they will put the wall with an archeologist watching it to make sure that there was nothing. I think it was 10 feet back, 10 feet out.

Chair Mardfin: And did they pour concrete in there?

Mr. Buika: No, there's nothing in there right now. They just filled it back in. As a side note what the State Historic Preservation Division is doing for an archeology inventory now. What they are doing as people propose new buildings or pools or whatever, they are actually having for the archeology inventory, having an archeologist excavate the entire foundation of the wall, where they're going to put it and they fill it back in. So instead of just doing random transepts, they are—that's kind of the new trend, last year too. Which is good.

Chair Mardfin: Okay.

Mr. Buika: Any other questions/comment? Okay, last page, third page of specific conditions. That per SHPD's determination letter dated September 16, 2021, the onsite burials and fishpond boundaries are to be properly protected. The applicant shall erect a buffer fence along the parcel at the boundary along the fishpond area and around the on-site burials. This is during construction. The fishpond buffer fence shall be placed within the boundaries of the applicant's parcel. The buffer fence shall be installed and verified by the Planning Department before any issuance of any other permits and before any other ground-altering work on the property. So this was a request from Andrew McAllister, the State Historic Preservation Archeologist. These would be these orange buffer fences. There was one up there the last time.

Chair Mardfin: Are they going to be removed after construction?

Mr. Buika: Yes, they would be removed after as far as I know. As far as I understand. Everyone kind of understand that—good?

Chair Mardfin: Jim, I'm trying to picture what's going on. I said I wanted to see before we sign anything that we can see what's going on. So it sounds like you're not allowed to put stuff on the fishpond boundary, but inside his property, you build the stuff, and then you remove it.

Mr. Buika: These are temporary orange fences, the buffer fences to delineate boundaries.

Chair Mardfin: Is the purpose of this for people from straying into the wrong areas?

Mr. Buika: Ah, many, yes. Many reasons, but that is one of the reasons. Yeah.

Chair Mardfin: Okay.

Mr. Buika: No. 14., good on 14?

Chair Mardfin: Go ahead.

Mr. Buika: No. 15., that the applicant shall provide full rights to the lineal descendants to visit the burial site at any time.

Chair Mardfin: That's inperpetuity.

Mr. Buika: Inperpetuity. We can add in that language if you want.

Chair Mardfin: Yes

Mr. Buika: Anything else, we're good?

Chair Mardfin: No, keep going.

Mr. Buika: 16, that to the satisfaction of SHPD State Historic Preservation Division, any additional County of Maui permit applications for the development of this property shall be submitted to SHPD for review and comment. So after the SMA again the special management area permit, the State Historic Preservation Division will review, building permits, the aerobic unit septic system, the grading permit, any other permits that come forward will go back to State Historic Preservation according to this full review and approval.

Chair Mardfin: It's not review and approval.

Mr. Buika: For review and comment.

Chair Mardfin: Yes. It's very different.

Mr. Buika: Ah, I could add a couple more that I heard today for consideration, but I'll ...

Chair Mardfin: Like what.

Mr. Buika: Like add a new state shoreline survey before work is done and a new certified state shoreline survey to ensure that we're behind the shoreline setback area. And...

Chair Mardfin: When was the last one done?

Mr. Buika: The last one was done in 2016, and I asked Mr. Stice to do it prior to the Hana Advisory Committee meeting which ended up being in 2018. The one before that was 2009 or so and that was certified. The 2016 was not certified but what the surveyor showed is that the shoreline had not moved. Pretty much it overlays and there is an exhibit in the document. They're about the same. So the point being is that the certified shoreline in 2016 would cost money and time to get it certified, it wouldn't have changed the circumstances at all. It was the same line basically. But it was done, it was surveyed. So we can do a survey if the Hana Advisory Committee—I think it's a good idea to make sure that we have a state certified shoreline before work goes forward and I assume Mr. Stice would agree to that. But I can't put words in his mouth but that could be a condition for you to consider.

Chair Mardfin: Might that move—the footprint of what he would build and where he would build it?

Mr. Buika: Potentially yes.

Chair Mardfin: Okay.

Mr. Buika: And um...

Chair Mardfin: What does the Committee think?

Interrupt: ....(inaudible)...

Chair Mardfin: It's 6 inches thick.

Mr. Buika: You know it's a peninsula type of site—so diagonal or perpendicular to the shoreline, 60 feet back everywhere. It's the envelope, so the envelope is at least 60 feet away from the surveyor certifies where the shoreline is. And the shoreline may have changed between 2016 and 2022 for sure.

Chair Mardfin: It may well. Let me pull my ... If you want that added, somebody should make a motion, we should discuss it and then we should vote. We have to have four ayes to pass it.

Ms. Kahaleuahi: And just to confirm, we are merely adding a potential condition prior to agreeing to approve with conditions.

Chair Mardfin: We're just talking through.

Ms. Kahaleuahi: Okay, we're just talking through. Just wanted to confirm. Thank you.

Mr. Crawford: So I have a procedural question on that point. According to this you know, ah last sheet, the options that we have are defer, recommend approval with no conditions, recommend approval with conditions, and recommend denial.

Chair Mardfin: Right.

Mr. Crawford: So for us to recommend conditions, we need to be recommending approval with conditions. Not just recommending conditions in a vacuum. We can't recommend denial with conditions.

Mr. Buika: Right. It's the Planning Director.

Ms. McLean: Actually you could recommend denial and you could also follow that up with if the Maui Planning Commission is not going to go along with your recommendation of denial, that if they were going to approve it, you would recommend changes to the conditions with additional conditions. So you could cover both concerns if you wish.

Mr. Crawford: Okay, I think that in terms of the proper order of things, that maybe we should talk about an overall recommendation first and then if we find out where we're at with that and then see if we want to add conditions as the Director has indicated. And I have some other questions that I would like to ask to clarify a few things before we get into what recommendations might be.

Mr. Buika: So I'll leave it there with those conditions. I had one other one but I can bring it up later and I'll defer back to...

Chair Mardfin: Wait, can you tell us what it is?

Mr. Buika: No short term rentals into perpetuity or something like that, right? I mean it's not loud anyway without a permit, but if you want to put something like that in to ensure. That's all. That was you know the only other one.

Chair Mardfin: ...(inaudible)... for a long term renter so to tie in with that it would be ...(inaudible)...

Mr. Buika: Okay, thank you. That concludes the conditions and ...

Interruption: ...(inaudible)...

Chair Mardfin: Earl, if we get to start to that point, we will be more specific about how it's done. But let the group make their decisions please.

Mr. Crawford: Mr. Chair, may I have the floor?

Chair Mardfin: Yes please.

Mr. Crawford: Okay, to Mr. Buika, I had a few questions about some different points that I just wanted to clarify. First off is the Community Plan designation, in the applicant's plan he had stated that it is Rural; in looking at the actual copy of the Community Plan it has an OS with a line pointing directly to this parcel and no indication on that map of it being Rural. It seems pretty clear that it's an Open Space designation so my question is what map do you have that it shows that it's Rural, that it contradicts the actual map that's in the Community Plan. And if it is Open Space, how would that affect this application.

Mr. Buika: Good good question. I'm not a zoning expert but this was brought up by the Chair at the virtual meeting so I did do some investigative reporting. There is an OS but it looks like its a fat penciled line on the shoreline. What we depended on is we do—in the report we do have two determinations from our Zoning and Enforcement Division. So they determine—they look at the digital maps and determine what the zoning is and it is Community Plan Rural that I've been going on. And we do have, like what Ward brought up, we do have—not sure if everyone can see this here.

Mr. Crawford: What is the source of that map?

Mr. Buika: This is the map from our digital GIS people in the Planning Department blown up for the parcel. So it looks like, I got this mike here, I don't know what I can do, and we don't have everyone's attention. But it looks like that fat pencil line is here OS ah Open Space, right see how there's a fat pencil line along the shoreline? I don't know if it is—because there's an R here, which is the Rural for the whole area. I think the whole area is Rural here.

Mr. Crawford: But the OS is pointing to the same parcel that this map has an R on it. On the map that's actually in the plan, there's no R there. There's no other lines inside so it can't be both R and OS. OS is obviously pointing directly to that parcel where the R is.

Mr. Buika: Right, but it's not pointing to the Stice parcel.

Mr. Crawford: Right, it's pointing right next to it. But the Stice parcel doesn't have an R on it.

Mr. Buika: Right. It's you know inconclusive. I mean it's not definitive.

Mr. Crawford: So you don't know that it's zoned Rural or Community Plan Rural. It could be Open Space.

Mr. Buika: I don't know. We've had a determination—two determinations and there are exhibits in the document that are designated Rural. I mean they are in the ...

Mr. Crawford: So the second part of my question is with that determination is an error and it is actually Open Space according to the map in the Community Plan, what would be the consequences of that on this application.

Mr. Buika: And would that be Open Space?

Mr. Crawford: Yes.

Mr. Buika: Well I don't have the designation. Open Space is in the back of the ohana.

Mr. Stice: ...(inaudible)...

Chair Mardfin: ...(inaudible)...But if we can't see something, then it won't do us any good. In terms of what it would mean it says Open Space—this use is intended to minimize development in certain ...(inaudible)...lands which would be inappropriate for intensive development due to the unforeseeable constraints. This category will include but not to be limited to shoreline, buffer areas, landscape buffers, drainage ways, view planes, flood plains and tsunami areas. Other appropriate urban and non-urban uses may be allowed on a permit basis.

Mr. Crawford: Yeah, so to me that description of Open Space very much applies to this property. The description of what Open Space should be very much applies to this parcel.

Mr. Stice: It's not Open Space.

Chair Mardfin: Director McLean.

Ms. McLean: Thank you, Chair. So as part of the application, the applicant needed to submit a Zoning and Flood Confirmation Form and that Zoning and Flood Confirmation form shows that the Community Plan designation for the parcel is Rural. The Open Space that you see on the Community Plan map and you see it along that coast is just along the coastal areas. You see it all along the Open Space with the little lines pointing and that's right on the coastal area but then the rest of those properties are designated Rural. So I'm confident that the parcel is designated Rural in the Community Plan. To answer your question though, if it's later determined that the parcel is designated Open Space on the Community Plan, an SMA permit can only be issued if the use is consistent with the Community Plan and the Zoning. And I don't think we would be able to find the proposed use to be consistent with an Open Space Community Plan designation. However, like I said the Community Plan designation is Rural.

Chair Mardfin: Will you also conceive that it's outside of the Rural growth boundary?

Ms. McLean: I have to check that.

Chair Mardfin: I think it was a mistake.

Mr. Buika: Urban growth boundary.

Chair Mardfin: It's outside of both the Urban growth and the Rural growth boundary.

Mr. Buika: Right.

Chair Mardfin: Okay, I think that was a misprint.

Mr. Buika: I made an error on my correct statement in my report. That's what needs to be corrected.

Chair Mardfin: It said it was Urban growth and it's not. We don't have any on this side of the island and it's not even Rural growth because nothing makai of Hana Highway is Rural growth. I specifically remember. Would any Committee Member would like to speak?

Mr. Crawford: No, I'm not sure where to go with that one but you know in your explanation that the Open Space applies to like a shoreline itself. That doesn't really make sense to me. This is a designation of parcels and the Open Space clearly on the map is pointing directly to this spot and there is no R anywhere on this map that's actually in the Community Plan and there's no R anywhere around that area and there's an Open Space pointing right to that point, so I would like to say that there needs to be some further evaluation. If he submitted a form testifying himself that this was Rural and some determination was made—I think that there needs to be some further investigation to verify that because that contradicts what's actually shown on the map in the actual Community Plan.

Ms. McLean: The Zoning and Flood Confirmation forms are prepared by the Planning Department, not by the applicant. And so a blank form comes in with a TMK and we fill in what the land use designations are. And so at that time, the staff in our Zoning Administration and Enforcement Division would have reviewed the zoning map, the Community Plan map, the State Land Use District, etc., and made that determination at that time. If you look at the other areas to the southwest, you'll see that same Open Space designation pointing to the coastal areas so there's a coastal Open Space buffer along that entire stretch. Now the depth of that buffer, I can't say. So what if it's just the shoreline, it comes in a bit from the shoreline, I can't say right now how deep that is but I don't believe that it encompasses this entire parcel. I think there is a coastal area that is designated Open Space; how deep that is, right now I can't say.

Mr. Crawford: Okay. Now to another question.

Chair Mardfin: Please.

Mr. Crawford: Um, let's see. On the—we kind of addressed the question of the shoreline setback



that this could potentially be addressed in conditions, so um in this process there's not an actual requirement for a certified shoreline setback? It's sort of up to the Department whether you require one or not?

Mr. Buika: No, there is a requirement. But this project has been going on for 15 years and ...

Mr. Crawford: And the ocean has been rising.

Mr. Buika: It's only valid for one year. So the Department accepts when the application comes in. If the shoreline is certified within that past year with the application that comes in for review...

Mr. Crawford: ...(inaudible)...

Mr. Buika: You know, it's difficult to—it's a large expense every single year if you have to do ah for any shoreline property, right? So it it runs with the permit kind of. I had him do an extra one and he did it just to help confirm that there wasn't any great change and that's why time has gone on for a long time, so that's why I I the Department recommends actually doing that state certified shoreline again. Because it needs to be done and it should be done to understand where the shoreline is and to...

Mr. Crawford: I mean I guess that's my question, it's not sort of optional. You're sort of saying, well all because it was 15 years ago and the project has taken so long that he doesn't need to update it. But is it a fact that whether we put in a condition on it or not. That that would be a requirement for—that there would actually be a current valid shoreline certification.

Mr. Buika: There is not that requirement, but we certainly can because time has gone on in this case.

Mr. Crawford: Okay.

Chair Mardfin: It was suggested that this shoreline setback depends a lot on what time of the tidal series it is. How is that determination made?

Mr. Buika: It's done at the highest annual wash of the waves. So it does take into account the highest high tide of the year. But it is a vegetation—it's determined by surveyors and not by me or you but it is done by professionals who observe where the shoreline has been, right? So there are five or six or seven companies that have been doing this for a long time and understand what to look for, right? Just like looking for endangered species habitat, you know I wouldn't know what I'm looking for but the surveyor does. They work with the state. There is a state surveyor who before Covid would come out and verify where that shoreline is. So to corroborate exactly what that line is, they submit that line to the state. It is public publicly, for people who are applying for certified state shorelines so people can comment on them and but Earl could say, well hey I know the tide has been up this high, come out and look and resurvey this area type of thing. So it is a public document published in the environmental notice every month, which is the state.

Chair Mardfin: You said since Covid, does that mean that they're not coming out anymore?

Mr. Buika: Well they may be starting again but nobody could fly, so the state DAGS ah Department of Accounting and General Services—yeah, nobody could fly for two years from Oahu so they've been putting off state certified shorelines for awhile because of Covid. Because they couldn't fly so—hopefully things are back to normal and yeah.

Mr. Crawford: So staying on the subject of shoreline certifications but a slightly different angle to this. I understand that the County is in the process right now of proposing updates to the Maui Planning Commission special management area and shoreline rules. Um they've been working on it for several years and that would change some of the factors related to shoreline certification—does it take into account sea level rise, erosion and coastal impacts due to climate change? And I wanted to ask either you or the Director if you can talk about the timeline of this, like when are these Rural changes anticipated actually go into effect first off and then secondly, if the changes as they're proposed right now if it goes into effect today, how would it affect this project application?

Mr. Buika: Timeline is uncertain, right? I mean not sure it potentially could have a large effect on all the areas that do not have an erosion hazard rate and out here they do not have an erosion hazard rate. I think it would default to shoreline properties where we don't have it of the whole Hana coast of 200 feet inland; however, each individual parcel or owner would have the option of having it done specifically according to an average erosion hazard rate on an average lot that's rate if they didn't agree with the 200 feet. I don't know if I got that totally right but it potentially could have an effect on this property.

Mr. Crawford: So just to clarify that. If ...

Mr. Buika: This is for sea level rise, right? It's including planning for 3.2 feet of sea level rise in erosion hazard line. And there is not one out here on this side. Nothing for Molokai, this side of the island where we have erosion hazard rates on some of the Kihei side say we did have that or the west side. So I mean actually this—I mean that is planning for the future and there are maps that can show that this parcel would be inundated over time 3.2 feet of sea level rise like a lot of the coast line will. But the coastal hazard mitigation of elevating it the way it is for the tsunami takes that into account. I mean there won't be any immediate physical impact by water going through the house because the house will be elevated. Right? This is a long term planning horizon, right but it's on point.

Mr. Crawford: Yeah, we're talking about 3.2 feet within what time period?

Mr. Buika: That's the magic number. 2100, that's the year.

Mr. Crawford: Right.

Mr. Buika: The goal keeps moving I guess on that one.

Mr. Crawford: So if this were put into effect or at the time that this is put into effect, it could potentially—say if it was in effect today, it would change the nature of your shoreline setback calculations for this parcel.

Mr. Buika: There is a map in Exhibit 1 that does show 3.2 feet of sea level rise that I think probably consumes—I mean I shouldn't speculate but you know parts of the parcel in there—but it's not a real heavy duty nicely done scientifically produced...

Mr. Crawford: Yeah, I just see you know in looking at these proposed updates to the rules, I see language like um, the aim in the setback area is to allow only minor new structures that are not of a permanent nature and do not affect coastal processes and ecosystems. It says the currently policy as it is--has been successful in citing new development away from the shoreline for hazard protection and improve community ecosystems resilience; however, the existing setback formula only considers historical erosion and does not factor in worsening conditions due to sea level rise. The 2017 state SLR report models and projects future erosion into the sea level rise and so this is a tool for expanding setbacks to further responsibly manage known risks. To me, I read this language, it's not put into policy yet but we can look at the projected sea level rise on this property as you just said. The property could potentially be largely inundated. There is no possible way if the property was inundated that you would allow development to take place under those circumstances. The shoreline setback would be completely out—there would be no shoreline setback within this property. So to me, there's just a sort of common sense application of the intention of this update planning is to mitigate the risks and just because this hasn't been completely adopted yet, we can just look what common sense and we can see through there. Elevating the house may protect the house itself from some of the hazards of water coming underneath the house, but you're not just talking about the house itself. You know when somebody lives there, they have things in their yard, they have cars, they have you know stuff. One of the conditions can be that they can never put anything on the ground, under the house that may wash into the fishpond, and become debris—is that a condition that you're willing to put on it?

Mr. Buika: You know ah, these are all speculative discussions that everybody in the world is having and each of the Counties is grappling with how we implement these things. Ah, but the house is basic sea level rise you know. It's ain't just sea level rise. I mean we could talk about this for hours. It ain't just sea level rise, it's the ephysiatic storms—it's the storms on top of sea level rise, right? I deal with it everyday around the Maui shoreline and I'm dealing with older structures that have been put in harms way that are in danger now. The proposed structure is mitigated to the max. It is being placed on pilings 10-1/2 feet above grade, so you know there's harm to human beings, there's harm to structures, etc., the debate goes on and on and on. But so it's speculative at this point but the average lot depth of 60 feet is a lot greater than a average erosion hazard erosion rate would be. So if you figure a lot like this lot, the average lot calculation that we're using here is substantial—it's 60 feet back from every point on the entire property. It's 60 feet back so...

Mr. Crawford: It's just barely 60 feet back. It's right on the line. Any change in shoreline setback at all—a few inches in sea level rise would change the shoreline setback correct?

Mr. Buika: Right. So it could change the placement of the houses. But thanks.

Mr. Crawford: On a subject of waste water and the impact of the individual waste water treatment system, is that what it is called, including the absorption bed, this is another aspect that I question whether the effect of sea level rise is totally taken into account and what Mr. Tomomitsu and his testimony in our June hearing stated that it is a “legitimate concern” regarding absorption bed with ground water depth due to sea level rise, he would want to do a site evaluation at high tide. So I understand that our role isn't necessarily to you know prejudge what the Department of Health is going to conclude with this and it's not your role even to do that. It's you know when they get to that stage in the process, the Department of Health will assess the situation and see whether this meets their standards.

Mr. Buika: Correct.

Mr. Crawford: But it does strike me that the person from the Department of Health made a point to come to our hearing and state that there's legitimate concern regarding the absorption bed with ground water depth due to sea level rise.

Mr. Buika: Right. He came on my invitation.

Mr. Crawford: Okay, but he made that statement.

Mr. Buika: I'm very happy he educated all of us on all of that because I don't understand. I don't think anyone in this room understands enough about these systems. And it's really good to bring in the discussion of Department of Health on that June 9<sup>th</sup> meeting. So that was very beneficial to all of us and they will scrutinize it properly, right, with some of these factors. So thanks for bringing that up.

Ms. Kahaleuahi: Mahalo. To followup on what Scott was sharing or speaking to professional Archeologist, Janet Six, at our site visit as well as in the more recent letter through OHA, brought up the concern of archeologically the lava tubes that are below the property. Um based on what we've heard from cultural practitioners and their testimony seeking to shed light on those waterways that are under the property. The concerns of both these professionals and entities like OHA, is there—I guess a question from that is--is there a study to, that hasn't been done already, because nobody came to a point to a study that's been completed that confirms these waterways? Is it a cultural impact assessment, is it an environmental impact survey—is there currently something that exists to shed light on that—confirm that—or deny that?

Mr. Buika: Well the way that State Historic Preservation does it is through an archeological inventory survey, which was done extensively on this property. So it is a physical dig—it is a physical digging and trenching of the properties with a professional archeologist on site to understand any artifacts, more buried cultural you know iwi or artifacts that may be on the site.

So to protect those. So that's the study that's done and it was done ah—and it was done to the satisfaction of State Historic Preservation Division.

Ms. Kahaleuahi: Mahalo. This is for the record and for the Maui Planning Commission to review after this is to review the concerns of both OHA and a professional archeologist that these concerns still remain.

Mr. Buika: Thank you.

Mr. Crawford: To follow on the subject of archeology, this document that um Aunty Sharon provided to us, references the Walker manuscript, which is also cited in the Monitoring Plan by Lee-Greig and Hammatt page 17, specifically mentions the name of this heiau um as Kahuwakahoku located on the shore near the large fishpond, a large heiau 30 x 115 feet. It is an open platform of rough construction on which a house and modern sheds and graves have been placed. There is some coral and pebbles, the highest distance of the platform from the ground is 4 feet. This is mentioned on page 17 of your report and it says there that it's possibly within the project area. This report—this manuscript—Walker manuscript was done in 1930 so at that time it was prior to the tsunami and the houses that existed at that time and the burials fit the description of the heiau, a 30 x 115 feet heiau being located directly where he's planning to build his house. And just because the surface features of the heiau may have been disrupted or removed over time doesn't change the spiritual cultural significance of the place as a temple and its importance in the complex that you can't just look at that in isolation and to me this is clearly—and then we have you know—there's also a reference to informants confirming that they believe this is the location of the heiau both at that time and you know currently. So to me, when we look at the question of this item no. 1. of our criteria involves irrevocable loss of natural and cultural resources, building a house on a heiau site is an irrevocable loss of a cultural resource. This is not any question in my mind. So I make that statement and open it to your response if you'd like to respond to that.

Mr. Buika: Well, obviously building a house on a heiau is an irrevocable loss. I don't know—I mean this would have to be investigated further. I'm not the expert to make that conclusion, but it's a good point.

Mr. Crawford: Alright thank you. It's in the Monitoring Plan...

Mr. Buika: I'm reading it right here so—thank you.

Interruption: ...(inaudible)...

Mr. Crawford: Okay, thank you. One other thing that I'd like to clarify, there's been a lot of statements made that there is no short term rental will be allowed and Mr. Stice has characterized that he won't have any short term rentals but at our site visit, there was comments made that seemed to be confirmed by Mr. Stice that the house when it was not being occupied by Mr. Stice could be rented out for practitioners or other purposes of educational you know educational purposes and things like that. Well the intention of that may be beneficial for the community; I

want to ask for your take on like exactly what is a short term rental and do you have to have it advertised for it to be a short term rental or you're just renting it out in between when you're staying there to people who are coming to do educational workshops. Does that clarify as a short term rental? And I'd like to ask Mr. Stice of his intention in making that statement. But he definitely did say that at the site visit.

Mr. Buika: When my friends come, I don't charge them money, but that's just me—so.

Ms. McLean: Short term occupancy is any period of less than 180 days. That does not apply to family and friends. There's a long and detailed definition of transient, which family and friends don't fall under that definition. I suppose a condition could be crafted to allow short term occupancy for certain purposes if that was the direction you wish to go. A permit would still need to be obtained for that but that permit could then be conditioned to allow only certain types of purposes for short term occupancy.

Mr. Crawford: Okay, thank you. Alright I have one more. Thank you for your indulgence. The last item I have is this um, okay no. 11., does not substantially alter natural land forms and existing public views to and along the shoreline. And the response of why this criteria satisfies this is, these houses would be elevated to allow view planes from Haneoo Road to shoreline. I appreciate the effort to say we're going to put the houses on stilts and so they're not going to interfere with the view plane but houses don't just float in the air, they're on pillars—the pillars are in the view plane. The house is 10 feet above the ground and you can go up the hill a little bit from the road, maybe from where the bridge is and you can look out, imagine 10 feet above the grade and you can tell that the houses are going to be directly in the view to our island. They are going to block the view to the shore plane. To me this isn't even controversial—this isn't even like questionable. Just elevating the house just doesn't preserve the view plane and that one item alone to me is a criteria for denial and just orienting the houses so they're not quite as much in obstruction to the view plane, that doesn't satisfy the criteria. Elevating them just 10 feet off the ground, that doesn't satisfy the criteria. There's no way that you could put two houses on that point and say that you are not substantially altering the existing public views to and along the shoreline. That basis alone, I would not...

Mr. Buika: Well, okay. Thank you.

Chair Mardfin: Is there any other Committee Member have anything they'd like to add? Jim, are you ready to give the Department's recommendation? And what the alternatives are?

Mr. Buika: On behalf of my Planning Director, who signed the recommendation but ah-- The Planning Department does recommend approval that it meets the SMA criteria with the 16 conditions that we read through in that you have in front of you in your packet. Basically in a nutshell, yes with those conditions and any other conditions that might be important to the Hana Advisory Committee.

Chair Mardfin: So the Department's recommending approval with the standard conditions.

Mr. Buika: And the site specific conditions. There are 16 conditions.

Chair Mardfin: Would any of the Committee Members would like to make a motion.

*(Motion was made at approximately 00:18:51 of the meeting audio recording-Part 2)*

Mr. Crawford: I would like to move that the Hana Advisory Committee recommend denial for the reasons stated that there needs to be further clarification of the Community Plan designation, that the shoreline setback certification is not currently valid and that willful testimony has noted changes in sea level rise that could affect that certification. That the, let me go through the criteria here, so criteria 1: irrevocable loss of cultural resource, potentially it is a site of a heiau and part of a larger complex; no. 3.b., no short term rentals allowed—it sounds like there is some consideration that he wants to do some kind of short term rentals; does not contribute to cumulative effects, I didn't mention this in my statement before, but there was in reference to the recent article that Surfrider foundation having found very high levels of ecoli and enterobacteria at Haneoo which is a location very close to this site and even if the inputs from this waste treatment system were minimal, we've had the Department of Health express legitimate concern about the absorption beds in sea level rise and that any added effect contributes to the cumulative effects; no. 8., ...contrary to appropriate community plans and again need to clarify if it's actually Rural or Open Space; will not detrimentally impact air or water quality, again legitimate concern from the Department of Health about the effect of sea level rise on the absorption beds; no. 10., will not effect environmentally sensitive area such as the tsunami zone, coastal waters and fresh waters; just the elevation of the house itself doesn't completely mitigate effects of building a house in a tsunami zone and everything that goes along with the house besides just the house itself; no. 11., it would substantially alter existing public views to and along the shoreline and the orientation and the elevation of the house doesn't mitigate that; and finally this isn't exactly a criteria but I think I would like to note it now for the record that as one of the testifiers made mention I note that the opposition—I haven't heard support for this project coming from anyone who is a lineal descendant or a neighbor who lives in the immediate area, so the people who have the most ancestral connection to this place and who's iwi kupuna are in this aina and the neighbors who will be most directly impacted by it are all strongly opposed to it. And with that I conclude my motion.

Chair Mardfin: As I understand it there is a motion to deny SMA—recommend denial of an SMA to the Maui Planning Commission, motion made with details by Scott. Would anybody like to second the motion.

Ms. Kahaleuahi: I Lipoa Kahaleuahi, a member of the Board of the Hana Advisory Committee second the motion.

Chair Mardfin: Are we ready for discussion?

Mr. Crawford: Perhaps I should have saved my reasons for the discussion.

Ms. Kahaleuahi: I do want to note that the no. 8., if not contrary and Scott already brought this

up but to mention just one point further is um where it states in Hana's Community Plan—lose my spot—the specific point--under land use to discourage Urban land uses and special use permits outside of the Hana town area, except and it does provide an exception, to allow those activities which are essential to the regions in which economic will be which provide essential services to the residents of the Hana district or to provide the essential domestic needs of the remote community such as Keanae, Kipahulu and Kaupo. Such activity shall not adversely affect surrounding neighborhoods and shall be supportive of the agricultural activities of the area. Just wanted to highlight that specific point to connect with Scott's comments.

Mr. Crawford: And you know I would like to say well I listened to all the testimony, look at all this evidence, I come to a conclusion that this project does not meet the SMA assessment criteria and that my recommendation is that it be denied. I do want to say that I don't believe that there's—I believe that Mr. Stice's intentions are good and I honor the community members who support him during this project and I realize they have their reasons for supporting it and there's no, you know everybody is entitled to their opinions and so I respect that he has tried to go through this process and meet the criteria as best he can, I just don't think that he has. And I'll leave it with that.

Ms. Kahaleuahi: Mahalo, Scott. Also in remarks to our decision in speaking to my community, no matter the decision that is made here today and whatever the decision that the Maui Planning Commission will do with our recommendation, we have to do this together. And the unfortunate heartbreaking thing about this reality and what this has caused us to do for many years is to allow to divide. No matter what, we'll wave to each other still when we pass one another, we talk story wherever we work, we come together, we practice cultural practices together, but there's still this divided us it's because of this issue and unfortunately at some point we need to sit down, wrap arms and again no matter what happens, work together. We're the ones that are passing each other every day and going to sleep at night, our next door neighbors passing one another. And so this is difficult and I too want to acknowledge all the testimony. Those of you that have been doing this for a long time, um that remains true. Mahalo.

Ms. Lind: Yeah. I want to thank everybody for coming out and showing your support for and against this issue. I think, yeah Mr. Stice has offered the community, he's been wonderful, but people have been able to come together on his property and listen to music together and be creative together. It's been a wonderful thing. But there are some pretty striking things within the assessment, I think I would also have to agree on the denial. Yeah, it's a very hard decision and—thank you all for coming out.

Ms. Kahana: ...(inaudible)... Some of the conditions is questionable basically at what Scott has shared so I'm not going to repeat what he just shared. I too have some questions about the conditions that you noted on and that he had addressed. And the biggest hit to me was um the heiau that was there. Although it's not physically there, they're not sure if there are remnants there but I still feel that spiritually and culturally it's there. So it was a tough decision and I pray that we can still all be together—our community and not allow this to divide us. We are one people. We need to love each other. This is to me is just material, so again mahalo everyone for coming and sharing with us your mana`o.



Chair Mardfin: If no one else wants to speak, then we are ready for a vote. The motion is to deny the SMA—recommend denial of the SMA to the Maui Planning Commission. Director McLean, did we sufficiently give you reasons—we didn't have an election last time or anything. This is deeply held feelings by all the people. And I also hope that this can be put behind us and the community can again come together. I can't remember a time this community split so much as this one when the hotel wanted to put a golf course in—and that split the community and that was back in the 70's I think. Okay, just for the record I'm going to do a roll call vote. Aye indicates you are recommending denial. Nay recommends you are not recommending denial. Becky.

*(A roll call vote was taken at approximately 00:05:49 of the meeting audio recording-Part 2)*

Ms. Lind: Aye.

Chair Mardfin: Clayton's not here. Scott.

Mr. Crawford: Aye

Chair Mardfin: Mary Ann

Ms. Kahana: Aye

Chair Mardfin: Lipoa

Ms. Kahaleuahi: Aye

Chair Mardfin: And the Chairman votes Aye, that's 6—5; I can't count. 5 to zero, I can't count. If there's no other ...

**It was moved by Committee Member Scott Crawford, seconded by Committee Member Lipoa Kahaleuahi, then unanimously**

**VOTED:** To recommend denial to the Maui Planning Commission as this project does not meet the special management area use criteria of the SMA Rules Section 12-202-12(e)(2) as follows: A. It involves an irrevocable commitment to loss or destruction of a cultural resource (the heiau and heiau complex); D. It substantially affects the economic or social welfare and activities of the community (all objections were from neighbors, Hana Residents and lineal descendants, no neighbors or descendants supported the project); F. It cumulatively has considerable effect upon the environment (Surf Rider found e coli nearby and DOH expressed concern about the absorption of the leach fields); H. It's contrary to the Community Plan (question over Rural vs. OS, and also the land use section of the Hana Community Plan that says Urban uses shouldn't

**occur outside the town); I. It detrimentally affects water quality (the IWS and DOH comments about absorption); J. It affects environmentally sensitive areas such as shoreline, tsunami zone and coastal waters (sea level rise, the shoreline certification is old, elevating structures isn't sufficient and will mean that they will eventually be floating); K. It substantially alters existing public view to the shoreline (elevating the structures does not mitigate this).**

*(Assenting: S. Crawford; L. Kahaleuahi; M. Kahana; B. Lind; W. Mardfin)  
(Excused: C. Carvalho; D. Wariner)*

*(List of items stated above by Committee Member Scott Crawford and Committee Member Lipoa Kahaleuahi.)*

Ms. McLean: Thank you, Chair and Committee Members, we don't yet have a date when this is going to be scheduled, but I would encourage you folks and folks here and other members of the Hana community who weren't able to be here tonight to please testify at the Maui Planning Commission Meeting. I think the testimony has been very significant in your decision making and the Maui Planning Commission should have the benefit of that direct interaction. So we'll do what we can to let people know the date, um but just because you appeared today don't think that you don't need to come to that meeting because I think that would be important as well. Thank you.

Chair Mardfin: Can I check with you on two things? One, anybody can get the—this will be on line so people can get the transcripts of today's meeting?

Ms. McLean: Yes.

Chair Mardfin: Within a reasonable amount of time. And if they wanted to testify at the Maui Planning Commission, do they have to drive over there or will it be on line?

Ms. McLean: The Maui Planning Commission meetings are still hybrid, so you can testify virtually, yeah on BlueJeans or if you are in central Maui you can come to the meeting room. So your choice.

Chair Mardfin: Thank you. I usually go shopping. Thank you very much.

Mr. Crawford: I'd just like to make one more statement about you know I appreciated Mr. Stice's stave in willingness to try to work with the community to see if this land could be purchased and placed into conservation and maintain an Open Space. And I would just like to encourage Mr. Stice, the County administration and all of the community members, the family, everybody who cares about this place to get involved and let's make that happen in a way that Mr. Stice can get fair compensation for his investment and feel full. And the community has a place that they feel is protected place for cultural practice and for continuing to be able to be used for community events and everything that people are so thankful for him to for having made it available for this purpose and that can be continued. So my hope and my own commitment to try to help make

that happen.

Chair Mardfin: I want to add one more thing. We've been semi threatened with this property being sold to someone in China and that'll be worse. Whoever wants to develop that piece of land will have to deal with the Hana Advisory Committee to the Maui Planning Commission and the Maui Planning Commission unless he doesn't tell the potential buyer anything about the place. It's not because we have something against Mr. Stice and Apolonia, so any other developer wanting to do that sort of thing on that very very precious—do you realize that's the most eastern most point on Maui island attached to the main island. Ah it's further east than Hana--we are here and um. So I think Scott's idea about somebody coming together and helping to help is a good thing. I can't find it but there was one letter from Roger Lane and he said he'd be happy—he lives right next to Gary Stice's other house on the mauka side of the road and he'd be happy to help him with that or to put a second building back there. So he has the closest stay. We're not trying to deny him of a place for him to stay in East Maui. This is the wrong project at the wrong place at the wrong time. It's too precious, it's too sacred and I hope the Maui Planning Commission will feel that and follow suit with us. Thank you very much. Aloha.

#### **D. ADJOURNMENT**

I hereby declare this meeting adjourned. Thank you all from Central Maui—thank you for coming over. If you're driving back tonight at least have headlights so those blind corners are very helpful. But you don't know the curves as well as we do so be very careful going around the curves on your own. Aloha.

There being no further discussion brought forward to the Committee, the meeting adjourned at 8:46 p.m.

Respectfully Submitted by:

LINDA KIM  
Secretary to Boards and Commissions I

[\(Meeting Attendance List\)](#)

**RECORD OF ATTENDANCE – IN PERSON**

**PRESENT:**

Scott Crawford  
Lipoa Kahaleuahi  
Mary Ann Kahana (Joined at 4:54 p.m.)  
Becky Lind, Vice-Chair  
Ward Mardfin, Chair

**EXCUSED:**

Clayton Carvalho, Jr.  
Dean Wariner

**OTHERS:**

Michele McLean, Director, Department of Planning  
Daniel Kunkel, Deputy Corporation Counsel, Department of Corporation Counsel  
Clayton Yoshida, Planner VI, Current Division, Department of Planning  
James Buika, Shoreline Planner, Current Division, Department of Planning  
Linda Kim, Secretary to Boards and Commissions I, Current Division, Department of Planning