

1 LAND USE COMMISSION

2 STATE OF HAWAI'I

3 HEARING

4 A07-774 NORTH KONA VILLAGE, LLC, )  
now known as 'O'OMA BEACHSIDE VILLAGE,) )  
5 LLC, North Kona, Hawai'i. )  
6 \_\_\_\_\_ )

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8 TRANSCRIPT OF PROCEEDINGS

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10 The above-entitled matters came on for a Public  
11 Hearing at Waikoloa Beach Marriott Resort, 69-275  
12 Waikoloa Beach Drive, Waikoloa, Hawai'i, commencing at  
13 10:25 a.m. on Wednesday, March 3, 2010 pursuant to  
14 Notice.

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REPORTED BY: HOLLY M. HACKETT, CSR #130, RPR  
20 Certified Shorthand Reporter

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1                   CHAIRMAN PILTZ: This is the Land Use  
2 Commission and we're at the Waikoloa Beach Marriott  
3 Resort. At this time we'd like to adopt the minutes  
4 from February 18th and 19th. Are there any  
5 corrections or additions to those minutes? Seeing  
6 none, all those in favor of accepting those minutes  
7 raise your right hand. Executive director, tentative  
8 meeting schedule.

9                   MR. DAVIDSON: Thank you, Chair.  
10 Commissioners, you all have the meeting schedule  
11 pretty fully filled out through the month of May. And  
12 as you can see we are going to be very busy including  
13 probably back in Kona soon for HHFDC affordable  
14 housing project. So as always if you have any  
15 schedule conflicts or concerns contact either Riley or  
16 myself. Thank you.

17                  CHAIRMAN PILTZ: This morning this is a  
18 hearing on Docket No. A07-774 North Kona Village, LLC.  
19 'O'oma 2nd - Kaloko, North Kona, Hawai'i to consider  
20 the reclassification of approximately 181.169 acres of  
21 land currently in the Conservation District into the  
22 Urban District at 'O'oma 2nd-Kaloko, North Kona  
23 Hawai'i. Tax Map Key Nos. (3)7-3-009 004 (portion)  
24 and 7-3-009 (portion of State right-of-way for  
25 beachside residential community with mixed-uses.

1                Since the last meeting the Commission has  
2 granted the National Park Service's Petition to  
3 Intervene and issued the Pre-hearing Order to the  
4 parties.

5                The Commission has received from Petitioner  
6 its Second and Third List of Witnesses, Second and  
7 Third List of Exhibits, First Amended List of Exhibits  
8 and Exhibits 28 through 76, 49 and 78 through 80.

9                the Commission has also received from OP  
10 its Position Statement and List of Witnesses, List of  
11 Exhibits, First Amended List of Exhibits, List of  
12 Rebuttal Exhibits, and Exhibits 1, 2, 4, 5, 9, 10, 12,  
13 13, 17 through 22 and 24 through 26.

14               The Commission has received from the County  
15 of Hawai'i Planning Department its Exhibit No. 1,  
16 testimony in support of the petition.

17               The Commission has received from the  
18 National Park Service its First and Contingent List of  
19 Witnesses, First and Second List of Exhibits, Exhibits  
20 1 through 16, and Statement of Position.

21               As of 2:00 March 2, 2010 the Commission has  
22 received written correspondence from James Sogi,  
23 Senator Josh Green, Council Member Brenda J. Ford,  
24 Council Member Kelly Greenwell, Holeka Inaba, Corey  
25 Harden, Randy Botti, Protect Keopuka Ohana, Jack

1 Kelly, Myles Miyasato, Christina Garcia, Larry and  
2 Brenda Ford, Mark Frazer, Kathleen McMillen, Duane  
3 Erway, President, Plant to Protect Kona; Doug Perrine,  
4 Allan Onishi, President Japanese Chamber of Commerce  
5 and Industry of Hawai'i; Corey Harden, Sierra Club;  
6 Moku Loa Group; Colleen Sullivan, Ernie Frascata and  
7 Karen Browne with additional 14 signatures submitted  
8 on a petition titled, "Save our Land-Protect 'O'oma";  
9 Tyler, Nani, Kulani Kawaihua and Aukele  
10 Paikuli-Campbell; Aircraft Owners and Pilots  
11 Association-Linda Milburn and John Collins, Jean  
12 Thompson, Leona Noni Roberts, Cynthia Hope, Debbie  
13 Hecht, Marni Herkes, Virginia Thomas, Robert H. Smith,  
14 Keana, no last name given, Trevor Fitzpatrick.

15           Let me briefly describe our procedure for  
16 today on this docket. First, we'll have the parties  
17 identify themselves for the record. I will then give  
18 opportunity for the Petitioners to comment on the  
19 Commission's policy governing reimbursement of hearing  
20 expenses.

21           I will then call for those individuals  
22 desiring to provide public testimony to identify  
23 themselves. All such individuals will be sworn in in  
24 turn at our witness box. They will be sworn in prior  
25 to their testimony.

1                   And because we have such a large number of  
2 people testifying I'll have to limit it to three  
3 minutes. So we'll let you know when your three  
4 minutes is up.

5                   After completion of the public testimony  
6 portion of the proceedings our staff will provide us  
7 with a map orientation.

8                   After the staff has provided a map  
9 orientation I will then give opportunity for the  
10 parties to admit into the record their exhibits.

11                  After the admission of the exhibits to the  
12 record the Petitioner will present its case. Once the  
13 Petitioner is completed with its presentation it will  
14 be followed in turn by the Hawai'i County, the State  
15 Office of Planning and the National Park Service.

16                  The Chair would also note for the parties  
17 and the public that from time to time I will be  
18 calling for short breaks as necessary. Are there any  
19 questions on our procedure for today?

20                  Hearing none, would the parties identify  
21 themselves for the record.

22                  MS. BENCK: This is Jennifer Benck for  
23 Petitioner 'O'oma Beachside Village. To my right is  
24 Steven Lim also from the law firm of Carlsmith Ball  
25 also representing Petitioner, 'O'oma Beachside

1 Village. On the caption it's noted as North Kona  
2 Village. Behind me is the president of 'O'oma  
3 Beachside Village, Mr. Dennis Moresco and his son Jim  
4 Moresco. And also with us today are Tom Witten of PBR  
5 Hawai'i and Tom Schnell of PBR Hawai'i who were the  
6 planners for the Project.

7 CHAIRMAN PILTZ: Thank you.

8 MR. GONZALEZ: Good morning, Mr. Chair,  
9 Commissioners, Deputy Corporation Counsel Brandon  
10 Gonzalez for the County of Hawai'i Planning  
11 Department. To my right is the director of the  
12 Planning Department, Bobby Jean Leithead-Todd. To her  
13 right is Norman Hayashi from the Planning Department.  
14 And seated directly behind the director is Phyllis  
15 Fujimoto also from the County of Hawai'i Planning  
16 Department. Thank you.

17 CHAIRMAN PILTZ: State.

18 MR. YEE: Good morning. Deputy Attorney  
19 General Bryan Yee on behalf of the Office of Planning.  
20 With me is Abbey Mayer, director of the Office of  
21 Planning.

22 MR. LIND: Greg Lind, Office of the  
23 Solicitor, U.S. Department of the Interior  
24 representing the National Park Service. Today with me  
25 is Sallie Beavers from Kaloko-Honokohau National

1 Historical Park.

2 CHAIRMAN PILTZ: Ms. Benck, has our staff  
3 informed you of the Commission's policy regarding the  
4 reimbursement of hearing expenses?

5 MS. BENCK: Yes, it has.

6 CHAIRMAN PILTZ: Thank you. Okay. Just for  
7 the record could you also state your client's position  
8 with respect to this policy.

9 MS. BENCK: Our client will comply with the  
10 Land Use Commission's policy.

11 CHAIRMAN PILTZ: Thank you. At this time we  
12 have public testimony. Our first person taking our  
13 stand there is Aunty Elizabeth Lee. Please come  
14 forward. Following her will be Joel Gimpel.

15 ELIZABETH LEE  
16 being first duly sworn to tell the truth, was examined  
17 and testified as follows:

18 THE WITNESS: Yes, I swear.

19 CHAIRMAN PILTZ: Would you state your name  
20 and address for the record.

21 THE WITNESS: Aloha mai. Elizabeth Maluihi  
22 Ako Lee Ho'oioa. That's my name. And I'm a  
23 descendant of the area of 'O'oma. And I'm here to  
24 help to share my mana'o with all you folks here. And  
25 if there's anything more.

1                   CHAIRMAN PILTZ: Is that your testimony,  
2   ma'am?

3                   THE WITNESS: I'm kuli, you know, excuse me.

4                   CHAIRMAN PILTZ: Oh, okay. Are you through?

5                   THE WITNESS: No, I have more to say.

6                   CHAIRMAN PILTZ: Okay. Go ahead.

7                   THE WITNESS: I would like to say aloha to  
8   the Commissioners. And iaoko ina luna no'i okia apa  
9   na ain'a, oki momo no e kukaku -- kukaku kuana kako.  
10                  We're gonna be discussing about this problem  
11   that we have at 'O'oma. It's no problem. But as a  
12   descending (sic) of this ahupua'a of 'O'oma born in  
13   1929, I was raised this area by my hanai parents  
14   Kinolo and Hedy Kahananoi.

15                  And we have lived on this area mauka and we  
16   used to go down the beach. And that's where we used  
17   to spend time, you know. And during the summer we  
18   will spend time there to go fishing. And during the  
19   time we live up mauka we would plant taro, sweet  
20   potatoes and all those things that we needed.

21                  But for my interest in seeing all what's  
22   going on here I am very impressed. And I really would  
23   like to see that this place be preserved, you know, be  
24   saved to the way we lived when we were young and  
25   especially the trails.

1                   And the area I'd like to see that there  
2 would be a space for people to walk and a place where  
3 people can camp, you know. And this is my hope now  
4 that I am very, you know, like to see that this be  
5 preserved.

6                   And I was asked to come and give my mana'o.  
7 We travel from up Kohanaiki down to 'O'oma through the  
8 trails that's there. Of course now there's a Jeep  
9 trail on the road. Do you know? And it's okay.

10                  This is what I have to say, for the  
11 generations to come, my family, my grandchildren and  
12 all the families that used to live there, to have  
13 access and the privilege to go back there to 'O'oma to  
14 camp, to fish, and do the things that they want to do,  
15 you know.

16                  And the space that is about, the  
17 Commissioners have do what they want to do but please  
18 give us a space for all what we used to do when we  
19 were young.

20                  And this is what my mana'o, my concern. And  
21 I hope you folks understand. I hope I'm making myself  
22 clear to you folks. I am thinking of the future of  
23 the family. Any questions, I'd be glad to...

24                  CHAIRMAN PILTZ: Mahalo. Thank you.  
25 Questions, Commissioners? Parties? Any questions?

1                   MR. YEE: No questions.

2                   MS. BENCK: If I may, I understand that  
3 you're concerned about maintaining the trails and  
4 keeping open space. Do you support the development of  
5 this Project?

6                   THE WITNESS: If it goes according to what I  
7 feel is right that I'd like to say I would support it.  
8 This is something I'm asking the kindness of the  
9 Commissioners or the landowners to please give us the  
10 privilege, you know.

11                  I go along with that, providing we have the  
12 right of access and the space for camping. And this  
13 is, ah, for me this is very important.

14                  I grew up in this area there. I walked this  
15 beach. We fished along the beach. And we did all the  
16 things that we used to do when we were young. Now as  
17 I am 81 years old I don't want to see that be taken  
18 away from my family.

19                  I think this is not only for my family, but  
20 for all the generation. It's not only for my  
21 generation or my own, what'd you call, culture, but  
22 everybody. I'd like it to be open to everybody. We  
23 have all family now. We have to think that and not to  
24 lose all the privilege we used to have when I was  
25 young.

1 MS. BENCK: Thank you very much.

2 THE WITNESS: You're welcome.

3 CHAIRMAN PILTZ: County?

4 MR. GONZALEZ: No questions.

5 CHAIRMAN PILTZ: State?

6 MR. YEE: No questions.

7 CHAIRMAN PILTZ: Thank you, Aunty. Lisa,  
8 did you have a question?

9 COMMISSIONER JUDGE: Good morning.

10 THE WITNESS: Good morning.

11 COMMISSIONER JUDGE: I was just wondering,  
12 Aunty, have you seen the plan that the landowners, the  
13 Petitioners are proposing with the 18-acre shore and  
14 the cultural reserve?

15 THE WITNESS: Yes, I see, but I didn't  
16 understand much about it because I didn't get down to  
17 survey the whole thing. And I look at it. And the  
18 landowners have their right to do what they want to  
19 do. I cannot go and tell them what to do.

20 Neither would I like them to tell me what to  
21 do with my kuleana. But this kuleana that I'd like to  
22 ask is for my generations to come and all the  
23 generations that are here, the family. They can have  
24 the time free.

25 I cannot see them to take all, block the

1 road, blocked the road trail and say they'll kapu here  
2 kapu there. No. I don't agree with that. As long as  
3 I get the freedom of that I would be more than happy  
4 to support.

5 COMMISSIONER JUDGE: Okay. Thank you.

6 CHAIRMAN PILTZ: Thank you. Thank you very  
7 much.

8 THE WITNESS: Mahalo.

9 CHAIRMAN PILTZ: Next person is Joe Gimpel.  
10 Following Joel will be David Ka'apu.

11 JOE GIMPEL

12 being first duly sworn to tell the truth, was examined  
13 and testified as follows:

14 THE WITNESS: I do.

15 CHAIRMAN PILTZ: Would you state your name  
16 and address for the record and proceed, and you have 3  
17 minutes.

18 THE WITNESS: My name is Joel Gimpel. I  
19 live at 73-4686 Hina Lani Street in Kailua-Kona. Good  
20 morning and aloha. Because there are many people  
21 waiting to testify this morning I'll be brief.  
22 Fortunately as a retired attorney I do know the  
23 meaning of that word.

24 This proposal raises many questions that  
25 have yet to be satisfactorily answered, primarily

1 because they can't be answered at this time. Nor were  
2 they satisfactorily answered in the previous attempt  
3 first in 1993 and then in 2003 to reclassify and  
4 rezone this land to permit construction of housing, a  
5 hotel and other commercial or resort-type facilities  
6 such as a shopping center, golf course, water park on  
7 this precious open space on the Kona shoreline.

8           Those unanswered questions include, for  
9 example, where is the infrastructure. In other words,  
10 the roads, the schools and the water necessary to  
11 support the massive influx of people and all their  
12 needs. And when, if ever, will it be provided.

13           That infrastructure was sorely lacking back  
14 in 1993 and in 2003. And despite the Applicant's  
15 assurance that the widening of Highway 19 will be  
16 completed before the Project will be ready for  
17 occupancy, that assurance is suspect given the many  
18 delays in road construction that we in Kona continue  
19 to experience.

20           And in any event the road widening is only  
21 one of the many infrastructure needs that will be  
22 called for. Where are the schools necessary to  
23 support a community of 950 to 1200 homes which could  
24 account for at least a thousand school-age children?

25           In sum, there's no guarantee that the road

1 widening and other required infrastructure will be  
2 provided concurrent with its need.

3           Furthermore, the community, as you'll hear  
4 this morning, is greatly concerned with the effect of  
5 this proposal on what should be maintained as  
6 undeveloped shoreline land open to all.

7           True, the development would provide  
8 employment opportunities, but at extreme cost to our  
9 environmental wellbeing. Although development may be  
10 important, this particular development is both  
11 ill-timed and ill-placed. Thank you. (Applause).

12           CHAIRMAN PILTZ: Hold it down. Petitioner,  
13 you have questions?

14           MS. BENCK: No questions.

15           CHAIRMAN PILTZ: County?

16           MR. GONZALEZ: No questions, Mr. Chairman.

17           CHAIRMAN PILTZ: State?

18           MR. YEE: No questions.

19           CHAIRMAN PILTZ: Intervenor?

20           MR. LIND: No questions.

21           CHAIRMAN PILTZ: Thank you very much. Next  
22 person is David Ka'apu followed by Reggie Lee. Let me  
23 swear you in.

24                                 DAVID KA'APU,  
25 being first duly sworn to tell the truth, was examined

1 and testified as follows:

2 THE WITNESS: I do.

3 CHAIRMAN PILTZ: Would you state your name  
4 and address for the record and proceed.

5 THE WITNESS: Yes. David Ka'apu. P. O. Box  
6 1682 Kamuela, Hawai'i. Aloha. My name is David  
7 Ka'apu. I support 'O'oma Beachside Village's petition  
8 to amend the current land use into the Urban Land Use  
9 District. As a Hawaiian practicing law here in West  
10 Hawai'i I care for our resources in whatever I do and  
11 in my practice.

12 In addition to my legal practice, and among  
13 other community service organizations, I'm currently  
14 involved as a director of the Friends of NELHA, Energy  
15 Laboratory of Hawai'i whose mission is educate the  
16 public about the resources unique to NELHA.

17 I am, however, here today as an individual  
18 community member. The Petitioner before this  
19 Commission today, 'O'oma Beachside Village, recognizes  
20 the sensitive nature of archaeological resources in the  
21 immediate area and understands that extra care is  
22 needed for protection.

23 Their stewardship of these lands is well  
24 demonstrated by presenting a planned residential  
25 community that embraces, protects cultural and natural

1 resources while also allowing those who want to the  
2 opportunity to live makai.

3 'O'oma is not like any other previous  
4 development proposal for this site. I appreciate the  
5 fact that 'O'oma is not a  
6 gated-second-home-golf-course-resort community.  
7 'O'oma is the first development in Hawai'i to set back  
8 their development 1,000 or 1100 to 1700 feet from the  
9 shoreline.

10 'O'oma is establishing a coastal preserve  
11 that will ensure that the quality of the marine  
12 environment will be protected. 'O'oma is also setting  
13 aside more than one third of the Project, over  
14 100 acres of the 300-acre property to be left in open  
15 space.

16 I'm in favor of 'O'oma's plan and ask the  
17 Commission to move forward with the petition to amend  
18 the land use. Thank you.

19 CHAIRMAN PILTZ: Petitioner, questions?

20 MS. BENCK: No questions.

21 CHAIRMAN PILTZ: County?

22 MR. GONZALEZ: No questions.

23 CHAIRMAN PILTZ: State?

24 MR. YEE: No questions.

25 CHAIRMAN PILTZ: Intervenor?

1 MR. LIND: No questions.

2 CHAIRMAN PILTZ: Thank you. Reggie Lee  
3 followed by Jon Miyata.

4 REGGIE LEE  
5 being first duly sworn to tell the truth, was examined  
6 and testified as follows:

7 THE WITNESS: I do.

8 CHAIRMAN PILTZ: Would you state your name  
9 and address for the record and proceed.

10 THE WITNESS: My name is Reggie, Reginald  
11 Lee. I'm from the Kohanaiki Homestead, born raised  
12 there. And I want to share what my family has been  
13 working with.

14 I'm a kanaka maoli of the area, of this  
15 ahupua'a. Along with my family we were one of the few  
16 known Hawaiian ohanas that have lived there, traversed  
17 there, collected and farmed this 'aina for  
18 generations.

19 We know where we come from and are very  
20 protective of what is transpiring within this area.  
21 We believe that everything found in the earth on this  
22 ahupua'a should remain there and is the responsibility  
23 of the 'ohana of this ahupua'a to protect and  
24 preserve.

25 For the past three years we have worked

1 diligently with Peter Young, Dennis Moresco to make  
2 sure that our concerns were addressed. Some of the  
3 concerns were as follows:

4           No. 1. The water. County, private type of  
5 facilities that they're gonna have. The quality, if  
6 there was any concerns of contaminations to our water  
7 system.

8           No. 2. To preserve and to use authentic  
9 names of every point, beach, trails, and sites there.

10           No. 3. The concerns of all culture issues  
11 regarding inadvertent findings and the preservation  
12 and the disposition of these cultural items that are  
13 found.

14           No. 4. The Ala Kahakai Trail not be  
15 obstructed from the use to the public.

16           No. 5. Preservation of the beach from  
17 destruction.

18           No. 6. The traffic.

19           No. 7. Creation of jobs, with the  
20 consideration going to majority of the people within  
21 this ahupua'a that has long lived in this area. After  
22 working with Mr. Young on the 'O'oma Beachside Village  
23 Citizen Advisory Group and the family 'ohana group we  
24 feel that they have addressed those problems,  
25 concerns.

1                   I have a 27 year-old son that's a heavy  
2 equipment operator. It saddens me when whenever I go  
3 to his house to find he's working off and on. The  
4 other day I was in the store, and one of my friends  
5 came up same age like me, said he couldn't retire  
6 because he didn't have enough time with the  
7 construction.

8                   I'm sure there are other situations that are  
9 similar to the ones that I was stating. With the  
10 approval on this request there would be a creation of  
11 jobs both for the short-term and the long-term that  
12 will and should benefit our entire community. Thank  
13 you.

14                  CHAIRMAN PILTZ: Petitioners?

15                  MS. BENCK: No questions.

16                  CHAIRMAN PILTZ: County?

17                  MR. GONZALEZ: No questions.

18                  CHAIRMAN PILTZ: State?

19                  MR. YEE: No questions.

20                  CHAIRMAN PILTZ: Intervenor?

21                  MR. LIND: No questions.

22                  CHAIRMAN PILTZ: Commissioners? Thank you.

23 Next person is Jon Miyata followed by Myles Miyasato

24                                  JON MIYATA

25 being first duly sworn to tell the truth, was examined

1 and testified as follows:

2 THE WITNESS: Yes.

3 CHAIRMAN PILTZ: Would you state your name  
4 and address for the record.

5 THE WITNESS: Jon Miyata, 483 Makana'a  
6 Street, Hilo.

7 CHAIRMAN PILTZ: Go ahead.

8 THE WITNESS: I represent the Hawai'i Island  
9 Chamber of Commerce. I'm the vice president and in  
10 charge of their economic development committee. And  
11 we're in favor of 'O'oma.

12 The Hawai'i Island Chamber of Commerce was  
13 founded in 1898 and celebrates its 112th anniversary  
14 this year. The Chamber representing both large and  
15 small businesses on Hawai'i Island has more than 330  
16 member businesses, more than 700 people.

17 We provide leadership and advocacy for  
18 businesses and also promoting economic wellbeing for  
19 our community. The Hawai'i Island Chamber of Commerce  
20 supports the Petitioner's request for you today to  
21 change the boundaries from conservation to urban.

22 We were very impressed with the Project as  
23 it is the first in Hawai'i to set itself back 1100 to  
24 1700 feet from the shoreline. In total more than one  
25 third of 'O'oma, approximately 103 acres will be open

1 space which is comprised of coastal preserve,  
2 neighborhood pocket parks, community recreation areas  
3 and a shoreline park.

4 The Chamber applauds 'O'oma's commitment to  
5 this preservation of open space and public access.  
6 This is a well-planned Project.

7 'O'oma Beach Side Village on many levels  
8 more than aligns with the vision, principles and  
9 strategies outlined in the Kona Community Development  
10 Plan.

11 The Project is within the Hawai'i County's  
12 General Plan urban growth boundaries and is within  
13 Kona CDP preferred growth area.

14 We also need to nurture and invest in our  
15 island's future for the sake of putting island  
16 families back to work.

17 The Project will provide much needed  
18 construction jobs. And once the Project is completed  
19 'O'oma is expected to provide 480 permanent full-time  
20 on-site jobs. The Hawai'i Chamber of Commerce  
21 recommends the request to be reclassified be approved.  
22 Thank you.

23 CHAIRMAN PILTZ: Thank you. Petitioner?

24 MS. BENCK: No questions.

25 CHAIRMAN PILTZ: County?

1 MR. GONZALEZ: No questions.

2 CHAIRMAN PILTZ: State?

3 MR. YEE: No questions.

4 CHAIRMAN PILTZ: Intervenor?

5 MR. LIND: No questions.

6 CHAIRMAN PILTZ: Commissioners? Thank you.

7 Next person up is Myles Miyasato followed by Virginia

8 Isbell. Virginia, you can take the next seat up there.

9 Myles, let me swear you in.

10 MYLES MIYASATO

11 being first duly sworn to tell the truth, was examined

12 and testified as follows:

13 THE WITNESS: Yeah, I do.

14 CHAIRMAN PILTZ: Would you state your name

15 and address for the record and proceed.

16 THE WITNESS: Myles Miyasato, 50 Waianuenue

17 Avenue, Hilo, 96720. Good morning, Chair,

18 Commissioners. My name is Myles Miyasato. I

19 represent the Big Island Hawai'i Operating Engineers

20 Industry Stabilization Fund also known as HOEISF.

21 We're a labor/management partnership between

22 the Operators Union and its leading contractors. And

23 I'm here today to speak in support of 'O'oma.

24 One of the reasons we support this Project

25 it addresses one of the social issues facing Hawai'i

1 County which is affordable homes, the lack of adequate  
2 homes, basically. The County tried to do a Project  
3 and I believe it's at a standstill now.

4 Prior to that our developers here had a  
5 choice to pay the in-lieu fee or build the affordable  
6 homes according to the required ratio.

7 In the past the in-lieu fee was so low that  
8 they all elected to pay the in-lieu fee. What  
9 resulted is we have pretty much zero homes on the  
10 island.

11 The sad part about that is Hawai'i County  
12 has one of the lowest affordable rates prices but  
13 there's no homes available. This would provide a lot  
14 of homes.

15 The other thing I want to speak on is  
16 traffic. There's -- it's been said that this is going  
17 to create traffic; the road's not ready for it.

18 Actually contrary to that, you know, where  
19 this Project is located people who live in Ka'u who  
20 come through Kainaliu, Kailua, work along this coast,  
21 if they'd be able to move into this affordable housing  
22 area they'd alleviate all the traffic coming through  
23 Kainaliu. They'd be 10, 15 minutes from work.

24 Same would be true for all the people in  
25 Puna that work at the hotels, Target, Costco. If they

1 would be able to buy a home in this area they wouldn't  
2 be on the road driving two and-a-half hours in the  
3 morning, two and-a-half hours in the evening. It also  
4 adds to quality of life. Yeah?

5           When I was working out in Kukio I'd leave 5  
6 in morning get home 7 at night, 7:30 at night. You  
7 don't get to see the kids, you know. As a result a  
8 lot of our youth end up getting in trouble. No  
9 supervision. Just lack of family life. Yeah?

10           This would make that a better situation.  
11 You get off at work 3:30, you'd be home 3, 40 get to  
12 spend time with your family.

13           You know, in closing as one representing  
14 labor there's no one fix-all solution to this economy.  
15 Yeah? So, you know, when you wake up in the morning  
16 you just try do one thing, whether it's a phone call  
17 meeting, testimony to get one person back to work, one  
18 member just this much closer back to work. Yeah?

19           And hopefully today my testimony has helped  
20 someone get this much closer back to work. Thank you.

21           CHAIRMAN PILTZ: Thank you. Petitioner,  
22 questions?

23           MS. BENCK: No questions.

24           CHAIRMAN PILTZ: County?

25           MR. GONZALEZ: No questions.

1 CHAIRMAN PILTZ: State?

2 MR. YEE: No questions.

3 CHAIRMAN PILTZ: Intervenor?

4 MR. LIND: No questions.

5 CHAIRMAN PILTZ: Commissioners? Thank you.

6 Just for the record I want to state that we have

7 written testimony by Myles that had been submitted.

8 And also we have written testimony by Virginia Isbell

9 who's our next testifier. Thank you, Myles.

10 Virginia?

11 And our next person following Virginia is

12 Randy Botti. Virginia, please take a seat. Next

13 person up is Randy Botti; you can take the seat right

14 there. Virginia, let me swear you in.

15 VIRGINIA ISBELL

16 being first duly sworn to tell the truth, was examined

17 and testified as follows:

18 THE WITNESS: I do.

19 CHAIRMAN PILTZ: State your name and address

20 for the record.

21 THE WITNESS: My name is Virginia Isbell. I

22 live in Kealahue and I've lived on the Big Island

23 for 50 years. When we first moved here there were

24 7500 people in Kona. And no roads hardly to speak of.

25 If you'll notice I have two testimonies.

1 One is from the 2008 testimony that is in favor of  
2 this. And today's is referring to that. So if you  
3 have time you can take a look at it. I put it color  
4 coded so you won't lose it.

5           My name is Virginia Isbell. I'm providing  
6 this testimony in support of the 'O'oma Project.  
7 Attached is my copy of testimony December 16, 2008.  
8 It gives you some idea of how long I've been involved,  
9 since 1986, with making sure that 'O'oma's natural and  
10 cultural resources are protected.

11           I was bitterly opposed to this prior to 2008  
12 when there was, Norbert Shly was the first one. There  
13 were several after him, people buying the property  
14 selling it. It Was awful. They were planning golf  
15 courses, hotels, no beach rights really, basically.

16           Finally we have come to -- it should be  
17 noted that the National Park, by the way, Service, has  
18 reached agreement with 'O'oma Beachside Village, 'O'oma  
19 Beachside Village LLC and does not object to the  
20 petition for boundary amendment.

21           The University of Hawai'i Sea Grant College  
22 program has congratulated the planners and developers  
23 of 'O'oma Beachside Village on receipt of recognition  
24 by the American Planning Association for an exemplary  
25 residential coastal community design.

1               'O'oma's further commended for following the  
2 EPA's Coastal and Waterfront Smart Growth elements and  
3 for best planning practices as applied to coastal  
4 communities.

5               These elements include mixed land use,  
6 compact design, a range of housing choices, walkable  
7 communities, preserving open space and critical  
8 environment areas.

9               The 'O'oma Project has a planned 1120,  
10 that's 1,120-foot setback from the shoreline that  
11 includes 75 acres of shoreline as open space, with  
12 18 acres designated as public shoreline park  
13 maintained in a natural state.

14              This setback also addresses the expected sea  
15 level rise and the unexpected natural hazards that are  
16 going to occur. And we had a good example of that  
17 last week.

18              Nowhere in this state has there been such  
19 responsible planning. As mentioned in my prior  
20 testimony on the pink sheet, there's even more reason  
21 to believe that this 'O'oma Project is truly going to  
22 meet the requirements of the Community Development  
23 Plan as well as meet the needs of those living in  
24 Kona.

25              I want to thank you for allowing me to

1 provide this testimony. And I urge you to approve the  
2 'O'oma Project.

3 CHAIRMAN PILTZ: Petitioner?

4 MS. BENCK: No questions.

5 CHAIRMAN PILTZ: County?

6 MR. GONZALEZ: No questions.

7 CHAIRMAN PILTZ: State?

8 MR. YEE: No questions.

9 CHAIRMAN PILTZ: Intervenor?

10 MR. LIND: No questions.

11 CHAIRMAN PILTZ: Commissioners, any  
12 questions? Thank you.

13 THE WITNESS: Mahalo.

14 CHAIRMAN PILTZ: Next person is Randy Botti  
15 followed by Kathy McMillen. Kathy, you can take a  
16 seat right up there while Randy is taking his  
17 position.

18 RANDY BOTTI  
19 being first duly sworn to tell the truth, was examined  
20 and testified as follows:

21 THE WITNESS: I do.

22 CHAIRMAN PILTZ: Would you state your name  
23 and address for the record.

24 THE WITNESS: Randy Botti, P. O. Box 3523  
25 Kailua-Kona. I'm president of the Hawai'i Island

1 Paddle Sports Association. We are the solo and dual  
2 Paddle Sports Association for Hawai'i Island.

3           What started out in the early '90s as a  
4 relatively small ocean recreational sport has turned  
5 into a very massive sport statewide. We have over 250  
6 active adult members and a vibrant and growing youth  
7 program here on Hawai'i Island.

8           On behalf of HIPA and the users of the  
9 nearshore area, we support the 'O'oma Beachside  
10 Village. The Project's protective water quality  
11 measures adequately address the concerns of the  
12 Kaloko-Honokohau National Historic Park.

13           Many of us in the community share the same  
14 concerns knowing that for more than a year the Project  
15 worked with the Park to address and mitigate the  
16 concerns that the Kaloko-Honokohau National Park does  
17 not object to the petition in front of this  
18 Commission.

19           We support the unprecedented coastal  
20 setback. More than a third of the Beachside Village  
21 will be left in open space, and up to 1700 feet back  
22 from the shoreline.

23           We've seen for 30 years shoreline projects  
24 that limit and restrict our access to the ocean. And  
25 having to go through security to get to the ocean is

1 unacceptable.

2 This open Project really is a good Project.

3 I ask the Commission to allow the land use change from  
4 conservation to urban. Mahalo.

5 CHAIRMAN PILTZ: Petitioner?

6 MS. BENCK: No questions.

7 CHAIRMAN PILTZ: County?

8 MR. GONZALEZ: No questions.

9 CHAIRMAN PILTZ: State?

10 MR. YEE: No questions.

11 CHAIRMAN PILTZ: Intervenor?

12 MR. LIND: No questions.

13 CHAIRMAN PILTZ: Commissioners. Thank you.

14 THE WITNESS: Mahalo.

15 CHAIRMAN PILTZ: The next person up is Kathy  
16 McMillen followed by Marjorie Erway.

17 KATHY McMILLEN,  
18 being first duly sworn to tell the truth, was examined  
19 and testified as follows:

20 THE WITNESS: I do.

21 CHAIRMAN PILTZ: Would you state your name  
22 and address for the record and proceed?

23 THE WITNESS: My name is Kathy McMillen. P.  
24 O. Box 2494 Kailua-Kona.

25 CHAIRMAN PILTZ: Go ahead.

1               THE WITNESS: Hi. Since 1996 I've been part  
2 of a small land surveying company in Kona. Prior to  
3 that I've managed the design and construction of  
4 projects at the Kona Airport, the largest being the  
5 extension of the runway to 11,000 feet.

6               I'm not an anti-development person. But I'm  
7 very against nonsensical development. Residential  
8 development is completely inappropriate so close to  
9 the airport. Personally I think it's insane to even  
10 consider it.

11              As island people we depend on our airport  
12 more than most. And its operation must not be  
13 constricted. As soon as one residential development  
14 is allowed so close to the airport more will happen.  
15 Please don't allow this first residence to be built.  
16 Please preserve our critical transportation system at  
17 Kona Airport.

18              I take issue with the logic provided in the  
19 noise study presented in the 'O'oma environmental  
20 impact statement. The data may be factually correct  
21 and technically correct, but their focus on the report  
22 centers around the FAA sound threshold of 65 day/night  
23 levels giving the impression that anything lower than  
24 that is quite livable. It is not.

25              The 65 DNL threshold is the limit where FAA

1 will fund noise mitigations that range from providing  
2 sound insulation to houses to actually buying the  
3 housing because they are no longer livable or  
4 saleable.

5           We live in West Hawai'i. Our houses are all  
6 open air. Sound insulation is not going to help.  
7 These brand new houses only about 1,000 feet from the  
8 65 DNL line will most definitely be adversely affected  
9 by noise.

10           I want you to know I did submit written  
11 testimony and provided, I think, four attachments to  
12 support the data I'm talking about.

13           And I also just submitted this morning,  
14 color copies of two of those attachments, I think the  
15 most critical being the Radar Tracks of flights that  
16 are going over the property right now.

17           If you look at this Radar Track attachment,  
18 and I have extra copies if anybody else wants more,  
19 the Radar Tracks show that flight paths of aircraft  
20 near and over 'O'oma. This alone should tell you what  
21 I'm trying to convey.

22           There's so many aircraft flying over this  
23 property right now outlined in the 'O'oma parcel the  
24 outline in this map is almost obliterated with the  
25 tracks from those aircraft.

1                   Do we really want to be selling brand new  
2 houses when all these aircraft are flying over them  
3 now? It's only a matter of time when the taxpayers  
4 will be bailing these homeowners out with our tax  
5 dollars to pay for noise mitigations.

6                   The Hawai'i DOTA Airports, and the EPA have  
7 both made it clear that residential planning should  
8 not, should really only be considered in areas where  
9 the DNL threshold is lower than 55.

10                  Figure 19 of the 'O'oma study shows a 55 DNL  
11 line based on the 1997 Noise Compatibility Study.  
12 However, the most recent one done changes that line  
13 further out so that it goes right through the middle  
14 of the planned housing area. That's my second color  
15 attachment that I provided today.

16                  The long-term projections and the numbers of  
17 arrivals and departures were underestimated both in  
18 1997 and the 1997 Noise Compatibility Studies that  
19 should be noted.

20                  The conservation zoned 'O'oma land is the  
21 last buffer we have on the south side of the airport,  
22 and an airport that's only going to get more active in  
23 the future. I've also attached a study that clearly  
24 explains how the 65 DNL level is misrepresented to the  
25 public.

1           As stated in one of the attachments I gave  
2   you from the noise study itself that was recently  
3   done, the cost of mitigating or purchasing land use  
4   incompatibilities is far greater than avoiding them in  
5   the first place.

6           Please keep 'O'oma parcel zoned conservation  
7   to avoid noise as well as all the other land use  
8   incompatibilities presented at this meeting.

9           CHAIRMAN PILTZ: Thank you. Petitioner.

10          MS. BENCK: Thank you very much. I wanted  
11   to find out if you were aware that Petitioner has been  
12   in discussions with the State Department of  
13   Transportation Airports Division to work on an  
14   arrangement where residential development is built in  
15   consideration of the DOT's DNL lines?

16          THE WITNESS: Yeah, I'm quite aware that  
17   you're talking to them. But I'm also quite aware that  
18   they haven't been actively participating as much as I  
19   personally think they should be for whatever personal  
20   reasons. I have talked to the DOTA. I've talked to  
21   FAA.

22          I've also talked to Private Aircraft Owners  
23   Association, and actually many employees of the DOTA  
24   personally who are not willing and not able, actually,  
25   because of the employer to testify who are in

1 agreement with me.

2 MS. BENCK: So you're not aware of the  
3 easement discussions that we're having in any detail,  
4 the easements that Petitioner --

5 THE WITNESS: I'm quite aware of the  
6 easements. But as I said a lot of that is based on  
7 the FAA noise data 65 DNL. When in fact the 55 DNL is  
8 what they support. And the point I'm trying to make  
9 is you can talk about these technical things.

10 The fact is if you look at this map it's  
11 almost obliterated with planes going over the  
12 property. That means whatever you build there you're  
13 going to have people living in houses with planes  
14 going over you head all the time.

15 MS. BENCK: Right. So you're not aware the  
16 discussions we're having with the States about  
17 limiting development at the 60 DNL line. Your primary  
18 concern is at the FAA 65 DNL line.

19 THE WITNESS: No, I'm not aware of it. I'm  
20 saying, I'm saying 55 is what EPA and DOTA are saying  
21 that should be used, 55 and below. And I know that  
22 above that you're talking about mitigations already.  
23 I'm saying why have mitigations. Why not stop that  
24 now? We have airports all over the country where the  
25 exact same thing happens.

1                   We have Kona Airport, the old airport park.  
2   It used to be an airport. Okay. Look how much  
3   development is around that now. We move the airport  
4   way out in the boonies so we won't have development  
5   encroaching so we won't have these kinds of problems.  
6   Right now here comes encroachments of development.

7                   And I'm not against development. And I  
8   think your plan is beautiful. I think it's a gorgeous  
9   plan. I think it's well thought out. I think the  
10  mitigations that you've tried to accomplish were  
11  very -- I just think it's in the wrong place.

12                  MS. BENCK: So you would be more comfortable  
13  knowing that the State DOT, specifically the Kona  
14  Airport employees are comfortable with our development  
15  plan and what the easements are that we're discussing  
16  in terms of --

17                  THE WITNESS: I'm not here to represent the  
18  airport. I'm here to represent myself.

19                  MS. BENCK: Sure. I'm asking would those  
20  measures give you the comfort that you're looking for?

21                  THE WITNESS: Quite frankly, no. Because I  
22  have worked with many people who work for that agency.  
23  And they work there for a while, then they move on.  
24  I'm not saying I would support or agree with them  
25  necessarily, no.

1 MS. BENCK: Thank you. I don't have any  
2 more questions.

3 CHAIRMAN PILTZ: County?

4 MR. GONZALEZ: Thank you. No questions.

5 CHAIRMAN PILTZ: State? Bryan.

6 MR. YEE: Thank you for your testimony. I  
7 appreciate the information you provided. My question,  
8 and if you can't or don't want to answer it, that  
9 would be all right.

10 If the Project moves forward and if then you  
11 are looking at mitigation conditions for a Project  
12 that is approved, are there mitigation measures that  
13 you would recommend for this Project?

14 Like I said, if you don't want to answer the  
15 question that's okay. Quite frankly, you testified  
16 very knowledgeably about a variety of issues. I  
17 thought if you had an opinion about that I would be  
18 curious no know what it is.

19 THE WITNESS: I think the problem is the  
20 typical noise mitigation that is done first level is  
21 sound insulation. I'm not an expert in sound but I do  
22 have some knowledge of how it works. Once you have an  
23 opening it blows the insulation. So it means you open  
24 your window the insulation does no good.

25 We don't live in houses here with our

1 windows closed and the air conditioning on. I don't  
2 know about anybody else but I can't afford to do that.  
3 And we don't want that in Hawai'i. It doesn't work  
4 here.

5               So the typical mitigations that work in most  
6 places in this country at the first level aren't going  
7 to work here. So it's very difficult to recommend it.

8               My concern is over and over and over again  
9 and I have personally seen this happening, California,  
10 Arizona, Seattle, we taxpayers with our federal taxes  
11 are now buying land, we're buying people's houses  
12 because this kind of thing is happening everywhere  
13 around the country.

14              MR. YEE: So it would be your view there are  
15 no mitigation measures that would be sufficient. You  
16 believe it's simply an incompatible use?

17              THE WITNESS: In this location, yes.

18              MR. YEE: In this location.

19              THE WITNESS: I think the next development  
20 over they do what you were talking about, some of the  
21 contours, and they do have some noise easements on  
22 that particular project. That's kind of at the limit  
23 if you look at the maps. Even that's questionable.

24              But for this parcel in particular it doesn't  
25 work. And even the beach right next to it I've been

1 to many times and NELHA. If there's a plane going  
2 overhead you can't hold a conversation.

3 MR. YEE: Would be it fair to say that much  
4 of your testimony relates more directly to residential  
5 than commercial property?

6 THE WITNESS: Absolutely. If someone was  
7 coming in here putting in light industrial it wouldn't  
8 be the most beautiful use of the land. I think it  
9 would be bit of a shame but I wouldn't be against it  
10 and I wouldn't be here today.

11 MR. YEE: Thank you. I have no further  
12 questions.

13 CHAIRMAN PILTZ: Intervenor?

14 MR. LIND: No questions.

15 CHAIRMAN PILTZ: Yes, go ahead,  
16 Commissioner.

17 COMMISSIONER JUDGE: I'm just curious what  
18 map are you referring to. Was it part of our -- was  
19 it in our packet somewhere?

20 THE WITNESS: It's in my written testimony  
21 and I provided a color map because it shows a little  
22 bitter for the flight tracks. And the flight tracks  
23 are the actual individual aircraft going over the  
24 property.

25 COMMISSIONER JUDGE: Thank you.

1                   CHAIRMAN PILTZ: Thank you. Next person up  
2 is Marjorie Erway followed by Debbie Hecht.

3                   MARJORIE ERWAY,  
4 being first duly sworn to tell the truth, was examined  
5 and testified as follows:

6                   THE WITNESS: I do.

7                   CHAIRMAN PILTZ: Would you state your name  
8 and address for the record and proceed.

9                   THE WITNESS: Are our comments being  
10 recorded?

11                  CHAIRMAN PILTZ: Yes, it is.

12                  THE WITNESS: Thank you. My name is  
13 Margorie Erway. My mailing address is P. O. Box 2807  
14 Kailua-Kona 96745.

15                  Aloha, Commissioners. I am reading this  
16 testimony as written by Duane Erway, president of Plan  
17 to Protect Kona.

18                  He wrote "This application is not consistent  
19 with the Community Development Plan, abbreviated,  
20 KCDP, where priorities for urban development have been  
21 specifically identified.

22                  The KCDP also states that the General Plan  
23 urban expansion boundary, quote, "is larger than  
24 needed to accommodate the projected growth within the  
25 planning horizon," unquote.

1           Therefore any new rezoning should occur in  
2 areas specifically identified within the KCDP  
3 ordinance as growth opportunity areas.

4           Clearly changing conservation to urban is  
5 definitely not what the Kona community wants. This  
6 application fails to serve any identified planning  
7 priorities for Kona.

8           Public preference is to develop only land  
9 that is currently classified as urban and to keep land  
10 that's currently classified as conservation in  
11 conservation.

12           Therefore it is argued: 1. The current  
13 urban expansion area as identified in the County  
14 General Plan plans more than enough land to  
15 accommodate further growth for many years to come.

16           2. The proposed Project needs to be  
17 confined to land already zoned for urban use or  
18 prioritized as growth opportunity areas --

19           (Audience applauding)

20           CHAIRMAN PILTZ: Could you hold your  
21 applause, please.

22           THE WITNESS: -- within the KCDP.

23           CHAIRMAN PILTZ: Go ahead.

24           THE WITNESS: 3. There is no reason to gift  
25 the developer this change just because he happens to

1 own this land. He bought the entire piece with the  
2 full understanding that part of the parcel was in  
3 conservation.

4 Even with the large region that has been  
5 identified within the General Plan for urban  
6 expansion, there needs to be responsible balance of  
7 developments serving to maintain open space as needed  
8 public infrastructure.

9 The Applicant already has property  
10 classified and zoned for urban development.

11 4. There is too little land in the state  
12 Conservation District in Kona to provide for permanent  
13 open space for the community. No land currently  
14 classified for protection in the Conservation District  
15 should be reclassified to the Urban District until the  
16 open space network program created within the KCDP has  
17 been completed in order to identify priorities for  
18 permanent open space.

19 There are a number of reasons that justify  
20 denying this application including impact on increased  
21 traffic, proximity to the airport, and contamination  
22 of the groundwater from pesticides and fertilizers.

23 More importantly, there is no justification  
24 for reclassification from State Conservation District  
25 to Urban District so that the landowner can undertake

1 the proposed mega-development that includes 1200+  
2 residences and 300 commercial spaces.

3 As we understand the Land Commission's  
4 duties they're to examine applications from the  
5 perspective of whether or not Kona needs more land in  
6 the Urban District.

7 We respectfully request that you deny the  
8 proposed reclassification of approximately 200 acres  
9 of coastal 'O'oma from State Conservation District to  
10 Urban, thank you.

11 (Audience applauding)

12 CHAIRMAN PILTZ: For a matter of conserving  
13 time please hold it down. Okay. Petitioner.

14 MS. BENCK: Thank you. Ms. Erway, are you  
15 aware that the area that's before the Commission for  
16 reclassification, the number of residential units for  
17 that area is actually between 530 and 650 units, not  
18 1200?

19 THE WITNESS: That was reported in the paper  
20 so I stand corrected. It doesn't matter. The number  
21 does not matter.

22 MS. BENCK: If I could ask you one other  
23 question. You sound very familiar with the Kona  
24 Community Development Plan. Are you aware that the  
25 Petition Area is within the Kona Community Development

1 Plan urban area as shown on the official Kona land use  
2 map?

3 THE WITNESS: It's on the General Plan  
4 perhaps.

5 MS. BENCK: You're not familiar with the  
6 official land use map that identifies the urban on the  
7 Kona Community Development Plan?

8 THE WITNESS: I guess I can't answer that  
9 right now.

10 MS. BENCK: Thank you very much.

11 CHAIRMAN PILTZ: County, you have questions?

12 MR. GONZALEZ: Thank you. No question.

13 CHAIRMAN PILTZ: State?

14 MR. YEE: No questions.

15 CHAIRMAN PILTZ: Intervenor?

16 MR. LIND: No questions.

17 CHAIRMAN PILTZ: Commissioners? Thank you.

18 Next up is Debbie Hecht followed by Damien Silva.

19 DEBBIE HECHT

20 being first duly sworn to tell the truth, was examined  
21 and testified as follows:

22 THE WITNESS: I do.

23 CHAIRMAN PILTZ: State your name and address  
24 for the record and proceed.

25 THE WITNESS: My name is Debbie Hecht. P.

1 O. Box 4148 Kailua-Kona 96745. I've been working with  
2 the 2 percent land fund here in Hawai'i County since  
3 2006.

4 This property was listed as the fifth choice  
5 in 2007 by the Open Space Commission. I'm telling you  
6 this to show you how important it is to have it open  
7 for the Kona community.

8 I live in this ahupua'a and look down on  
9 this property and Kohanaiki, the half-finished  
10 Kohanaiki development and the airport from my lanai.  
11 And I can see the planes flying over all the time.

12 I submitted testimony with a map of the air,  
13 noise and also tables on the passenger traffic  
14 history, the cargo increase, and the socio-economic  
15 trends and projections for Hawai'i County. Increased  
16 population and increased air flights will increase the  
17 noise at 'O'oma. That's a given.

18 Air traffic has steadily increased from  
19 508,000 passengers in 1970 to over 3 million  
20 passengers in 2006. This is an average increase of  
21 70,000 passengers per year. Air cargo has increased  
22 from approximately 2,000 tons in 1970 to 33 (sic) tons  
23 in 2006.

24 Page 211 of the final environmental impact  
25 statement the proposed developments in the West

1 Hawai'i area could increase by at least 20,000 homes  
2 when these subdivisions are built out. This does not  
3 take into account lots that already exist or land  
4 that's already zoned for residential.

5           The additional residents which I thought  
6 were at 1200 for the development, but I think the  
7 Petitioner or the Applicant just said was about 6 or  
8 700, that's still about 600 homes.

9           Traffic engineers say it's 10 car trips per  
10 day. So that's 6,000 additional car trips and cars on  
11 our roads.

12           At the beach of the Natural Energy Lab,  
13 which is close to 'O'oma, you cannot hold a  
14 conversation when these planes fly overhead,  
15 especially the low-flying militarily touch-and-go  
16 flights.

17           Mitigation measures, as Kathy McMillen said,  
18 after the day/night average sound levels reach 65 and  
19 insulate homes and use double pain windows and that's  
20 not going to work here.

21           The airport has 3,450 acres of land and one  
22 11,000-foot runway. The second runway is planned for  
23 additional military touch-and-go flights of about  
24 5,000 feet so they can practice there.

25           The plan, too, is to extend that runway as

1 necessary to another thousand foot runway. So that is  
2 going to increase all the traffic there also. There  
3 is also -- the Kona Airport has a plan that came out  
4 in August of 2009 that I don't think has been entirely  
5 incorporated.

6           It was hard to figure out if that  
7 information was incorporated into the final economic  
8 environmental impact statement. All predictors point  
9 to greatly increased traffic at Kona International  
10 Airport.

11           'O'oma has -- well, we already said that --  
12 300 businesses. As flight traffic increases the noise  
13 in this area, this area will become less desirable for  
14 people to live in these homes, causing demand to  
15 diminish for properties and property values will fall.  
16 People will be unable to sell and will be stuck in  
17 their homes.

18           In Puma County Arizona this same scenario  
19 occurred to the subdivision built within a mile of the  
20 runway. As the population increased the air traffic  
21 increased making it nosier in this area. Demand  
22 decreased for these homes and people couldn't sell  
23 their homes. Puma County had to sell general  
24 obligation bonds to sell these houses and then knock  
25 them down.

1               General obligation bonds used to buy these  
2 properties were paid by all of us in increase in  
3 property taxes. I have been told since I have been  
4 discussing this with the members of the community,  
5 this also occurred in the San Francisco Airport and  
6 the San Jose area too.

7               This land is land is presently in  
8 conservation and many people use the land for  
9 recreation at 'O'oma. Past growth at Kona  
10 International Airport is a great predictor that  
11 airport will grow steadily in the future, increasing  
12 flights for cargo and passengers.

13              People that buy homes or businesses at  
14 'O'oma in the future by owning less desirable real  
15 estate. Living and working in a flight pattern is  
16 neither healthy nor desirable.

17              Let's look to the future and learn from  
18 mistakes from other parts of the United States. No  
19 development at 'O'oma.

20              (Audience applauding.)

21              CHAIRMAN PILTZ: Petitioner, any questions?

22              MS. BENCK: If I could, just a couple quick  
23 questions.

24              CHAIRMAN PILTZ: Go ahead.

25              MS. BENCK: Ms. Hecht, you mentioned the

1 'O'oma listed, the priority listing, on I believe it's  
2 the Hawai'i County Public Access Open Space and  
3 Natural Resources Commission.

4 THE WITNESS: Yes.

5 MS. BENCK: And I believe you're correct it  
6 was given 5th priority ranking in 2007. Are you aware  
7 of what ranking the property has in the 2008 report?

8 THE WITNESS: I'm not sure. I don't think  
9 it was listed on 2008 or 2009.

10 MS. BENCK: That's correct. Thank you. No  
11 further questions.

12 THE WITNESS: I also wanted to mention  
13 there's a letter from the Aircraft Owners and Pilots  
14 Association objecting to 'O'oma.

15 CHAIRMAN PILTZ: Yes, we have that.

16 THE WITNESS: Okay. Good. Just wanted to  
17 make sure.

18 CHAIRMAN PILTZ: County, any questions?

19 MR. GONZALEZ: Thank you, Mr. Chair. No  
20 questions.

21 CHAIRMAN PILTZ: Bryan?

22 MR. YEE: No questions.

23 CHAIRMAN PILTZ: Intervenor?

24 MR. LIND: No questions.

25 CHAIRMAN PILTZ: Thank you. Next person is

1 Damien Silva followed by Bucky Gene Leslie. Damien,  
2 let me swear you in.

3 DAMIEN SILVA,  
4 being first duly sworn to tell the truth, was examined  
5 and testified as follows:

6 THE WITNESS: Yes, I do.

7 CHAIRMAN PILTZ: Would you state your name  
8 and address for the record and proceed with your  
9 testimony.

10 THE WITNESS: Aloha. My name is Damien  
11 Silva. My address is 1272 Kalaniana'ole Avenue in  
12 Hilo. I'm a proud member of the Operating Engineers  
13 Local 3 Union. I'm not going sit and try throw  
14 numbers at you guys because I don't have numbers.

15 But what I'm here is for tell you guys that  
16 this is just the initial step in me being possibly  
17 able to support my family in a dignified way and  
18 allowing myself to support my family of four. I have  
19 a young -- I have a young family.

20 Bottom line. I know we can do this in a  
21 pono way. We can preserve these cultural sites. We  
22 can develop around this area in a correct way that's  
23 not gonna, you know -- well, it will impact the  
24 environment but it'll do it minimally in a way that we  
25 can not only preserve the site and the beach access

1 for the public, but as well do it in a respectful way  
2 where we can assure that we're going access to these  
3 properties in these areas in the future.

4 But bottom line I really don't have anything  
5 prepared. And I not goin' throw numbers at you guys.  
6 This will help me provide for my family in a more  
7 dignified way if we get this ball rolling as far as  
8 the 'O'oma Project. I support the Project. So thank  
9 you.

10 CHAIRMAN PILTZ: Petitioner, any questions?

11 MS. BENCK: No questions.

12 CHAIRMAN PILTZ: County?

13 MR. GONZALEZ: No questions.

14 CHAIRMAN PILTZ: State?

15 MR. YEE: No questions.

16 CHAIRMAN PILTZ: Intervenor?

17 MR. LIND: No questions.

18 CHAIRMAN PILTZ: Thank you. Commissioners,  
19 thank you. The next person up is Bucky Gene Leslie  
20 followed by Claire Bajo.

21 BUCKY GENE LESLIE

22 being first duly sworn to tell the truth, was examined  
23 and testified as follows:

24 THE WITNESS: I swear.

25 CHAIRMAN PILTZ: State your name and address

1 for the record and proceed.

2 THE WITNESS: Name is Gene Leslie, aka  
3 Bucky. Aloha kakahiaaka, Commissioners. I'm going to  
4 take a quote from Aunty Elizabeth. Got to put on my  
5 glasses. Amekea ia mau manao e kakou e nei au ika  
6 papa hana. As a Hawaiian I support the Project.

7 I'm an active member of the Kona community  
8 and currently serve as -- was president of the Kuakini  
9 Hawaiian Civic Club. Now I'm vice president of the  
10 Association of Hawaiian Civic Clubs which serves a lot  
11 of Native Hawaiians and serve on the Hawai'i Island  
12 Burial Council.

13 Although I'm here representing myself it's  
14 important that you know the deep roots that I have to  
15 West Hawai'i. I believe in preserving the past as we  
16 find productive ways of working together to  
17 accommodate the change.

18 When I sat down with the landowner  
19 representative I was struck by their commitment to be  
20 good stewards of the land.

21 This Project will work closely with  
22 descendants to cultural issues including preservations  
23 and burial treatment plans. This is a positive step  
24 and a demonstration by the landowner to protect Native  
25 Hawaiians and cultural resources.

1                   We cannot say no. The Project will be  
2 giving our community a huge piece of open space  
3 including as much shoreline as all of Kailua Village.

4                   We must think about our kuleana as a  
5 community to take care of it. Saying no to a good  
6 Project like this one stops the protection of the  
7 shoreline and the coastal preservation of our future  
8 generation.

9                   Basically I support the issue and I thank  
10 you guys for listening to me. You will see me again  
11 soon.

12                  CHAIRMAN PILTZ: Thank you. Petitioner, do  
13 you have questions?

14                  MS. BENCK: No questions.

15                  CHAIRMAN PILTZ: How about County?

16                  MR. GONZALEZ: No questions.

17                  CHAIRMAN PILTZ: State?

18                  MR. YEE: No questions.

19                  CHAIRMAN PILTZ: Intervenor?

20                  MR. LIND: No questions.

21                  CHAIRMAN PILTZ: Commissioners? Thank you.  
22 Okay. One more then we'll take a break. Claire Bajo.

23                               CLAIRE BAJO  
24 being first duly sworn to tell the truth, was examined  
25 and testified as follows:

1                   THE WITNESS: I do.

2                   CHAIRMAN PILTZ: State your name and address  
3 for the record.

4                   THE WITNESS: My name is Claire Bajo, P. O.  
5 Box 3202 Kailua-Kona, Hawai'i 96745. I'm a 20-year  
6 resident of Kailua-Kona and also a realtor and  
7 business owner in West Hawai'i. Thank you for letting  
8 me speak today in favor of the 'O'oma Beachside  
9 Village proposed Project in Kailua-Kona.

10                  I heard about the 'O'oma Beachside Village  
11 Project in 2005 when I gave input to consultants about  
12 what I wanted in a community. I shared dreams of a  
13 community where I could live, work and play in without  
14 having to commute anywhere to get there.

15                  I shared dreams of walking and biking to the  
16 beach, to the post office, to the grocery store and to  
17 the park with family, friends and children.

18                  I also expressed that I'm very interested in  
19 seeing more eco-friendly communities and developments  
20 that support sustainability in Hawai'i.

21                  And I am very thankful for the environmental  
22 and socially conscious planning that's being done at  
23 'O'oma Beachside Village.

24                  I shared that I wanted to live in a  
25 community that offered a range of services nearby, a

1 place that preserves some open natural spaces and a  
2 community that offers homes to people of diverse  
3 income levels for all to enjoy and with minimal  
4 commute. This was and still is my dream.

5           Today I stand before you or sit before you  
6 in support of 'O'oma Beachside Village because they  
7 have listened to us, the local people, and have  
8 responded with planning a community that I would be  
9 proud to live in, hopefully some day soon.

10           The following is a list of the most  
11 important aspects of the 'O'oma Beachside Village that  
12 are an outgrowth of citizen input.

13           To have respect and consideration for the  
14 Hawaiian culture as well as appreciating the history  
15 of the area which include respecting, and utilizing  
16 the land, water and its people.

17           Use of Hawaiiana style design to create  
18 pleasing, attractive neighborhoods where people can be  
19 proud to live in and raise their families as well as  
20 offering economically diverse homes for income varied  
21 families which include single-family homes, affordable  
22 town homes, work force housing and high-end estates.

23           Eco-community atmosphere, being able to live  
24 near your business or work near home and also being  
25 able to shop in your neighborhood without having to

1 commute, minimizing traffic and the potential impact  
2 on road use.

3 To hold a LEED certification and carry that  
4 philosophy into the community promoting sustainability  
5 and green living awareness.

6 Providing usable open space, shoreline parks  
7 and access to hiking and biking trails, creating an  
8 esthetically pleasing environment for locals and  
9 newcomers alike to enjoy the habitats of 'O'oma while  
10 also preserving local history and appreciating the  
11 Hawaiian lifestyle and culture.

12 Thank you very much for your time and  
13 consideration and support of the proposed 'O'oma  
14 Beachside Village, a master planned community in  
15 Kailua-Kona Hawai'i. Mahalo.

16 CHAIRMAN PILTZ: Thank you. Petitioner?

17 MS. BENCK: No questions.

18 CHAIRMAN PILTZ: County?

19 MR. GONZALEZ: No questions.

20 CHAIRMAN PILTZ: Bryan?

21 MR. YEE: No questions.

22 CHAIRMAN PILTZ: Intervenor?

23 MR. LIND: No questions.

24 CHAIRMAN PILTZ: Commissioners, any  
25 questions? Thank you. We'll take a 10-minute break.

1 And the person first up will be Mark Travalino. We're  
2 now in recess, 10 minutes. Thank you.

3 (Recess was held. 11:35)

4 CHAIRMAN PILTZ: Back on the record. For  
5 the public's information those who've parked their car  
6 you can have tickets validated at the check-in  
7 counter.

8 First up is Mark Travalino followed by David  
9 "Bones" Inkster. Mark, let me swear you in.

10 MARK TRAVALINO,  
11 being first duly sworn to tell the truth, was examined  
12 and testified as follows:

13 THE WITNESS: Yes, I do.

14 CHAIRMAN PILTZ: Would you state your name  
15 and address for the record and proceed with your  
16 testimony.

17 THE WITNESS: My name is Mark Travalino. I  
18 live on 73-1135 Hi'ilani Street Kailua-Kona, Hawai'i.

19 I'll be speaking on behalf of the Hawai'i  
20 Local Labor Union #368, over 400 active members and  
21 retired reside on the Big Island. We support the  
22 A07-774 North Kona Village, LLC 'O'oma Kaloko, North  
23 Kona, Hawai'i to consider reclassification of  
24 approximately 188.169 acres of land in the  
25 Conservation District into the Urban District.

1               'O'oma Beachside Village development has  
2 received 2009 outstanding planning award given by  
3 Hawai'i chapter of American Planning Association.

4               This award-winning plan will build much  
5 needed affordable housing for our members and other  
6 families that reside on the Big Island.

7               During this time of economic hardship many  
8 of our out-of-work members need to get back to work  
9 before their unemployment runs out. This development  
10 will create much needed jobs for our members on the  
11 Big Island.

12              The jobs created by this development will  
13 boost the Big Island construction industry as well as  
14 our local economy. Thank you very much for this  
15 opportunity to testify.

16              CHAIRMAN PILTZ: Petitioner, questions?

17              MS. BENCK: No questions.

18              CHAIRMAN PILTZ: County?

19              MR. GONZALEZ: No questions.

20              CHAIRMAN PILTZ: State?

21              MR. YEE: No questions.

22              CHAIRMAN PILTZ: Intervenor?

23              MR. LIND: No questions.

24              CHAIRMAN PILTZ: Commissioners? Thank you  
25 very much. Okay. 'Bones' Inkster. And the next

1 person is "....dela Cruse." I can't read the first  
2 name. "....dela Cruse"? (no response)

3 David, let me swear you in.

4 DAVID 'BONES' INKSTER

5 being first duly sworn to tell the truth, was examined  
6 and testified as follows:

7 THE WITNESS: Yes, I do.

8 CHAIRMAN PILTZ: Name and address, please.

9 THE WITNESS: My name is David 'Bones'  
10 Inkster. I'm in Kealahou on the Mamalahou Highway.  
11 I've been a cowboy up there for many years and I'm a  
12 small businessman.

13 And I don't really have much at stake except  
14 for the tourist and how they feel and the  
15 reclassifying of our property that we have that you  
16 know very well.

17 I've traveled here today from Kealahou to  
18 voice my opinion about this 'O'oma development. This  
19 is the first time that I've tried to speak about the  
20 overdevelopment of our precious Kona coastline only to  
21 have my words fall on deaf ears. I only wish at this  
22 time we not let the developer win and get their way.

23 We do not need any more housing, any more  
24 stores, traffic, pollution, and that is a fact. We  
25 need to show -- we don't need to show any sympathy for

1 the developers or their pocketbooks.

2 I'm sure some of you have read my words of  
3 warning in our local papers and now are able to see  
4 that what I said nearly 40 years ago are very true.

5 Our Kona coastline has been ripped off and  
6 almost totally destroyed by these developers and their  
7 smiling henchmen. They have managed on the most part  
8 to defraud us, get their way and take what they want.

9 Think about it. From Kealahou Bay to  
10 Kawaihae the coastline is or will be gone in several  
11 more years. Shame on our so-called planners and  
12 politicians.

13 Years ago I rode my horse along the  
14 coastline road by Pine Trees. And this was, except  
15 for the occasional roaring of a jet, a wonderful  
16 experience for me and my family.

17 Then one very warm day while riding along  
18 this trail with my shirt off a jet passed overhead and  
19 landed. A large amount of soot and chunks of black  
20 particles landed on my back and head from this jet.  
21 And this going on every day.

22 Does anyone think the new homeowners will  
23 like this, let alone the stores and other planned  
24 facilities? Soon the airport will have to be moved  
25 again. And this is no bull.

1                   How about our roads? They will need to be  
2 enlarged much more than presently planned. More  
3 lights, new sewers, more police, and crime will be  
4 just around the corner.

5                   My kids and their kids will be expected to  
6 pay for all this. And for what? The greedy  
7 developers will be long gone ruining someone else's  
8 lovely land and coastline. Believe me, this will  
9 happen.

10                  How about the tourists? Does anybody think  
11 that they will come back here due to the traffic jams,  
12 overcrowding, the loss of what has always made our Big  
13 Island a must see vacation designation, the natural  
14 beauty of our coastline and pristine waters?

15                  In summing up my statements, I wish to say  
16 that for a change our voices must be heard above the  
17 whining of the developers to change the land  
18 designations and foist upon us these huge  
19 developments.

20                  We must stand firm and save our land. The  
21 35 million the developer paid for the land was a  
22 gamble in the first place. And too bad. We have much  
23 more at stake here.

24                  Please, and I ask every one of you guys, say  
25 no. One time say no. And let us have our

1 conservation land. We need it. We don't need any  
2 more developments.

3           There's plenty, "Oh, we've got to have more  
4 houses," the previous guy just said. There's so many  
5 places for houses up above Costco. How many houses  
6 are going up above there?

7           Oh, they can't get work? Well, too bad.  
8 They can't come over here and get those guys started.  
9 What's to make anybody think that these guys are gonna  
10 start? (Audience applause)

11           They're gonna pay the 35 -- they're not  
12 going to do it. They're going to turn around and sell  
13 it again. And that's all I have to say. But it just  
14 bugs me. I came all the way here just to say that to  
15 you folks. And that's it.

16           (Audience applause)

17           CHAIRMAN PILTZ: Thank you. Hold it down.  
18 All right. Petitioner, questions?

19           MS. BENCK: No questions.

20           CHAIRMAN PILTZ: County?

21           MR. GONZALEZ: No questions.

22           CHAIRMAN PILTZ: Bryan?

23           MR. YEE: No questions.

24           CHAIRMAN PILTZ: Intervenor?

25           MR. LIND: No questions.

1                   CHAIRMAN PILTZ:  How 'bout you,  
2 Commissioners?  Thank you very much.

3                   THE WITNESS:  Aloha, you guys.

4                   CHAIRMAN PILTZ:  Aloha.  Next person is Andy  
5 Bohlander followed by Janice Palma Glennie.

6                                 ANDY BOHLANDER,  
7 being first duly sworn to tell the truth, was examined  
8 and testified as follows:

9                   THE WITNESS:  I do.

10                  CHAIRMAN PILTZ:  Would you state your name  
11 and address for the record and proceed with your  
12 testimony.

13                  THE WITNESS:  Andy Bohlander.  P. O. Box 921  
14 Hilo, Hawai'i 96721.  My name is Andy Bohlander.  I'm  
15 a coastal hazard specialist with the University of  
16 Hawai'i Sea Grant program.

17                  And I'm here today to submit testimony that  
18 consists of a letter sent from University of Hawai'i  
19 Sea Grant program to Peter Young.  The letter is dated  
20 February 17th, 2010.

21                  "Dear Mr. Young:  The University of Hawai'i  
22 Sea Grant College program congratulates the planners  
23 and developer of 'O'oma Beachside Village on receipt  
24 of recognition by the American Planning Association  
25 for exemplary residential coastal community design.

1                "The 'O'oma Beachside Village exhibits many  
2 of the EPA's coastal and waterfront Smart Growth  
3 elements for best planning practices as applied to  
4 coastal communities.

5                "These elements include mixed land use,  
6 compact design, provide a range of housing choices,  
7 create walkable communities, foster distinctive,  
8 attractive community design, preserve open space and  
9 critical environment areas, direct development towards  
10 existing development, provide a range of  
11 transportation options, and encourage stakeholder and  
12 community collaboration in planning decisions ensuring  
13 that public interest in and rights of access to  
14 waterfront and coastal waters is upheld.

15               "The 'O'oma Beachside Village proposes to  
16 reflect these Best Planning Practices. It is our  
17 understanding that an extensive community outreach was  
18 undertaken including many small group and individual  
19 meetings. These meetings included a cultural advisory  
20 group comprised of lineal descendants of the ahupua'a.

21               "In addition, the 'O'oma Beachside Village  
22 reflects several of the Kona Community Development  
23 General Plan amendments including provision of a range  
24 of mixed-uses, including homes, commercial, retail,  
25 parks, preserves, trails and shoreline access.

1                "This Project in particular exemplifies  
2 responsible shoreline setback distances as yet not  
3 duplicated anywhere in the state of Hawai'i. Project  
4 improvements will be approximately 1,120 feet set back  
5 from the shoreline according to the plan.

6                "Within that setback 75 acres along the  
7 shoreline will be open space with 18 acres designated  
8 as public shoreline park maintained in a natural  
9 state.

10              "The setback also supports the notion of  
11 retreat or placing improvements on land area that is  
12 less likely to be inundated by natural hazards and  
13 climate change.

14              "The agreement between 'O'oma Beachside  
15 Village, LLC and the National Park Service has been  
16 reviewed. We feel that this agreement outlines the  
17 issues and responsibilities of the LLC thoroughly.  
18 This agreement relates to storm and surface water  
19 runoff, pollution prevention, wastewater, water use  
20 and groundwater monitoring.

21              "The University of Hawai'i Sea Grant College  
22 Program and the Center For Smart Building and  
23 Community Design applaud the positive steps toward a  
24 new model of development for Hawai'i that represents  
25 the virtues mentioned above.

1                "We expect future developments to follow  
2 these Best Planning Practices in the future.  
3 Sincerely, E. Gordon Graw, director Department of  
4 Zoology, director of the University of Hawai'i Sea  
5 Grant College program; Steven Meter, of the University  
6 of Hawai'i Center for Smart Building and Community  
7 Design and Sara Peck, Coastal Resource Extension agent  
8 with the University of Hawai'i Sea Grant College  
9 program."

10              That concludes my testimony. Thank you.

11              (Applause)

12              CHAIRMAN PILTZ: Hold it down. Petitioner,  
13 questions?

14              MS. BENCK: No questions.

15              CHAIRMAN PILTZ: County?

16              MR. GONZALEZ: No questions.

17              CHAIRMAN PILTZ: State?

18              MR. YEE: No questions.

19              CHAIRMAN PILTZ: Intervenor?

20              MR. LIND: No questions.

21              CHAIRMAN PILTZ: Commissioners, any  
22 questions? Thank you. Next person is Janice Palma  
23 Glennie.

24              THE WITNESS: It's Janice Palma Glennie.  
25 I'm from Kailua-Kona. Thank you.

1                   CHAIRMAN PILTZ: The next person up would be  
2 Shannon Rudolph. Take the seat up there. Let me  
3 swear you in.

4                   JANICE PALMA GLENNIE  
5 being first duly sworn to tell the truth, was examined  
6 and testified as follows:

7                   THE WITNESS: I do.

8                   CHAIRMAN PILTZ: State your name and address  
9 for the record.

10                  THE WITNESS: My name is Janice Palma  
11 Glennie. And my address is P. O. Box 4849  
12 Kailua-Kona. I'm, however, here speaking today for  
13 the thousand members of Sierra Club's Moku Loa Group.  
14 We believe that the development of 'O'oma would have  
15 significant negative impact on the people of Hawai'i  
16 Island.

17                  Reclassification to allow urban development  
18 should be emphatically denied now as it was in 1987,  
19 1993 and 2005.

20                  Open space is a vanishing commodity. Once  
21 it's lost it cannot be replaced. With all the  
22 fighting in Hawai'i County over how much, if any,  
23 money can be put into acquiring open space, why would  
24 the County and state let such a serious chunk of  
25 critical natural coastal land become another part of

1 the urban landscape?

2           There is a derth of areas farther away from  
3 the ocean that are far more suitable for urban  
4 development including the 80 acres for which this  
5 landowner already has entitlements.

6           CHAIRMAN PILTZ: Ma'am, could you just slow  
7 it down for the court reporter.

8           THE WITNESS: As long as I don't have to fit  
9 it all into two minutes. Okay. Lots to say. Thank  
10 you. The burden of proof is upon Petitioners to show  
11 undeniable justification for changing 'O'oma's  
12 classification. They have not done so.

13           They have not shown any timely, exceptional  
14 need to change what little is left of North Kona's  
15 conservation designated land to be used for urban  
16 development.

17           Nor has been made even marginally clear how  
18 urban development could be more beneficial to the  
19 general public than if 'O'oma remained in its current  
20 status.

21           For this reason alone Commissioners should  
22 for the third time deny the reclassification of  
23 'O'oma.

24           However, there are many more reasons,  
25 including the case for good planning why this should

1 be denied. The recently enacted Kona Community  
2 Development Plan is also an award-winning plan, just  
3 happens to be located in the right place. And it will  
4 help move Kona away from the existing mishmash of  
5 non-planning to help your future.

6 'O'oma Beachside Village claims that their  
7 proposed development fits CDP standards and processes.  
8 This is not only incorrect, but it is impossible. The  
9 County code, which needs to be in place to assure CDP  
10 tenets are followed, isn't even completely written.

11 How could OBV be in compliance with the  
12 process that doesn't yet exist? To meet CDP protocol  
13 a developer must work with the County's design  
14 committee from the get-go to take conceptual ideas to  
15 a final development plan that fits the CDP. This has  
16 not been done.

17 It's clear from CDP maps and texts that all  
18 land within the vast Kona urban area is not meant to  
19 become urban in nature and use.

20 In a document as well as thousands of  
21 stakeholder comments that contributed to it, it's  
22 clearly mandated that abundant green and open space  
23 especially makai of Queen Ka'ahumanu Highway should  
24 exist within UA paramaters to ensure balanced growth.

25 I have a map for you and I apologize for not

1 handing it out to you. It's in relation to the GOA's.

2 Kona's CDP is the result of a year's long  
3 costly scoping process including thousands of people.  
4 And it provides a clear map for where dense urban  
5 development should be located.

6 Focusing development projects of the scale  
7 and nature of OBV's to the delineated growth  
8 opportunity areas is designed to eliminate haphazard  
9 sprawling growth and lagging infrastructure.

10 The maps that I will give you show the  
11 highlighted GOA's. You can tell from these that those  
12 north of the existing Kailua-Keauhou town centers are  
13 located far from the coast, a minimum of one mile I  
14 believe.

15 Focusing urban growth to these predetermined  
16 areas makes it easier and less costly to provide  
17 adequate infrastructure and social connectivity while  
18 fulfilling the public's number one KCDP mandate which  
19 is to protect Hawai'i's natural coastal and cultural  
20 resources.

21 Kona's CDP is meant to create a level  
22 playing field for all stakeholders and to help avoid  
23 battles like the one we find ourselves in today. But  
24 that can only happen if everyone plays by the rules.  
25 Time and taxpayer dollars are being wasted discussing

1 a proposal that's been an  
2 old-fashioned-developer-generated-fight-producer from  
3 day one.

4 Concurrency is a key demand in approving the  
5 future. This plan leaves the horse stuck in traffic,  
6 where I was, behind the cart.

7 The Petitioners are asking for a Project  
8 district zoning instead of the newer TND outlined in  
9 the Kona CDP plan.

10 They also don't have green space surrounding  
11 the Project as would be in a typical TND. It seems to  
12 imply that there's a further failure of this Project  
13 to fit the CDP protocol and standards.

14 In conclusion, the KCDP is a culmination of  
15 a professionally guided design process that has  
16 included the entire spectrum of stakeholders and which  
17 is now law.

18 The County is entrusted with implementing  
19 what was intended by that law. The State  
20 decision-makers must resist being mislead away from  
21 that clear intent.

22 We appreciate your time and attention thus  
23 far and will touch on our other concerns regarding  
24 this proposal when we meet again tomorrow. I'll also  
25 provide you with our written testimony as well as the

1 maps that I promised to give you. Thank you very much  
2 for your time.

3 (Audience applause)

4 CHAIRMAN PILTZ: Thank you.

5 Hold it down. Petitioner, questions?

6 MS. BENCK: No questions.

7 CHAIRMAN PILTZ: County?

8 MR. GONZALEZ: No questions.

9 CHAIRMAN PILTZ: State?

10 MR. YEE: No questions.

11 CHAIRMAN PILTZ: Intervenor?

12 MR. LIND: No questions.

13 CHAIRMAN PILTZ: Commissioners?

14 Commissioner Lezy.

15 COMMISSIONER LEZY: Just a quick question.

16 Do you hold a position within your Sierra Club  
17 chapter?

18 THE WITNESS: Yes. I'm the West Hawai'i  
19 co-chair. And I've been on the ex comm for years but  
20 I'm not now. I'm at West Hawai'i ex comm -- sorry,  
21 West Hawai'i co-chair conservation committee. Sorry.

22 COMMISSIONER LEZY: Your testimony today  
23 though was --

24 THE WITNESS: For the entire group was  
25 approved by ex comm, yes. And we sent in prior

1 testimony to cover the many, many points which we  
2 wanted to have you folks to review. I have sat -- I'm  
3 not speaking for the Kona Community Development Plan  
4 action committee.

5           However, I have sat on that position both in  
6 their -- well, from the beginning for four years. So  
7 I do have intimate knowledge of the KCDP so it seemed  
8 logical for me to speak to those issues. There are a  
9 lot more that we have that we would like to discuss  
10 tomorrow.

11           COMMISSIONER LEZY: Thank you for  
12 clarifying.

13           THE WITNESS: Thanks a lot. I'll give you  
14 the maps tomorrow. Aloha.

15           CHAIRMAN PILTZ: Thank you. Shannon Rudolph  
16 followed by Gary Orton.

17           THE WITNESS: Aloha Commission.

18                           SHANNON RUDOLPH  
19 being first duly sworn to tell the truth, was examined  
20 and testified as follows:

21           THE WITNESS: I certainly do.

22           CHAIRMAN PILTZ: Your name and address  
23 please.

24           THE WITNESS: My name is Shannon Rudolph. I  
25 live at -- I live in Holualoa at P. O. Box 243 96725.

1                   CHAIRMAN PILTZ: Proceed.

2                   THE WITNESS: And I'm a 30 year resident.  
3 First of all, I'd like to thank the Commission for  
4 coming down to the Big Island. And I also want to  
5 thank you for doing a good job as evidenced by some on  
6 our County council trying to get rid of you all. So  
7 thank you.

8                   I'm asking you -- I'm begging you to please  
9 not change this zoning. We need more open space.  
10 Even in a bad economy our beaches around town are  
11 overcrowded.

12                  And we don't have very many beaches.  
13 There's not that many people here right now that are  
14 visitors, but yet our beaches are still overcrowded.  
15 We need this land to stay in conservation.

16                  We're really concerned, I'm really concerned  
17 about developer promises. For instance, Palamanui  
18 promised a road and a university. But what we ended  
19 up with was no road and a small building.

20                  They're not keeping their promises. I don't  
21 know how they wiggle out of 'em. And what's good  
22 about the rules or the laws if they're not followed?

23                  We need to have proper planning and that  
24 means zoning that we can count on. If you keep  
25 changing the rules in the middle of the game it's not

1 fair.

2 As far as Aina Le'a, they promised  
3 60 percent affordable housing. They dangled that in  
4 front of the residents. And now that zoning, that  
5 affordable housing is down to 20 percent. I don't  
6 know how that happened, but it's not right.

7 I have over 2,000 petitions here, many, most  
8 of them collected in a very short time. These are  
9 petitions from the residents of the Big Island to not  
10 change the zoning, to not shut the Jeep trail. We're  
11 going to turn 'em in tomorrow.

12 And that's about all I've got to say. I'm  
13 begging you to keep this land for the people. Thank  
14 you.

15 (Audience applause)

16 CHAIRMAN PILTZ: Petitioner -- just a  
17 second -- questions? Hold it down. Petitioner, you  
18 have questions?

19 MS. BENCK: No questions.

20 CHAIRMAN PILTZ: County?

21 MR. GONZALEZ: No questions.

22 CHAIRMAN PILTZ: State?

23 MR. YEE: No questions.

24 CHAIRMAN PILTZ: Intervenor?

25 MR. LIND: No questions.

1                   CHAIRMAN PILTZ: Commissioners? Okay.

2 Thank you very much.

3                   Gary Orton followed by Leona "Noni" Roberts

4 Gary, let me swear you in.

5                                 GARY ORTON

6 being first duly sworn to tell the truth, was examined

7 and testified as follows:

8                   THE WITNESS: Yes, I do.

9                   CHAIRMAN PILTZ: State your name and address  
10 for the record.

11                   THE WITNESS: My name is Gary Orton, 77-6219  
12 Kaumalumu Drive, Holualoa.

13                   Mr. Chair, members of the Commission, thank  
14 you very much for the opportunity to speak to you  
15 today. Thank you for your thoughtful consideration of  
16 the issues in front of you.

17                   I oppose allowing any noise-sensitive uses  
18 of this land in this particular location. And by  
19 noise-sensitive uses specifically we're talking about  
20 in this plan houses and there's a school also that's  
21 being proposed. Those are both considered to be noise  
22 sensitive.

23                   I was prepared to discuss noise. But  
24 Ms. MacMillen did such a great job I'll just hit on a  
25 few of the high points and follow up some of the

1 things that she discussed.

2 I'm not an expert in noise but I do have  
3 some expertise and experience in planning issues. On  
4 the mainland I was a city council member for 8 years.  
5 I was a land use attorney. I was general counsel of  
6 several public agencies.

7 I was privileged enough to represent my  
8 fellow mayors of other cities in the County of 600,000  
9 people in negotiating with the San Francisco  
10 International Airport and the Air Transport  
11 Association.

12 So I'm familiar with some of the issues  
13 involved generally in the planning process and some of  
14 the issues that keeps an airport thriving and  
15 prosperous.

16 My first observation from the background is  
17 that good planning is vital to a healthy community.  
18 And putting noise-sensitive uses at the end of a  
19 runway is not good planning.

20 And I really appreciate the question that  
21 was asked by counsel in some of her testimony, that an  
22 easement is being negotiated between the airport and  
23 the Petitioner.

24 I commend for your reading the airport's  
25 master plan, especially the chapter having to do with

1 the noise compatibility plan.

2           In there they discuss easements. They  
3 discuss two types of easements. One's a navigation  
4 easement, the other's a noise easement. Now, the only  
5 reason an airport would need a noise easement is if  
6 things are going to get worse. If things are the way  
7 they are now there's no reason to bring a lawsuit.

8           So the airport is protecting itself. It  
9 knows the risk in the future. By the "future" when  
10 you're doing planning, we're not just talking about 20  
11 years. These buildings aren't gonna collapse in 20  
12 years.

13           We're talking about 40, 50, 60-year  
14 timeline. And we know the way airports have grown.  
15 The airport obviously understands that.

16           The telling mark here is that they're  
17 negotiating for an easement. Why? Because there's a  
18 risk that things are going to get bad, people might  
19 even want to sue them because if things get worse  
20 people might be able to sue them. They want to avoid  
21 that.

22           My question is to you: Who is representing  
23 the person who might eventually live in someplace that  
24 would feel so compelled to sue because things get so  
25 noisy? Where's that person in this room? Not here.

1                   It's our duty, your duty to represent that  
2 person to have that foresight to understand that we  
3 can't have housing like that. That's not healthy for  
4 our community.

5                   Regarding the question having to do with  
6 mitigation, what kind of mitigation? It's too early  
7 to say. Who knows? Because the E-I-R really doesn't  
8 discuss what the mitigation might be.

9                   The mitigation normally would be some sort  
10 of insulation but that means, that means air  
11 conditioning. That means more energy consumption.  
12 That means blowing the hole in another community goal  
13 of being energy self-sufficient.

14                  So it's way too early to discuss that  
15 because you have no idea what mitigation might be.  
16 But it probably would be something that is bad for the  
17 community too.

18                  The easy solution, as Ms. McMillan said,  
19 move them to someplace where you can open the windows  
20 where there isn't the noise.

21                  If development needs to be done there, light  
22 industrial commercial, that's the answer because those  
23 are not noise sensitive. I'm sure my time is up and I  
24 thank you for your consideration. Thank you.

25                  CHAIRMAN PILTZ: Thank you.

1 Hold it down. Petitioner, questions?

2 MS. BENCK: No questions.

3 CHAIRMAN PILTZ: Sir, hold up. County?

4 MR. GONZALEZ: No questions.

5 CHAIRMAN PILTZ: State?

6 MR. YEE: No questions.

7 CHAIRMAN PILTZ: Intervenor?

8 MR. LIND: No questions.

9 CHAIRMAN PILTZ: Okay. How 'bout you,  
10 Commissioners? Okay. Thank you. Leona Noni Roberts  
11 followed by Michelle Tomas.

12 LEONA NONI ROBERTS

13 being first duly sworn to tell the truth, was examined  
14 and testified as follows:

15 THE WITNESS: I do.

16 CHAIRMAN PILTZ: Would you state your name  
17 and address for the record and proceed.

18 THE WITNESS: My name's Leona Noni Roberts.  
19 I live in 31 Puako Beach Drive. Thank you all for  
20 being here and hearing our concerns from the public.  
21 And I'd like to say a few words, not very many.

22 But what my main concern is that the moment  
23 land is reclassified out of conservation status its  
24 natural state is lost irrevocably never to be  
25 returned, perhaps to return in another form but highly

1 altered.

2           Now, the bottom line appears that those in  
3 favor stand to gain directly or indirectly,  
4 monetarily, homes, jobs, manicured parks, roads. I'm  
5 sorry about unemployment and the current status of the  
6 world, the planet, the state of Hawai'i.

7           But conservation land must not be sacrificed  
8 for short-term gain, human comforts, these sort of  
9 things that humans strive for.

10           And we are all human and intelligent human  
11 beings so we must consider the creatures, the plants,  
12 the air, the ocean. We're all in this together. This  
13 'O'oma property is but a small, tiny drop in a huge  
14 bucket.

15           This is a big island although it's not  
16 endless. But there are better places to place  
17 development, better for the community. We need this  
18 open space. I'm a body surfer. And I belong to the  
19 Hawai'i State Body Surfing Association. It's a  
20 statewide organization. And I'm happy to say that  
21 President Obama is a member of our club.

22           Again, especially when it lies directly in  
23 the flight path I do not think a property that is  
24 catering to tourists, perhaps, and to having families  
25 living there it would not be a healthy place. I

1 sincerely believe that and hope you can see this as  
2 well.

3               Now, what is also important is the  
4 community. The community needs recreational area.  
5 The beach on the Big Island there is perhaps seemingly  
6 a great deal of beach. But usable waters for  
7 recreation, for surfing, for body surfing, for just  
8 getting into the water for swimming it's a very small  
9 amount along our coastline. And there's personally in  
10 my opinion not enough of it.

11              The places that are accessible are being  
12 degraded because of chemicals we put on our skins,  
13 chemicals running off, chemicals we wash our hands  
14 with.

15              All of this is getting into our ocean. And  
16 whether we can see it or not it is degrading our  
17 entire planet along with the plastics that we use  
18 every day.

19              I'm sure no one is a stranger to the words  
20 that are coming out of my mouth. And I do hope we  
21 all, every last one of us, continue to make efforts to  
22 improve our planet, especially in the aspects of  
23 pollution and conservation of lands that are not  
24 spoiled as of this point.

25              So lastly of all, I'd like to beg the

1 Commission please do not reclassify our conservation  
2 lands. I truly heart-fully hope that these lands will  
3 be kept for the future. Thank you very much.

4 CHAIRMAN PILTZ: Thank you. (Audience  
5 applause) Hold it down. Petitioner, you have  
6 questions?

7 MS. BENCK: No questions.

8 CHAIRMAN PILTZ: County?

9 MR. GONZALEZ: No questions.

10 CHAIRMAN PILTZ: State?

11 MR. YEE: No questions.

12 CHAIRMAN PILTZ: Intervenor?

13 MR. LIND: No questions.

14 CHAIRMAN PILTZ: Anyone here on the  
15 Commission? Thank you. Michelle Tomas followed by  
16 Ruth Alova.

17 MICHELLE TOMAS  
18 being first duly sworn to tell the truth, was examined  
19 and testified as follows:

20 THE WITNESS: Yes.

21 CHAIRMAN PILTZ: Would you state your name  
22 and address.

23 THE WITNESS: My name is Michelle Tomas. I  
24 live at 73-1064 Loloea Drive Kailua-Kona, Hawai'i.

25 CHAIRMAN PILTZ: Go ahead.

1                   THE WITNESS: Good morning. I came here  
2 today to listen, to learn, but I felt compelled to  
3 speak my feelings. I live and work surrounding the  
4 'O'oma area. I'm a housewife. I'm a mother. I have  
5 multiple jobs to support my family along with my  
6 husband. We recently purchased a home. So I  
7 understand the jobs are needed.

8                   But I don't support the development in this  
9 area. I am not anti-development. I think it's a good  
10 thing, just not here. I take my kids to the beach.  
11 We enjoy the area. We walk the trails. For you to  
12 even consider turning this into urban it makes me  
13 really sad.

14                  I would like for you to consider this. I  
15 live here. I'm not from Hilo. I'm not from the  
16 mainland. This is our home. Please don't change it.  
17 Thank you. (Audience applause)

18                  CHAIRMAN PILTZ: Thank you. Let me see if  
19 there's some questions. Do you have questions for  
20 her?

21                  MS. BENCK: No questions.

22                  CHAIRMAN PILTZ: County?

23                  MR. GONZALEZ: No questions.

24                  CHAIRMAN PILTZ: State?

25                  MR. YEE: No questions.

1 CHAIRMAN PILTZ: Intervenor?

2 MR. LIND: No questions.

3 CHAIRMAN PILTZ: Anybody here on the  
4 Commission? Thank you very much. Thank you. Ruth  
5 Alova followed by Barbara Scott. Ruth, let me swear  
6 you in.

7 RUTH ALOVA,  
8 being first duly sworn to tell the truth, was examined  
9 and testified as follows:

10 THE WITNESS: Yes, I do.

11 CHAIRMAN PILTZ: State your name and address  
12 for the record and go ahead.

13 THE WITNESS: My name is Ruth Alova. I  
14 reside at 75-181 Kalani Street, Kailua-Kona, Hawai'i  
15 96740. I'm here to ask the Land Commission also to  
16 not consider developing the lands of 'O'oma.

17 I've lived on this island for 20 years.  
18 Although my family are roots, we are from this island.  
19 We've been here since 1778 since the beginning. But  
20 right now it's my time to speak.

21 My kupuna could not make it for they're  
22 unable to. And my family could not also for this is a  
23 weekday. And it's also an inconvenient location.

24 So I'm here on behalf speaking for myself  
25 from my 'ohana. And I do. I respect the developer

1 and understand that, as you like locals you need money  
2 no survive.

3 But this is not the place to develop and I'm  
4 asking, I really am -- I've lived here my whole life  
5 and for those of you locals who do know the area I ask  
6 of you to think if you head south from the airport, if  
7 you head from 'O'oma to Kohanaiki to Kaloko to  
8 Honokohau to Kealakehe, to Lanihau to Keahuolu, all of  
9 those lands are developed except for those of the  
10 National Park Service.

11 And although this seemingly will offer  
12 affordable housing, many local families today can't  
13 even afford the affordable housing. So who will be  
14 living in those homes? (Audience applause)

15 THE WITNESS: The development --

16 CHAIRMAN PILTZ: Hold it down, please.

17 THE WITNESS: -- the development itself --  
18 I'm not anti-development -- but I know it will provide  
19 jobs. But that job is a temporary source. Us local  
20 people we live here so we will rely on you as a job  
21 source.

22 Can you guarantee that this is a hundred  
23 percent you're going to employ local people and you're  
24 going to keep us staff during the hard times the  
25 economy faces?

1                   I understand for those families. I'm local  
2 too and I struggle to survive, but I do it. But what  
3 we need to realize once we develop those lands there's  
4 no going back. It's gone forever. We may be able to  
5 take the buildings away but the land itself is -- it's  
6 irreplaceable.

7                   Although you guys offered to protect a  
8 certain portion of the ocean and recognize the  
9 Hawaiian culture, that is not enough because that is  
10 not that is all too it. It's not just about the  
11 ocean. It's not just about the beach.

12                  It's about everything. It's about the  
13 pohaku, the stones. It's about the la'au, the plants.  
14 All of this is essential. I understand that you guys  
15 are doing really good developments, but this is not  
16 the place for it.

17                  So, again, I ask on behalf of myself and my  
18 'ohana who could not make it that you do not rezone  
19 the lands of 'O'oma. (Audience applause)

20                  CHAIRMAN PILTZ: Thank you. Petitioners --  
21 come on, hold it down please. We've got a short time  
22 and I appreciate there's two sides to everything.  
23 We'd like to hear it all please. Petitioner?  
24 Hold it down. Petitioner?

25                  MS. BENCK: No questions.

1 CHAIRMAN PILTZ: County?

2 MR. GONZALEZ: No questions from the County.

3 CHAIRMAN PILTZ: State?

4 MR. YEE: No questions.

5 CHAIRMAN PILTZ: Intervenor?

6 MR. LIND: No questions.

7 CHAIRMAN PILTZ: Commissioners? Thank you  
8 very much.

9 (Audience applause)

10 CHAIRMAN PILTZ: Thank you very much.

11 Barbara Scott followed by Karen E-o-f-f. Barbara.

12 BARBARA SCOTT

13 being first duly sworn to tell the truth, was examined  
14 and testified as follows:

15 THE WITNESS: Yes.

16 CHAIRMAN PILTZ: State your name and address  
17 for the record.

18 THE WITNESS: Barbara Scott, 75-5782 Lopeka  
19 Place, Kailua-Kona.

20 CHAIRMAN PILTZ: Go ahead.

21 THE WITNESS: I'm the co-chair of the Kona  
22 Traffic Safety Committee. The KTFC will be providing  
23 comments to the planning committee when the Project  
24 moves toward the County subdivision approval.

25 It is my opinion that an adverse effect by

1 this subdivision on traffic is not anticipated. Queen  
2 Ka'ahumanu Highway has been improved and additional  
3 improvements are scheduled.

4           There's also been a lot of County  
5 improvements to our connectivity with the mid-level  
6 road pending also.

7           The developer's committed to constructing a  
8 portion of a frontage road at Queen Ka'ahumanu Highway  
9 which supports the transit system and less impact on  
10 the highway.

11           The Project is designed with interconnected  
12 roads and includes the construction of a secondary  
13 transit route through the property, the placement of a  
14 transit station and supports pedestrian and bicycle  
15 paths.

16           My personal position is in support of the  
17 Project. It's a village design in compliance with the  
18 Kona Community Development Plan principles and offers  
19 a community approach in subdivision development, the  
20 village approach.

21           The Project proximity to the airport and  
22 NELHA provides needed housing in support of businesses  
23 located there and points north.

24           As stewards of the land a responsible  
25 development approach at the shoreline is imperative.

1 The setback and plan to preserve a public beach with  
2 amenities of public access, parking, a community  
3 facility and maintaining paths is a commitment to  
4 providing and improving public access to the  
5 shoreline.

6           The Beachside Village also includes a  
7 coastal preserve that includes archaeological and  
8 cultural sites that will remain undisturbed. I'm  
9 personally impressed by the plan to use desalinization  
10 to provide potable water in irrigation for the water,  
11 area in cooperation with the Department of Water  
12 Supply.

13           There's also a plan to construct a private  
14 wastewater treatment plant for the subdivision that  
15 will also produce R-1 quality effluent, Department of  
16 Health compliant for irrigation purposes.

17           Wastewater treatment, groundwater  
18 monitoring, storm and surface water runoff and  
19 pollution prevention are issues addressed by the  
20 agreement between the developer and the National Park  
21 Service.

22           Regarding concerns expressed about  
23 amendments and changes to development conditions,  
24 legal remedies are available to dispute any  
25 development condition that is violated.

1           It is the community responsibility to  
2 monitor the progress of any development Project and  
3 propose changes.

4           An underlying issue remains. Some people  
5 are proposing the land at 'O'oma remain preserved  
6 because it's in the Conservation District. To this  
7 premise submit a rhetorical question: If land in the  
8 Conservation District is to remain untouched, then why  
9 is the land available for sale in the first place?

10          The O'oma Beachside Village Project is an  
11 environmentally responsible project and it would be an  
12 asset to the Kona community. Please approve the  
13 requested urban land use classification --  
14 reclassification.

15          CHAIRMAN PILTZ: Petitioner, questions?

16          MS. BENCK: No questions.

17          CHAIRMAN PILTZ: Questions by the County?

18          MR. GONZALEZ: No questions.

19          CHAIRMAN PILTZ: State?

20          MR. YEE: Just a clarification. Was a  
21 portion of your testimony on behalf of an  
22 organization?

23          THE WITNESS: No. It's in my opinion.

24          MR. YEE: Okay. Thank you. That's all.

25          MR. LIND: No questions.

1                   CHAIRMAN PILTZ: Commissioners? Thank you.

2   Next person is Karen Eoff followed by Nita Pilago.

3   Just for the record we do have Karen Eoff's written  
4   testimony.

5                   THE WITNESS: Thank you.

6                                   KAREN EOFF

7   being first duly sworn to tell the truth, was examined  
8   and testified as follows:

9                   THE WITNESS: I do.

10                  CHAIRMAN PILTZ: State your name and address  
11   for the record and proceed.

12                  THE WITNESS: Thank you. My name is Karen  
13   Eoff. And my mailing address Post Office Box 1602.  
14   That's Kailua-Kona 96745.

15                  Good afternoon, ladies and gentlemen of the  
16   Commission and of the public that have come here  
17   today. I'm one of the founding members of the  
18   Kohanaiki 'Ohana, which is a 501(c)3 nonprofit  
19   community group whose mission since 1990 has been to  
20   protect our natural and cultural resources and the  
21   rights of all people to access to shoreline for  
22   fishing, surfing, subsistence gathering and  
23   recreation.

24                  Our focus has been along the coastline from  
25   the Natural Energy Lab, through 'O'oma, Kohanaiki to

1 the National Park at Kaloko.

2           Our efforts regarding development along this  
3 shoreline led to two landmark supreme court victories  
4 and a legislative victory to require cultural impact  
5 statements for all subsequent land use decisions in  
6 the state where an environmental impact statement is  
7 required.

8           The impetus behind the years of work of our  
9 'ohana was to ensure that development proposals will  
10 not negatively impact the people and resources of  
11 Hawai'i.

12           The court verified that it is the  
13 responsibility of our governmental permitting  
14 agencies, such as the Land Use Commission, to  
15 determine those impacts.

16           We believe that the benefits of this or any  
17 other proposal for urbanization at 'O'oma do not  
18 outweigh the detriments.

19           We do not recommend reclassification of any  
20 coastal land within the Shoreline Management Area out  
21 of the state conservation designation, and especially  
22 the land at 'O'oma that was recommended highly on our  
23 County's Open Space and Natural Resource Preservation  
24 Commission's list for purchase.

25           There has been a long history of petitions

1 requesting to reclassify this land into the resort and  
2 Urban Districts. Kahala Capital Corporation proposed  
3 development plans in the late '80's and again in '93,  
4 which the Land Use Commission wisely denied at that  
5 time. And in 2003 former Mayor Harry Kim, vetoed  
6 Clifto's development plan at 'O'oma.

7           Some of the reasons for denial in the past,  
8 as stated by the Land Use Commission in their findings  
9 of fact and conclusions of law are still valid reasons  
10 for denial today:

11           "Reclassification of the property does not  
12 meet the standards applicable in establishing  
13 boundaries of the Urban District; the Petitioner  
14 cannot prove there is a need for this Project.

15           "Reclassification does not conform with the  
16 goals, objectives and policies of Section 226 of the  
17 Hawai'i State Plan to protect our unique and fragile  
18 environmental resources.

19           "Reclassification does not conform with the  
20 objectives set out in Chapter 205A of the Coastal Zone  
21 Management Program which seeks to protect and minimize  
22 adverse impacts on coastal ecosystems."

23           The Land Use Commission previously found  
24 that reclassification of the conservation land at  
25 'O'oma did not meet the decision-making criteria, was

1 not reasonable, and did not conform to the standards  
2 for establishing an Urban District, and therefore  
3 would violate Section 205 HRS and be inconsistent with  
4 Chapter 226 HRS.

5           We believe a similar set of conditions  
6 exists today, and there are equally compelling reasons  
7 to leave this land in conservation.

8           The "no action" alternative or the "existing  
9 zoning designation" alternative mentioned in the  
10 Petitioner's EIS would offer the best scenario for  
11 this area.

12           When the property was purchased the existing  
13 zoning on the mauka portion, the land area mauka of  
14 the Old Mamalahoa Trail, was zoned MG-3A. This  
15 classification allows for commercial, retail, and  
16 some types of businesses.

17           The land area makai of the trail is all in  
18 the Conservation District and should remain so. There  
19 are no given entitlements here.

20           This alternative affords some development on  
21 the property, and may create jobs for our community,  
22 while still protecting the open space, conservation  
23 land and the class double A offshore waters.

24           We thank you for your diligence in protecting  
25 our lands. Mahalo.

1 CHAIRMAN PILTZ: Thank you. Petitioner,  
2 questions?

3 MS. BENCK: No questions.

4 CHAIRMAN PILTZ: County?

5 MR. GONZALEZ: No questions.

6 CHAIRMAN PILTZ: Bryan?

7 MR. YEE: No questions.

8 CHAIRMAN PILTZ: Intervenor?

9 MR. LIND: No questions.

10 CHAIRMAN PILTZ: How about the  
11 Commissioners? Anything? Thank you. Nita Pilago  
12 followed by Rebecca Villegos.

13 THE WITNESS: Aloha.

14 NITA PILAGO

15 being first duly sworn to tell the truth, was examined  
16 and testified as follows:

17 THE WITNESS: I do.

18 CHAIRMAN PILTZ: State your name and address  
19 for the record.

20 THE WITNESS: My name is Nita Pilago. And  
21 my address is 73-1224 Kaiminani Drive Kailua-Kona.

22 CHAIRMAN PILTZ: Go ahead.

23 THE WITNESS: Aloha, Commissioners and all  
24 the agencies who came by to hear public testimony. My  
25 name is Nita Pilago. My family and I are long-time

1 residents of Kona and I am a founding member of  
2 Kohanaiki 'Ohana. I oppose the reclassification of  
3 'O'oma lands.

4 I had a long testimony but I just wanted to  
5 say the things that wasn't covered, especially about  
6 how we as Kohanaiki 'ohana have been diligent in our  
7 community support for access and open space. And just  
8 a reminder that we won the supreme case (sic) Ka  
9 Pa'akai O Ka 'Aina v. LUC in a case similar to 'O'oma.

10 We are dedicated to our community and we are  
11 committed to our children and our 'aina. We remind  
12 the 'O'oma applicants that our community won the PASH,  
13 Angel Pilago v. Hawaii County Supreme Court case at  
14 Kohanaiki and we stopped 'O'oma in the path as it was  
15 said that we were against Clifto.

16 We have the experience and we will stand  
17 strong for our civil rights and for environmental  
18 justice. We strongly ask the LUC and the 'O'oma  
19 Applicant, "Don't force yourself onto our community.  
20 Don't make another mistake and fight against us like  
21 you did in the past."

22 There are many, many, more members of our  
23 community island that will stand strong and unite to  
24 stop further discretion of our lands.

25 Don't allow Hawai'i Island to be another

1 O'ahu and Maui. Many pretty packages by the developer  
2 was put forth before us saying that they will do good  
3 for the community, present us with jobs. And as soon  
4 as the land is reclassified and then they would sell.  
5 We experienced this at Kohanaiki.

6           And we don't want this to happen again to  
7 'O'oma. Already the land is damaged at Kohanaiki.  
8 When we intervened it was already permitted for  
9 resort. We fought diligently to stop it. What we got  
10 was the County re-deeded the coastal lands for our  
11 community.

12           But in this case it's just starting. And I  
13 know that it's easier to fight a case against the LUC.  
14 We don't want -- for now we figured the marketing  
15 perspective of this developer is very pretty.  
16 Everything is green, everything is open space. But it  
17 is still a development that will desecrate our land  
18 and force open space to become urban.

19           And we as a community feel that we have lost  
20 enough. We have given enough to developers and we  
21 want to stop this. And we just ask the LUC to be  
22 thoughtful. Most of you are from O'ahu and you have  
23 seen the desecration.

24           You live the discretion of many decisions  
25 from your past predecessors allowing urban to come

1 into conservation, allowing urban to come to our  
2 shores.

3 And a lot of -- like Waikiki for instance?  
4 The land is blighted. And the whole ahupua'a system  
5 is destroyed. And for Kona we do not want that. We  
6 do not visualize a big hotel or development on our  
7 coastline.

8 We visualize a park for our community. And  
9 I think it is time for our government and our  
10 officials to give back. Mahalo for your time. And  
11 thank you for listening to our testimony.

12 CHAIRMAN PILTZ: Thank you, Nita. (Audience  
13 applause.) Petitioner, questions?

14 MS. BENCK: No questions.

15 CHAIRMAN PILTZ: County?

16 MR. GONZALEZ: No questions.

17 CHAIRMAN PILTZ: State?

18 MR. YEE: No questions.

19 CHAIRMAN PILTZ: Intervenor?

20 MR. LIND: No questions.

21 CHAIRMAN PILTZ: Commissioners? Thank you,  
22 Nita.

23 THE WITNESS: Thank you.

24 CHAIRMAN PILTZ: Next person up is Rebecca  
25 Villegas followed by Tracy Solomon.

1 REBECCA VILLEGAS

2 being first duly sworn to tell the truth, was examined  
3 and testified as follows:.

4 THE WITNESS: I do.

5 CHAIRMAN PILTZ: State your name and  
6 address.

7 THE WITNESS: Aloha. My name is Rebecca  
8 Villegas. I live 77-6639 Walua Road, Kailua-Kona,  
9 Hawai'i, 96740. Aloha, Commissioners. Is it okay if  
10 I hold the mic? I'm tall.

11 My name is Rebecca Villegas. I'm honored t  
12 be the president of the Kohanaiki 'Ohana and a member  
13 of the Kohanaiki Surfrider chapter.

14 I'm here today as the president of the  
15 Kohanaiki 'Ohana to request the State Land Use  
16 Commission maintain the current conservation zoning of  
17 the 'O'oma parcel.

18 I believe that it is in the best interest of  
19 our community, our island and our state for the Land  
20 Use Commission to deny the reclassification request to  
21 change 'O'oma zoning from conservation to urban.

22 The developer is trying to convince you that  
23 our community is in support of rezoning. I am here as  
24 a representative of a community organization with a  
25 long history of working to protect this coastline and

1 to voice our opposition to the proposed  
2 reclassification.

3           The developer purchased this property  
4 knowing it was zoned in conservation. Now they want  
5 to change the zoning in the interest of profit. I  
6 believe it is purely speculation. They intend to  
7 profit off the increase in the property value if the  
8 reclassification is approved.

9           I humbly encourage you to honor your  
10 position in government by making your decision based  
11 on the best interest of the whole community and not  
12 just the latest round of real estate speculators  
13 interested in 'O'oma.

14           If the reclassification is approved they  
15 plan to close the gate between 'O'oma and NELHA and  
16 take away our lateral shoreline vehicular access along  
17 the coastline. This will affect access to a vital  
18 community gathering place and our way of life.

19           Last year our community came together with a  
20 unified voice and successfully got the gate between  
21 'O'oma and NELHA properties reopened. Thus, lateral  
22 shoreline vehicular access was once again restored on  
23 the coastline adjacent to Kohanaiki.

24           We do intend to do whatever it takes to  
25 ensure that this historical lateral shoreline

1 vehicular access road between NELHA, 'O'oma and  
2 Kohanaiki remain open and accessible.

3           Historically the Land Use Commission and  
4 County have denied three prior requests by developers  
5 seeking to alter the land's zoning. The circumstances  
6 in our community have not changed enough since the  
7 last request to justify that zoning be changed for  
8 this request either.

9           The environmental impact statement allows  
10 for alternative development plans to be implemented  
11 depending on the market or change in fiscal abilities.  
12 These possible alternatives include building a resort,  
13 a resort and golf course, high-end housing with the  
14 golf course and high-end retail.

15           The housing market has already changed along  
16 with investor fiscal abilities which leaves me sure  
17 that their alternative plans are most likely the plans  
18 that would actualized.

19           Has the developer presented a guaranteed  
20 funding source for this development? Have you been  
21 assured that they can financially support this plan?

22           The total Project includes a desalination  
23 plant, a school, a private wastewater treatment plant,  
24 parks and other major infrastructure. How will this  
25 be funded? It would take a hefty homeowners

1 association fee to cover these kinds of costs.

2           These are things that states, counties and  
3 other developers haven't ever been able to fund. How  
4 can this Project be any different?

5           I have a hard time imagining that this could  
6 be possible when other development projects in this  
7 area, for example, Palamanui and Kohanaiki are  
8 currently suspended due to funding issues.

9           No matter how euphoric this development plan  
10 may seem, it has been planned on conservation lands  
11 and that status should not be changed. There are  
12 countless number of commercial and residential spaces  
13 in Kona currently vacant.

14           Building more will only further the struggle  
15 for current landlords to fill their spaces. I have  
16 attached numerous photos of the plentiful, empty  
17 spaces currently in Kailua-Kona.

18           The North Kona district alone has 15,000  
19 residential units approved to be built in areas  
20 already zoned for development.

21           When the economy improves the building of  
22 these homes will provide years of construction  
23 opportunity and employment opportunity. There's no  
24 need for conservation land to be reclassified for more  
25 of this kind of development.

1           Our community is already carrying the burden  
2 of a wastewater treatment plant operating beyond its  
3 capacity and schools that can't even afford to be open  
4 on Fridays.

5           There are currently 2,300 residential homes  
6 for sale in the Kailua-Kona zip code. This is the  
7 same zip code as 'O'oma. There are currently 12,500  
8 residential homes in all of Kailua-Kona. And  
9 26 percent of those are currently vacant. We do not  
10 need 1200 more homes.

11           This development is not an affordable  
12 housing project and will not be affordable to our  
13 current community members. With the average income  
14 per household being \$55,000 per year, very few could  
15 ever afford the pricing structure strategized for this  
16 property.

17           The 'O'oma Beachside Village market  
18 assessment states that their annual absorption of  
19 residential units would be 67 per year starting in  
20 2012. However, the housing market shows no signs of  
21 that strength potential.

22           As of February 2010 there were 2,293  
23 residential homes for sale in Kailua-Kona, and 47  
24 foreclosures. Only 13 homes were sold in Kailua-Kona  
25 last month.

1           As stated earlier there are only 12,500  
2 homes in all of Kona. And the current development  
3 plans to increase the housing inventory in our  
4 community by 1 percent. Once again we do not need  
5 1200 more residential units on top of the 15,000 that  
6 are already waiting to be built in land currently  
7 zoned for it.

8           The County is scrambling to save the  
9 2 percent land fund that so many worked so hard to  
10 bring to fruition. 'O'oma was listed as one of the  
11 top five places by the Hawai'i County Open Space  
12 Commission to be acquired.

13           I urge you to uphold the zoning  
14 classification of 'O'oma as conservation so the  
15 property can one day be purchased by the County with a  
16 2 percent land fund resources.

17           A reclassification to urban would eliminate  
18 our community's chance of ever affording this parcel.  
19 Any change in the open space priority list status is  
20 not because it is any less important. It is related  
21 to the property having a willing seller.

22           CHAIRMAN PILTZ: Can you wrap it up, please?

23           THE WITNESS: I'm sorry?

24           CHAIRMAN PILTZ: Can you wrap it up please.

25           THE WITNESS: Sure. As we see today the

1 current seller has no intention of selling. They  
2 clearly believe a rezoning of this property is  
3 possible and an opportunity to make enormous profits  
4 far surpassing what the 2 percent land fund could  
5 afford is just beyond their greedy grasp.

6           To remove land from conservation zoning  
7 during a time of economic uncertainty seems unwise.  
8 However, I'm certain that our community, our island,  
9 and our state need more land in conservation not less  
10 in order to ensure sustainable growth.

11           As a member and president of the Kohanaiki  
12 'Ohana I have witnessed and participated in our  
13 community's struggle to protect Kohanaiki and our  
14 sacred open spaces.

15           We currently work with the County and the  
16 developer of Kohanaiki to ensure that our community  
17 gets the County park as promised by the good faith  
18 agreement.

19           However, if that parcel had been left zoned  
20 for conservation the natural beauty of Kohanaiki would  
21 not have been compromised to begin with. Since the  
22 reclassification of Kohanaiki zoning from conservation  
23 to resort, ownership of this property has changed four  
24 times.

25           With each of these changes the development

1 plan has changed. While we are determined to make the  
2 best of the currently less-than-ideal circumstances at  
3 Kohanaiki, we do not believe it would be in the best  
4 interest of the coastline, our community or our  
5 economy to reclassify zoning of 'O'oma from  
6 conservation to urban. The current 'O'oma plan is  
7 only lip service.

8 I do not believe it is what the developer  
9 intends to do with the property if the  
10 reclassification is approved. They are not --

11 CHAIRMAN PILTZ: Ma'am, your time is up.

12 THE WITNESS: I have one sentence left.  
13 They are not legally bound to any of these plans. And  
14 if the reclassification is approved they will be free  
15 to change any and all of the plans that an unfortunate  
16 few have referred to as exemplary. Mahalo.

17 (Audience applause)

18 CHAIRMAN PILTZ: Questions by the  
19 Petitioner?

20 MS. BENCK: No questions.

21 CHAIRMAN PILTZ: County?

22 MR. GONZALEZ: None, Mr. Chair.

23 CHAIRMAN PILTZ: State?

24 MR. YEE: No questions.

25 CHAIRMAN PILTZ: Intervenor?

1 MR. LIND: No questions.

2 CHAIRMAN PILTZ: Anyone here? Thank you.  
3 Tracy Solomon.

4 TRACY SOLOMON,  
5 being first duly sworn to tell the truth, was examined  
6 and testified as follows:

7 THE WITNESS: I do.

8 CHAIRMAN PILTZ: Would you state your name  
9 and address for the record.

10 THE WITNESS: Tracy Solomon, P. O. Box  
11 391060 Keauhou. If I do not waste your time now do I  
12 have assurance that you will go through all of our  
13 testimonies?

14 CHAIRMAN PILTZ: Pardon?

15 THE WITNESS: If I paraphrase will you go  
16 through our testimonies?

17 CHAIRMAN PILTZ: Yes. You have a  
18 written testimony?

19 THE WITNESS: Yes. I turned it in. You  
20 should have it.

21 CHAIRMAN PILTZ: It will be admitted into  
22 the record.

23 THE WITNESS: Okay. Aloha, Commissioners,  
24 I appreciate your patience. My name is Tracy Solomon.  
25 I'm a resident of Kailua-Kona. I was born and raised

1 here.

2                   And I remain strongly opposed to this  
3 reclassification as I did participate in the EIS  
4 hearing a year ago.

5                   I'm comfortable calling myself a strong  
6 component to the local sustainable business community.  
7 I have an -- I work in that area and I'm also a  
8 consultant.

9                   I'm very aware of what this plan is  
10 proposing. And I'm very aware of what can and cannot  
11 happen with our resources on this island.

12                  MR. DAVIDSON: If you could slow down.

13                  THE WITNESS: Okay. I would like to just go  
14 over a few of the following facts:

15                  No. 1. The Petitioner is not in compliance  
16 with LUC's Administrative Rules 11-200-16 or 11-200-17  
17 regarding content requirements and also content  
18 requirements in the DEIS.

19                  Specifically referring, they do not have the  
20 necessary data or review to evaluate the environmental  
21 impacts of the added pollutants, the wastewater  
22 treatment plant and how water be used, disposal of  
23 solids or the injection wells need for the RO or  
24 desalination plant.

25                  If you don't have that information how

1 would you be able to make a decision if you don't know  
2 and they haven't chose those sources?

3           Also the EIS initially made absolutely no  
4 reference to the immediately nearshore, immediately  
5 neighboring nearshore waters being listed as 303 (d)  
6 impaired.

7           There are four water bodies between  
8 Honokohau and Pine Trees that are in the neighboring  
9 watershed and then this immediate watershed that are  
10 listed as impaired water bodies and made no reference  
11 to those.

12           And with the kind of size development that  
13 we're looking at for what they're proposing on land  
14 that is naked, bare of soil and little to no  
15 vegetation, that would be a major impact.

16           This classification of 303 (d) listed water  
17 body is an indicator the already area (sic) is  
18 recognized as being in need of restoration by the  
19 state of Hawai'i.

20           Therefore reclassifying this conservation  
21 land and allowing for urbanization in this watershed  
22 would be a direct action by the Land Use Commission to  
23 further degrade the constitutionally protected and  
24 impaired and double A pristine waters that already  
25 exist.

1                   2. The Petitioner doesn't identify a  
2 planned water source. How are you able to accept the  
3 entire plan and understand its environmental impacts  
4 if there's an on-site or off-site desalination or they  
5 will tap into local public water supply? If you don't  
6 have that information how can any of this really be  
7 accepted or understood?

8           3. They also have not committed to a method  
9 of wastewater treatment. This I will explain a little  
10 further. The most recent document that has been  
11 proposed by the Petitioner, the MOA with the National  
12 Park Service, it lists three very vague options for  
13 wastewater: A private plant using the Kealakehe plant  
14 or another public plant besides Kealakehe.

15           The current Kealakehe plant can barely keep  
16 up with just amending their violations. And they're  
17 currently accepting solids from our wastewater -- or  
18 the Kealakehe landfill. I'm sorry.

19           They currently are accepting solids from the  
20 wastewater treatment plant at Kealakehe and at all the  
21 private wastewater treatment plants.

22                   And I have not seen any option what will be  
23   done with the solids for a proposed wastewater  
24   treatment plant.

25 And I won't even touch where the funding

1 would be coming from for these two major private  
2 utilities.

3           Also, in relation to the millions of dollars  
4 needed for upgrades with our current wastewater  
5 facility which would, possibly is listed as an option  
6 to be used, in making this decision to reclassify this  
7 land and open the door for this to go through, do you  
8 really want to be responsible for the consequences of  
9 adding this much more pressure on that infrastructure  
10 with having no parties to date responsible for  
11 consequence?

12           Because nothing in this EIS is legally  
13 binding. Nothing. It's just a piece of paper with a  
14 lot of really great looking stuff.

15           Unfortunately if you spent the really awful  
16 time to read about a thousand pages of documents,  
17 which I'm not an expert, but I have read it, it is a  
18 lot of stuff that is very improbable.

19           No. 4. I'd like to just make a reference to  
20 the potential degradation of this water off this coast  
21 definitely affect the multimillion dollar industries  
22 at Natural Energy Lab which currently source double A  
23 pristine waters for industrial use and research.

24           Most of these businesses conduct their  
25 ongoing water quality analysis themselves. That's to

1 their benefit. But it's unfortunate that politically  
2 charged land use concerns like this can detour the  
3 most concerned parties with the most to lose in a case  
4 like this especially between landowning neighbors.

5 I would like to bring your attention in  
6 their stead because none of them can be here.

7 Also I would like to make a reference to the  
8 North Shore land use hearing and ongoing two year  
9 battle that you folks have been having with -- can I  
10 call it a mess without offending anybody?

11 It's been a lot of going back and forth with  
12 a lot of parties. And I know you're doing your best  
13 to address it.

14 I would really hope you use the relevant  
15 hindsight from a hearing like that in this case  
16 because they are very parallel.

17 And I just implore you to look at these  
18 things as a whole. We have much more different  
19 knowledge than we did 20, 30 years ago.

20 Also, once again, I'd like to reiterate that  
21 nothing here is legally binding. In every case that  
22 you folks have worked on where the developer -- has  
23 the developer followed through with such a lofty  
24 proposal? Have you seen a proposal of this size and  
25 have you seen it fall through? I'd just like to know

1 if that's been assured.

2           Also, really briefly, by the state land use  
3 district standards this watershed is sensitive and  
4 would be best left in conservation. This watershed is  
5 the Keahole watershed.

6           It's just mauka of Honokohau. And the  
7 criterion used by the State Land Use District  
8 standards it would rank it as a sensitive watershed.

9           That's referring to vegetation cover, soil,  
10 the mauka regions already being developed and the  
11 water recharge area being impermeable because it's all  
12 slated for more future development, also the  
13 industrial park, nearby golf course, airport and so  
14 forth.

15           Going by the district standards conservation  
16 lands promote watershed health by managing them in  
17 conservation.

18           Lastly there's a resource on the Hawai'i  
19 Office of Planning. It's a resource that you can  
20 access from the Coastal Zone Management Program.

21           And it actually was used as a prior -- in an  
22 effort to prioritize land use planning. It was using  
23 GIS, so forth, to score watersheds in the state.

24           And what it did it looked at the negative  
25 and positive attribute in those watersheds. This was

1 just done, I believe it was two years ago. 2006. I  
2 apologize. Done in 2006. Anyways, it showed that the  
3 Keahole, that the Keahole Watershed and also its  
4 neighbor Honokohau, which is just south, were ranked  
5 as "protection priority".

6           And that's from the Hawai'i Office of  
7 Planning which I believe is here today. So I'd be  
8 interested to know how that information falls into  
9 planning overall. These kind of tools the state has,  
10 our County doesn't have GIS.

11           It'd be interesting to know how we can -- I  
12 mean I've worked with some of the county council  
13 members. This is way over their heads. So the state  
14 would be a great guiding tool for us to follow. I  
15 apologize, but it is.

16           Overall, upholding this Conservation  
17 District would adhere to that land use planning  
18 priority and its use as guidance. You were all  
19 appointed to serve what is best for our community at  
20 large. And we believe it is very evident what would  
21 be best. I implore you to please uphold this land in  
22 Conservation District.

23           And on an emotional end, the first time I  
24 experienced the ocean was down here in these waters.  
25 And this means so much to so many people. It is

1 so important. It is so much more than all this  
2 jargon.

3 So I really, really ask you to please look  
4 at this and consider all your hearings and what you're  
5 learning from them. Thank you for your patience.

6 (Audience applause)

7 CHAIRMAN PILTZ: Okay, Petitioner,  
8 questions?

9 MS. BENCK: No questions.

10 CHAIRMAN PILTZ: County, questions?

11 MR. GONZALEZ: No questions.

12 CHAIRMAN PILTZ: State?

13 MR. YEE: No questions.

14 CHAIRMAN PILTZ: Intervenor?

15 MR. LIND: No questions.

16 CHAIRMAN PILTZ: Commissioners? Okay.

17 Thank you. We're going to take a lunch break. The  
18 first person up after we come back will be Robert  
19 Freitas. We'll be back at 2:00. We're in recess now.

20 (Recess was held.)

21 CHAIRMAN PILTZ: We're back on the record.  
22 First up is Charles Freitas Jr. followed by Charles  
23 Flaherty. Let me swear you in.

24 CHARLES FREITAS, JR.

25 being first duly sworn to tell the truth, was examined

1 and testified as follows:

2 THE WITNESS: I most certainly do.

3 CHAIRMAN PILTZ: Would you state your name  
4 and address for the record and then you may proceed.

5 THE WITNESS: My name is Robert Freitas, Jr.  
6 My residence is 73-4369 Ahiahi Street which is in the  
7 middle of the ahupua'a.

8 Aloha, distinguished members of the panel,  
9 invited guests, fellow members of our community,  
10 honored members of our 'ohana and cherished friends.  
11 It appears that you missed the public forum that  
12 occurred on August 21st, 2009.

13 We are here in need of having to repeat  
14 many of the same things all over again. You divide up  
15 our lands as subdivisions when we use the entire  
16 ahupua'a from the mountain to the sea.

17 My son read this testimony in August and I'm  
18 here to not only present it to you myself, but to also  
19 put you on notice that your title and claim is not  
20 clear. And we will be meeting again.

21 I am Robert Freitas Jr., eldest son of  
22 Robert Freitas, Sr. and Amy Mokihana  
23 Keana'aina-Freitas. I was extremely fortunate to have  
24 had two grandfathers. My tutu kane of which we were  
25 hanai was Henry P. Kamaka.

1                   Tutu man Henry's father was Papa Jacob  
2 Palakiko Kamaka and his father was Samuel Kamaka-Kama.  
3 Samuel's father was known as Kama. And his father  
4 from the time of Kamehameha's rule was Kaiho'okele.

5                   I was born September 11, 1957 here in Kona.  
6 And as a little boy I traveled from Holualoa to Kalaoa  
7 on many occasions with my parents who helped tutu man  
8 Henry, Grandma Emily and Papa Jacob care for the kalo,  
9 their vast lands, the animals, especially their  
10 cherished horse Haka and their dependable donkeys.

11                  I watched tutu man Henry ride his horse up  
12 and down the side of his home under the cover of his  
13 roofline in 'O'oma Kalaoa, dismount his horse stepping  
14 directly onto the top of his stairs, unload his ukana  
15 right onto the porch and unsaddle his horse without  
16 ever touching the ground.

17                  Tutu man Henry was born in Ho'ona. He was  
18 one of eleven children, several of whom died at an  
19 early age and are buried there along with family  
20 members of those that were allowed to live in the  
21 settlement in the village of Ho'ona by my 'ohana.

22                  We were fishermen, weavers, farmers and over  
23 the years three homes were built on our ahu that went  
24 from Keahole Point across to 'O'oma up to Kalaoa  
25 mauka.

1           The family's ocean home was located at  
2 Keahole Point besides Kamehameha's favorite fishpond  
3 Pa'aiea that was covered by the 1801 lava flow and  
4 without permission replaced by an international  
5 airport.

6           From the vantage point of their home at  
7 Keahole Point they were able to oversee their vast  
8 entire ahu from the ocean by simply looking south and  
9 mauka.

10           Unfortunately, their cherished home was  
11 wrongfully and intentionally burned down in  
12 December 1941 by a representative of the Office of  
13 Naval Intelligence because, as they claim, "It was a  
14 possible landmark for enemy submarines operating in  
15 the area," but no submarine or enemy ever came.

16           In his letter dated March 22, 1941 to the  
17 military, Papa Jacob stated, "As I have been forced to  
18 live, (pausing) my eyes have seen a lot in my present  
19 abode of which consists of two walls and a roof, I  
20 would like to be reimbursed as soon as possible."

21           In response the Naval Intelligence admitted  
22 that they had indeed burned down the family's home but  
23 they wanted him to first sign a letter releasing the  
24 U.S. Government of all liability.

25           Papa Jacob refused. The letter remains

1 unsigned and this violation remains unresolved to this  
2 very day.

3           Their second home was located halfway up the  
4 ahu on what is called Ahiahi Street, in Kona Acres  
5 where we live today. It was a two-story structure  
6 strategically situated at the treeline of the ahu  
7 allowing them the ability to oversee their entire  
8 ahupua'a by simply looking both mauka and makai.

9           The lower foundation of the home was made of  
10 ohia with the use of wooden pegs. The lumber was  
11 delivered by ship, brought onto shore by boat or canoe  
12 and hauled up the mountainside by horse and donkey.

13           On the northern side of the home is a water  
14 well that's made out of molten coral.

15           And along the southern side was the 'O'oma  
16 Trail that they along with other families such as the  
17 Keana'aina 'ohana used extensively in the use and  
18 caretaking of their adjoining ahupua'a as well.

19           Over the years this middle home was also  
20 being used as their rest stop in their travels up and  
21 down in the ahupua'a by horse and donkey to gather  
22 their fish and other necessities from the ocean along  
23 the area from 'O'oma to Keahole.

24           Their third home is located at the top of  
25 the ahu in 'O'oma Kalaoa along the Old Government Road

1 where the stories I had shared earlier took place.

2           As with each of their other homes tutu man  
3 Henry and Papa Jacob were able to oversee their entire  
4 ahupua'a from the porch of their home. And it is here  
5 that Papa Jacob had passed.

6           With the introduction of the bulldozer one  
7 was used to make a road from 'O'oma Kalaoa down the  
8 'O'oma Trail ending at the pahoehoe where it was  
9 recommended that your journey be continued by military  
10 Jeep.

11           A locked gate was installed at the top of  
12 the Jeep trail and access was limited and controlled  
13 mainly by the Keana'aina and Kamaka 'ohanas.

14           As a little boy I accompanied my parents  
15 along with tutu man Henry on many trips up and down  
16 the ahupua'a by way of the old 'O'oma Trail to fish,  
17 gather opihi, a'ama, wana, limu and other ocean  
18 treasures for weeks at a time. And we would stay  
19 there for months. Sometimes a month we'd stay at the  
20 beach.

21           The journey down the Jeep trail took about  
22 two and-a-half to three hours. And upon arriving at  
23 the pahoehoe you were required to navigate the rest of  
24 the way by the contour of the lava and strategically  
25 placed lava -- white coral rocks.

1           At this point I found it was easier to walk  
2 the rest of the way by foot. Even the family dog who  
3 also jumped off the Jeep to accompany me agreed. The  
4 gateway to the ocean was where the current 'O'oma Road  
5 ends.

6           And upon arriving at the beach the  
7 Keana'aina 'ohana went left, south towards their ahu  
8 at 'O'oma- Kohanaiki. With tutu man Henry and my  
9 parents we always turned right.

10           Tutu man Henry never had to ask anyone for  
11 permission. And we began fishing as soon as we  
12 reached the beach at 'O'oma and continued across  
13 'O'oma ending at Keahole.

14           It was extremely rare for me to see anyone  
15 down in this area from 'O'oma to Keahole. And when we  
16 did meet someone, they had already received permission  
17 to be there from tutu man Henry.

18           At night there were only five lights on the  
19 entire mountainside. And by locating the steeple of  
20 Mauna Ziona Church in the moonlight, I was able to  
21 identify the exact location of the Mahi home, the  
22 church, the Kahananui house, the Kamaka home and that  
23 of the Keana'aina 'ohana.

24           Tutu man Henry sold the land that Kona  
25 Palisades subdivision is built on, but where all these

1 other lights, the airport and OTEC came from will be  
2 addressed.

3 Over the years many changes have occurred on  
4 our ahu, several of which have drastically and  
5 negatively affected our ability to continue with our  
6 historical and cultural practices.

7 Like many others such as NELHA, your  
8 development would negatively affect our gathering  
9 rights, and right to practice our culture.

10 But more important your development also  
11 intended to break our genealogy and history that we  
12 have the right to maintain, the right to perpetuate,  
13 and more importantly, the right to teach and pass on  
14 to our children.

15 As you can see we do have historical data to  
16 verify our family's existence on this land including  
17 'O'oma, our use and caretaking responsibilities of  
18 this entire ahupua'a and our rights by Hawaiian  
19 traditional law.

20 We also retain legal documentation of which  
21 I would will be pursuing with the assistance of the  
22 Hawaiian Legal Corporation and other entities as well.

23 The burning of our family's home at Keahole  
24 Point by the military was totally unnecessary and  
25 above all intentional.

1           As they have done to many others, this  
2 wrongful deed was designed to displace our 'ohana and  
3 to minimize our presence on our lands, our ahupua'a  
4 only to be eventually stolen and used and abused by  
5 those you see here today.

6           We are the family of this land. As you can  
7 clearly see we were here long before there ever was a  
8 so-called state, Keahole International Airport, OTEC  
9 and now you.

10          We thank you for your time and demand that  
11 any and all permits and/or requests made by this  
12 development company be denied.

13          On behalf of my kupunas, my parents, all of  
14 my 'ohana, Hawaiians everywhere and Hawaiians in heart  
15 and spirit I thank you. Mahalo.

16          (Audience applause)

17          CHAIRMAN PILTZ: Thank you. Hold it down,  
18 please. Thank you, Mr. Freitas.

19          THE WITNESS: Now I await your question.

20          CHAIRMAN PILTZ: Petitioner, questions?

21          MS. BENCK: No questions.

22          CHAIRMAN PILTZ: County?

23          MR. GONZALEZ: No questions.

24          CHAIRMAN PILTZ: State?

25          MR. YEE: No questions.

1 CHAIRMAN PILTZ: Intervenor?

2 MR. LIND: No questions.

3 CHAIRMAN PILTZ: Commissioners, any  
4 questions? Thank you very much.

5 THE WITNESS: I'll be seeing you folks  
6 again.

7 CHAIRMAN PILTZ: Thank you. Next person up  
8 is Charles Flaherty followed by Brock Stratton.

9 CHARLES FLAHERTY  
10 being first duly sworn to tell the truth, was examined  
11 and testified as follows:

12 THE WITNESS: Yes.

13 CHAIRMAN PILTZ: State your name and address  
14 for the record.

15 THE WITNESS: My name is Charles Flaherty,  
16 P. O. Box 92 Captain Cook, Hawai'i 96704. First,  
17 aloha, Mr. Chairman, members of the State Land Use  
18 Commission. Thank you very much for coming to the Big  
19 Island for this meeting. Our organization Aipona  
20 Hawai'i is opposed to A07-774 petition for land use  
21 boundary amendment.

22 In 1961 the State Legislature created the  
23 Land Use Commission to preserve and protect Hawaiian  
24 lands and encourage those uses to which the lands are  
25 best suited.

1                Since that time the LUC has allowed  
2 thousands of acres of Conservation Land Use District  
3 coastal land on Hawai'i Island to be reclassified to  
4 urban.

5                In January 2006 the Hawai'i Supreme Court  
6 stated in Kelly vs. 1250 Oceanside Partners, which I  
7 have attached to my testimony, that "The State in its  
8 political subdivisions shall conserve and protect  
9 Hawai'i's natural beauty and all natural resources  
10 including water.

11               "And shall promote development and  
12 utilization of these resources in a manner consistent  
13 with their conservation and in furtherance of  
14 self-sufficiency of the state."

15               "All natural resources are held in trust for  
16 the benefit of the people. The duties imposed upon  
17 the state are the duties of a trustee and not simply a  
18 good business manager.

19               "The legislative and executive branches are  
20 judicially accountable for the dispositions of the  
21 public trust. And the beneficiaries of the public  
22 trust are not just present generations but those who  
23 come."

24               The LUC is a trustee of the natural  
25 resources of the public trust and are judiciously

1 accountable to their beneficiaries, that is the  
2 public.

3           The Supreme Court also found that the state  
4 and County have an affirmative duty to take the public  
5 trust into account.

6           As a result of this ruling former Planning  
7 Director Chris Yuen engaged the University of Hawai'i  
8 Marine Sciences Department to conduct a review of  
9 coastal monitoring data for developments in West  
10 Hawai'i, which I've also attached to my testimony for  
11 you.

12           The Special Management Area permits for 13  
13 West Hawai'i developments required that they conduct  
14 nearshore marine water quality monitoring and  
15 submission of reports to the County.

16           However, only three of the development  
17 projects, Waikoloa, Hokuia and NELHA had submitted  
18 sufficient monitoring data to the County Planning  
19 Department.

20           The remaining developments are apparently  
21 not in compliance with their SMA permit reporting  
22 requirements.

23           Despite that only three of the 13  
24 developments had submitted sufficient monitoring data  
25 to the County Planning Department, UH Hilo's review

1 was still able to conclude that, first, nutrient  
2 levels in coastal anchialine ponds and nearshore  
3 marine waters had increased by as much as 410 percent  
4 from 1991 to 2002.

5           Second. Nutrient concentrations were more  
6 elevated at low salinities suggesting that nutrients  
7 originated from freshwater sources like fertilizers,  
8 irrigation water or wastewater.

9           Third. Conditions in West Hawai'i may be  
10 developing for extreme environmental degradation  
11 possibly resulting in algal blooms like those in West  
12 Maui.

13           Fourth. Algal blooms in West Maui may have  
14 resulted in the result of millions of dollars annually  
15 from potential revenue in property value and income  
16 from hotel revenue.

17           This review makes it clear that coastal  
18 lands are best suited for conservation not urban uses.  
19 As such the Petitioner's request should be denied.

20           But more than that, given the extensive and  
21 pervasive harm to public trust resources from past LUC  
22 redesignation of coastal lands from conservation to  
23 urban, what affirmative duty actions is the LUC going  
24 to undertake to repair damage done to their  
25 beneficiaries, the public, past, present and future

1 generations? Thank you very much.

2 (Audience applause)

3 CHAIRMAN PILTZ: Petitioner, questions?

4 MS. BENCK: No questions.

5 CHAIRMAN PILTZ: County?

6 MR. GONZALEZ: No questions.

7 CHAIRMAN PILTZ: State?

8 MR. YEE: No questions.

9 CHAIRMAN PILTZ: Intervenor?

10 MR. LIND: No questions.

11 CHAIRMAN PILTZ: Commissioners? Okay.

12 Thank you. Brock Stratton followed by Jeffrey  
13 Middleton.

14 THE WITNESS: Good afternoon.

15 CHAIRMAN PILTZ: Let me swear you in.

16 BROCK STRATTON

17 being first duly sworn to tell the truth, was examined  
18 and testified as follows:

19 THE WITNESS: Yes, sir. I do.

20 CHAIRMAN PILTZ: State your name and address  
21 for the record.

22 THE WITNESS: Brock Stratton, P. O. Box 1432  
23 Kealahou, 96750.

24 CHAIRMAN PILTZ: Go ahead.

25 THE WITNESS: Good afternoon, Commissioners.

1 Thanks for taking the time to hear our testimony. I'm  
2 here representing the Surfrider Foundation. I'm the  
3 vice chairman of the Kona Kai Ea Chapter.

4 I've also been asked to read and submit  
5 testimony from Stuart Coleman who is the state  
6 coordinator for Surfrider Foundation. So I've  
7 submitted written testimony.

8 I'm just gonna paraphrase from Stuart's and  
9 then also read the Kona Kai Ea's position on this  
10 development.

11 "Surfrider's a national, grassroots  
12 non-profit that is dedicated to the preservation and  
13 enjoyment of the world's oceans, waves and beaches  
14 through conservation, activism, research and  
15 education.

16 "With more than 4,000 dues-paying members  
17 across the state, the Surfrider Foundation strongly  
18 opposes the reclassification of the land at 'O'oma  
19 from the conservation to urban.

20 "As part of our Preserving Special Places  
21 campaign, the Surfrider Foundation and its local Kona  
22 Kai Ea chapter are dedicated to protecting 'O'oma from  
23 unnecessary and damaging development and preserving  
24 its conservation classification. Thanks for hearing  
25 my testimony and doing what's best for the land,

1 waters and people of Kona."

2           Again this is from Stuart Coleman, the  
3 Hawai'i coordinator for the Surfrider Foundation.

4           And then this next position statement is  
5 from the Kona Kai Ea chapter representing, we have  
6 about 150 current members. And this is on behalf of  
7 the executive committee.

8           "We the executive committee members of the  
9 Kona Kai Ea Chapter have unanimously voted to oppose  
10 the reclassification of these 181 acres of the State  
11 Conservation District to Urban District for a  
12 beachside community and mixed-uses.

13           "It is our mission at Surfrider to be  
14 dedicated to the protection and enjoyment of our  
15 oceans, waves and beaches. And protecting this piece  
16 of coastal land from urbanization is part of that  
17 mission.

18           "Removing this conservation land from its  
19 protected status puts coastal resources, recreational  
20 uses and intrinsic value at risk of degradation and  
21 subsequently depletion.

22           "We have a responsibility as a community to  
23 value our lands that are in their natural state as  
24 much as we do our developed areas. Below are several  
25 reasons we ask you to consider to uphold this

1 conservation status:

2 "Nearshore waters off the coast of 'O'oma  
3 have been downgraded from Class AA pristine to  
4 Impaired by the state Department of Health. Further  
5 development in this ecosystem will add more nutrients,  
6 exacerbate the impairment and put our coral reefs,  
7 marine life and recreational areas at risk.

8 "Maintaining beach access to this coastal  
9 area is critical to our community. We act to preserve  
10 the rights of access to this area for all water  
11 activities.

12 "If this conservation land was urbanized, it  
13 would decrease the inherent biodiversity and  
14 compromise its ecological integrity."

15 That's our statements and I appreciate your  
16 consideration and time.

17 CHAIRMAN PILTZ: Thank you. Petitioner,  
18 questions?

19 MS. BENCK: No questions.

20 CHAIRMAN PILTZ: County?

21 MR. GONZALEZ: No questions.

22 CHAIRMAN PILTZ: State?

23 MR. YEE: No questions.

24 CHAIRMAN PILTZ: Intervenor?

25 MR. LIND: No questions.

1                   CHAIRMAN PILTZ: Commissioners? Thank you  
2 for your testimony. Next person up is Jeffrey  
3 Middleton followed Curtis Muraoka.

4                   JEFFREY MIDDLETON  
5 being first duly sworn to tell the truth, was examined  
6 and testified as follows:

7                   THE WITNESS: I do.

8                   CHAIRMAN PILTZ: State your name and address  
9 for the record and proceed.

10                  THE WITNESS: My name is Jeff Middleton. I  
11 live at P. O. Box 367 Holualoa. I've been a resident  
12 of Kona for 39 years. I have three points to make and  
13 only three. It's all been said. I'm just going to  
14 try to concise (sic) it without it being written or  
15 done off the top of my head.

16                  If you study New York City, if you study  
17 Washington, DC, if you study San Francisco, you go to  
18 Seattle, they all have parks. Their forefathers,  
19 their family, their leaders like you folks had to  
20 envision this.

21                  Where's our parks? You guys have been given  
22 responsibility to maintain conservation land. You  
23 need to continue to do that. This is just a third  
24 attempt to urbanize the area. Uhm, if we don't -- if  
25 you look from the corridor all the way to Keauhou, all

1 the way past Kailua, it's all residential, all high  
2 density.

3           What about the future when we have certain  
4 events like a tidal wave or an earthquake that impacts  
5 the coastlines? We need to look ahead. It's becoming  
6 obvious. Every time we see a disaster someplace that  
7 they were never considering a disaster, so it was  
8 never planned for.

9           I also belong to the HBSA Hawai'i Body  
10 Surfing Association, a statewide nonprofit  
11 organization. The coast, due to the  
12 over-fertilization and the maintaining of golf courses  
13 has put a film of slippery stuff on top of the rocks  
14 where you cannot even traverse the lava to go into the  
15 water any longer.

16           I talked to the lead scientist who was just  
17 recently let go by OTEC. He told me to my face that  
18 he was maintaining, monitoring 40 wells.

19           Any nutrients put into any of those farms at  
20 OTEC could be measured in hours how it would change  
21 the water table.

22           There is so much nitrogen being put into the  
23 ocean that what's really happening before our eyes is  
24 the water's no longer pristine, like the gentleman  
25 just before said, downgraded to worrisome? Our last

1 test was it was pristine and now it's not?

2 I'll have you, let you know there's no  
3 regulation on nitrogen being put back. So when OTECH  
4 erroneously reports that there's been no damage to the  
5 water table, they're not required to list the nitrogen  
6 damage. But it is there. You can't change it.

7 So I've told you my first point was we need  
8 look around at all the great planners. The man who  
9 built Golden Gate Park, he also designed New York  
10 Central Park.

11 He also did the George Washington Monument  
12 and everything we have in Washington, D.C. It's all  
13 planning. You have to plan.

14 This is just another person coming in to  
15 purchase, develop, sell. Look around here. Before  
16 you leave today just look around here and you'll see  
17 all these incredibly built units.

18 No one's in 'em. They're all owned by  
19 people out of our country as timeshares. They might  
20 be able to come once in a while but the land is not  
21 being used.

22 I witnessed the building, the construction  
23 of the units around here. Impeccable. The best  
24 materials were used, the best designers, the best  
25 engineering, built beautifully. There's nobody in it.

1 There's nobody here.

2           There's just people come in for a timeshare  
3 and all this beautiful land in Anaeho'omalu Bay. It's  
4 not being used properly. It's poor planning.

5           I want to illustrate one more thing. Chris  
6 Hemmeter came in here and he built a \$350 million  
7 hotel here. Then the land company was set up in front  
8 of it. He pulled out, got paid fully.

9           The land company maintained the Hilton, then  
10 called the Hyatt, for about 6 or 7 years. And I  
11 worked here during that time. They pumped in money  
12 and conventions and fireworks and everything. Then  
13 they went belly up and sold the whole place for \$50  
14 million.

15           Did Chris Hemmeter eat it? No. This had  
16 been arranged. This is what's happening. The  
17 developers are getting precedents and the people who  
18 need to be in place to stop improper --

19           The last thing I want to share with you --  
20 and everything I have said today has become moot  
21 because the person three speakers before me has  
22 informed you that there's a cloud on this title. You  
23 can't zone anything without this cloud being  
24 researched.

25           Representatives of the state, of the

1 developer, you all better go to the Bureau of Title  
2 Guaranty and look up all the records because Papa  
3 Jacob never sold his land.

4           In 1941 the land was confiscated all the way  
5 from Kua Bay all the way down to Keahole. It was all.  
6 Everybody was moved off of the land.

7           There was a barbed wire fence put up in  
8 front of the burial grounds so they could maybe come  
9 down and visit their grounds.

10           This was an attempt, and a successful  
11 attempt to move the Hawaiian people who lived on these  
12 ahupua'as off their lands.

13           They never condemned this land. They never  
14 paid a price for it. The state has just been  
15 conveniently looking after the land that they took and  
16 got back from the Navy when the Navy turned it over to  
17 them.

18           Well, it's been my understanding after  
19 speaking with the family for many years regarding this  
20 subject that Papa Jacob and tutu man, they did not  
21 oppose this. They went along with this.

22           If we were, in fact, being invaded or  
23 threatened they were in compliance of helping us. The  
24 restitution just was never made. I'm still in the  
25 understanding that the family doesn't want to litigate

1 this.

2           They don't want to take the airport back.

3 But they are supposed to be the stewards people.

4 They're supposed to be the custodians of this land and  
5 have a say so in its development.

6           The ahupua'a you're talking about is 'O'oma.  
7 The Kamaka family also have all the same deeds, same  
8 titles to OTEC and the airport. All of this needs to  
9 be addressed and needs to be addressed in a way that  
10 you can't argue that it's kingdom lands, a sovereignty  
11 issue, no.

12           You heard Mr. Freitas say in 1971 Papa Jacob  
13 conveyed all of Palisades and sold it. And they have  
14 no problem with that.

15           How could they sell that if they didn't own  
16 it? Where is the landowners who reputedly known to be  
17 the landowner at present?

18           Where's your titles? Where's your chain of  
19 command? We have -- this needs to be, this needs to  
20 be looked at.

21           CHAIRMAN PILTZ: Can you wrap it up, please.

22           THE WITNESS: I'm wrapped up. Thank you  
23 very much.

24           CHAIRMAN PILTZ: Thank you. Petitioner, do  
25 you have a question?

1 MS. BENCK: No questions.

2 CHAIRMAN PILTZ: County?

3 MR. GONZALEZ: No questions.

4 CHAIRMAN PILTZ: State?

5 MR. YEE: No questions.

6 CHAIRMAN PILTZ: Intervenor?

7 MR. LIND: No questions.

8 CHAIRMAN PILTZ: Commissioners? Thank you.

9 (Audience applause)

10 Curtis Matsuoka.

11 MS. AQUINO: I'm reading the statement on  
12 behalf of Curtis and the advisory group. He had to  
13 leave.

14 CHAIRMAN PILTZ: Let me swear you in.

15 LAURA AQUINO

16 being first duly sworn to tell the truth, was examined  
17 and testified as follows:

18 THE WITNESS: I do.

19 CHAIRMAN PILTZ: State your name and  
20 address.

21 THE WITNESS: Laura Aquino. P. O. Box 5675  
22 Kailua-Kona Hawai'i. As I mentioned I'm reading a  
23 statement in support from Curtis Muraoka and members  
24 of the 'O'oma Beachside Village Citizen Advisory  
25 Group. I have copies of that testimony for you here.

1                "We are members of the 'O'oma Beachside  
2 Village Citizen Advisory Group, a group of Kona  
3 residents who were invited to serve as a community  
4 group to assist with and give our input and feedback  
5 on the proposed 'O'oma Project.

6                "Through periodic meetings and site visits  
7 we worked with the developers on various issues of our  
8 individual and collective concerns and have served as  
9 a link back to the Kona community.

10              "As the 'O'oma Beachside Village Citizens  
11 Advisory Group we fully support the 'O'oma Beachside  
12 Village development. The following are some of the  
13 many positive features of 'O'oma that we embraced:

14              "They listened to the community and is  
15 proposing a Project completely different than prior  
16 planning proposals for the site.

17              "A Project focused on the local primary  
18 market and not a second home, gated golf course  
19 resort.

20              "Consistency with the Hawai'i County General  
21 Plan and the Kona Community Development Plan.

22              "Pledge to provide a site for a public  
23 charter school.

24              "Commitment to addressing water quality  
25 issues.

1           "Understanding, sensitivity and respect for  
2 Native Hawaiian cultural issues.

3           "Unmatched public coastal open space.  
4 Shoreline setback of at least 1100 feet exceeding the  
5 setback suggested in the Kona CDP.

6           "Public access to the ocean and continuation  
7 of the shoreline park were neighbors.

8           "Diverse housing options and affordability.

9           "Emphasis on pedestrian bike trails for  
10 walking and biking throughout the community.

11           "mixed-use mauka-makai villages.

12           "Proposed use of a desalination plant for  
13 potable water.

14           "Reuse of wastewater for irrigation.

15           "'O'oma Beachside Village recent Honolulu  
16 American Planning Association's Hawai'i chapter  
17 outstanding planning award further illustrates the  
18 Project's unique and positive planning work.

19           "We look forward to continuing our work with  
20 the developer as this Project moves forward.

21 Respectfully submitted Guy Toyama, Sara Peck as a  
22 private citizen, Curtis Muraoka, Regie Lee, Marni  
23 Herkes, Yan War and Teri Leicher support as  
24 presented." Thank you.

25           CHAIRMAN PILTZ: Petitioner, questions?

1 MS. BENCK: No questions.

2 CHAIRMAN PILTZ: County?

3 MR. GONZALEZ: No questions.

4 CHAIRMAN PILTZ: State?

5 MR. YEE: No questions.

6 CHAIRMAN PILTZ: Intervenor?

7 MR. LIND: No questions.

8 CHAIRMAN PILTZ: Commissioners, any  
9 questions? Thank you. Could you repeat your name  
10 again, please.

11 THE WITNESS: Laura Aquino.

12 CHAIRMAN PILTZ: Thank you, Laura. Cheryl  
13 King is up next. John Knoll follows Cheryl. Let me  
14 swear you in, please.

15 CHERYL KING  
16 being first duly sworn to tell the truth, was examined  
17 and testified as follows:

18 THE WITNESS: I do. And I hope what I'm  
19 about to say is not true but I truly believe it is,  
20 which is why I'm here.

21 CHAIRMAN PILTZ: Okay. Good. And your name  
22 and address, please.

23 THE WITNESS: My name is Cheryl King. I  
24 live at 77-6455 Ono Road down there in Kailua-Kona.  
25 Please -- first I should say good afternoon, thank you

1 for being here -- but please deny the request to  
2 rezone this land.

3 Any economic gain to the community is not  
4 worth what we who actually live here on this side of  
5 the island will lose if 'O'oma becomes developed. It  
6 is we who will lose open space, suffer in traffic  
7 congestion, watch our environment deteriorate and have  
8 to share increasingly limited resources and inadequate  
9 infrastructure.

10 I do sympathize with those who hope to gain  
11 jobs from this endeavor. But I don't believe it's  
12 appropriate to sacrifice conservation land on the  
13 altar of economic gain. Thank you.

14 CHAIRMAN PILTZ: Just a second. Let's see  
15 if they have some questions. Do you have some?

16 MS. BENCK: No questions.

17 CHAIRMAN PILTZ: County?

18 MR. GONZALEZ: No questions.

19 CHAIRMAN PILTZ: State?

20 MR. YEE: No questions.

21 CHAIRMAN PILTZ: Intervenor?

22 MR. LIND: No questions.

23 CHAIRMAN PILTZ: Commissioners? Thank you.

24 John Knoll followed by Robert Meideros.

25 CHAIRMAN PILTZ: Let me swear you in.

1                               JOHN KNOLL,  
2   being first duly sworn to tell the truth, was examined  
3   and testified as follows:

4                       THE WITNESS:   I do.

5                       CHAIRMAN PILTZ:   State your name and address  
6   for the record.

7                       THE WITNESS:   John Knoll, P. O Box 688  
8   Mountain View, Hawai'i.  I'm for this Project because  
9   it addresses more issues than any projects I've worked  
10  on.  Thank you.

11                      CHAIRMAN PILTZ:   Okay.  Questions?

12                      MS. BENCK:   No questions.

13                      CHAIRMAN PILTZ:   Anyone on the front line  
14  there?  (Laughter)

15                      MR. GONZALEZ:   No questions.

16                      CHAIRMAN PILTZ:   Robert Meierdiercks  
17  followed by Marian Wilkins.

18                               ROBERT MEIERDIERICKS,  
19  being first duly sworn to tell the truth, was examined  
20  and testified as follows:

21                      THE WITNESS:   I do.

22                      CHAIRMAN PILTZ:   State your name and address  
23  for the record.

24                      THE WITNESS:   My name is Robert  
25  Meierdiercks.  I live at P. O. Box 453 Ho'onaunau

1   Hawai'i 96726, a 47-year resident of the state,  
2   39-year resident of Kona, Hawai'i, 40 years in the  
3   construction industry representing myself and West  
4   Hawai'i carpenters from the Hawai'i Carpenters Union  
5   of which this is, currently we have 415 members out of  
6   work here in Kona out of 450.

7               This is true numbers as of today.   Hilo 212  
8   members out of work out of 300.   So we are close to  
9   90, 95 percent unemployed.   And this is data that we  
10   have.

11              We don't have the data from any other  
12   tradesmen that are not in the union.   But it's  
13   probably worse than we have.   We are the worst in the  
14   state at this time.

15              So I'm talking on their behalf right now.  
16   You guys are planning for the future.   If we have  
17   nothing coming up in the future, we have nothing now.

18              These are 90, 95 percent local families that  
19   have lived here the last 15 -- some people have come  
20   into the trade as apprentices, gone through, became  
21   journeymen and now they're raising their families and  
22   their kids are in high schools up and down this side  
23   of the island.

24              So I'm speaking for them.   And we're in  
25   favor of this reclassification.   And reclassification

1 is your question of the day. That's what you will  
2 decide whether it's to be reclassified or not, not if  
3 this Project is good enough or bad enough. It's just  
4 the reclassification of this area.

5           So the transportation hub is the airport.  
6 It's next to the airport. The closest hotel to the  
7 airport would be Four Seasons.

8           If somebody got stuck overnight I don't  
9 think they'd be staying at the Four Seasons. They'd  
10 be staying in town which is eight miles away. So  
11 that's how far the current conveniences to the  
12 international airport are.

13           Yeah, you have conditions, restrictions.  
14 The restrictions I'd like to see if this Project goes  
15 through is to hire local contractors that hire local  
16 people and will put local people to work and hire and  
17 buy their building materials from local establishments  
18 that will have the money, affect the economy here and  
19 not taken out of state or wherever the money goes.

20           We need the money infusion here. We need  
21 the jobs here. This is just one of the things that we  
22 have to plan for in the future. Right now it's pretty  
23 bleak for the next year or so. And hopefully in the  
24 future there will be better times. Thank you.

25           CHAIRMAN PILTZ: Questions?

1 MS. BENCK: No questions.

2 MR. GONZALEZ: No questions.

3 MR. YEE: No questions.

4 MR. LIND: No questions.

5 CHAIRMAN PILTZ: Commissioners? Thank you  
6 very much. Marian Wilkins followed by George Wilkins.

7 MARIAN WILKINS

8 being first duly sworn to tell the truth, was examined  
9 and testified as follows:

10 THE WITNESS: I do.

11 CHAIRMAN PILTZ: State your name and address  
12 for the record.

13 THE WITNESS: Marian Wilkins, 7301410A  
14 Kaloko Drive, Kailua-Kona 96740. Good afternoon.

15 CHAIRMAN PILTZ: Good afternoon.

16 THE WITNESS: Again, thank you for coming to  
17 Kona, although I guess this is Kohala, come to think  
18 of it. I'd just like to add some of my own experience  
19 to the wonderful people who actually are opposing the  
20 development of which I do oppose the reclassification  
21 of the land. And this is, as I say, my own personal  
22 thing mostly.

23 I was a facilitator and I facilitated many  
24 small group meetings and charrettes, parts of the  
25 charrettes of the community development plan a few

1 years ago here in Kona.

2                   And my recollection of every meeting where  
3 this was discussed was that development should never  
4 be makai, new development in the Kona Development Plan  
5 area, makai of Ka'ahumanu, Queen Ka'ahumanu Highway.

6                   The development should be mauka of the  
7 Hawai'i. And even though this plan sounds very  
8 beautiful, it is makai. And for all the reasons that  
9 people have been giving I would have to be opposed to  
10 it.

11                  And I also wanted to say that in my own  
12 experience having lived on O'ahu years ago that we had  
13 relatives living at Barbers Point, a military air base  
14 at the time and you could not hear them talk -- we  
15 could not talk on the phone with them when the planes  
16 were landing and talking off. They couldn't hear  
17 their television, et cetera.

18                  The military planes, which they were, they  
19 had flying overhead for the most part, military  
20 aircraft do not have to abide by civilian aircraft  
21 standards.

22                  And one of the things why they don't is  
23 because when the C-17s, which was practicing their  
24 touch-and-go here, they're trying to duplicate what  
25 they would experience in the field in the military, in

1 a military operation.

2           They can't be trying to duplicate a quiet  
3 jet that's carrying passengers. So I think that's  
4 something that we need to consider about trying to  
5 mitigate the noise.

6           Also in my own experience, and others have  
7 talked about this, if anyone ever remembers flying  
8 over or coming in to land or taking off from the Los  
9 Angeles International Airport you might see a huge  
10 area with nothing on it.

11           Well, in the '60s there were hundreds of  
12 houses there. And they had to be destroyed with --  
13 all families living in them of course had to move.  
14 And someone asked, "Who pays for this?" We do. The  
15 taxpayers will pay.

16           Because once the County gives the permits to  
17 build, then the County is liable, we found in our own  
18 experience here in Kona, the County is liable for  
19 lawsuits from the developers or the person who builds  
20 their house because they gave them a permit to build.  
21 There's no going back once that happens.

22           And then one of the probably worst things  
23 that we have experienced in all the islands and  
24 especially on the Big Island, is that people can make  
25 any promises they want, developers, and they're very

1 seldom held to the promises that they say.

2           They come out with these wonderful plans  
3 that some people have already attested to and it  
4 doesn't happen.

5           Take the Hokulia Project, the bypass road.  
6 Have you guys driven on it lately? There is no bypass  
7 road that's open to the public. We have lived with  
8 these things for some many years. I'm sorry.

9           Developers are saying they will do something  
10 but there's no way the state or the County evidently  
11 can or is willing to hold the developers to what they  
12 say.

13           So we're, like, you know, Charley Brown with  
14 Lucy holding the football. How many times do we get  
15 it kicked out, taken out from under us and we land on  
16 our backs? I'm just saying this is our experience  
17 from living here.

18           Let's see. What am I forgetting? If any of  
19 you remember, Ala Moana Park in Honolulu was  
20 considered gigantic, just gigantic. And it is a  
21 gigantic park. Who thought there'd be that many  
22 people?

23           Who thought there'd be as many people in  
24 Kona as there are now? We have to plan for the  
25 future. We need park space. It's just something

1 that's crucial for the whole community as people move  
2 here.

3           Where will the poor carpenters and those  
4 that do need jobs, where will the children go to the  
5 beach? What will happen?

6           So I hope that the once the recession goes  
7 up that the 15,000 houses that are already on the  
8 books here the carpenters will have lots of jobs and  
9 we won't need one more. Thank you very much.

10           (Audience applause)

11           CHAIRMAN PILTZ: Just a second. Petitioner?

12           MS. BENCK: No questions.

13           CHAIRMAN PILTZ: County?

14           MR. GONZALEZ: No questions.

15           CHAIRMAN PILTZ: State?

16           MR. YEE: No questions.

17           CHAIRMAN PILTZ: Intervenor?

18           MR. LIND: No questions.

19           CHAIRMAN PILTZ: Commissioners? Okay.

20 Thank you. George Wilkins followed by Alfredo  
21 Martinez.

22           GEORGE WILKINS

23 being first duly sworn to tell the truth, was examined  
24 and testified as follows:

25           THE WITNESS: I do.

1                   CHAIRMAN PILTZ: State your name and address  
2 for the record.

3                   THE WITNESS: My name is George Wilkins. I  
4 live here in Kailua-Kona up Kaloko Drive. And I must  
5 confess that I did not know until two minutes ago that  
6 I was going to be testifying. I signed up on the  
7 entry sheet and now I'm testifying. A moment if I may  
8 for background.

9                   I was principal investigator on the infrared  
10 aerial surveys that were made along the Kona Coast in  
11 1991, '92; did work for the University of Hawai'i  
12 where I was an associate professor and for the  
13 Kaloko-Honokohau Park trying to understand the nature  
14 of the flows of cold freshened water from the land out  
15 to the sea. So any time you see infrared videographs  
16 or photographs of those flows, we did them.

17                  We learned a great deal and we are still  
18 learning a great deal.

19                  I was also principal investigator for the  
20 university for the silent drilling that was  
21 demonstrated at Keahole Point, NELHA, as a way to  
22 safely and affordability drill slanted curved  
23 pipelines through the rock that would break out  
24 through the seafloor far enough offshore so that  
25 effluents could be safely flushed to the sea without

1 influencing the coastline.

2           And these have left me with a great, very  
3 great interest in what we do develop and what we don't  
4 develop here in the Kona Coast area.

5           I have been talking in the last few weeks  
6 with representative from Kaloko-Honokohau, from  
7 'O'oma, from people at the university because one of  
8 my greatest jobs the last 40 years here in Hawai'i is  
9 trying to find answers that can be accepted by both  
10 sides of bitter debates. And I don't have any answers  
11 to offer today.

12           I feel that 'O'oma may be the best of a bad  
13 deal. Their approach, I felt, has been most  
14 technically correct and most honest of any developer I  
15 have seen in the last 40 years. Now, that is not a  
16 compliment. So please don't accept it as one.

17           I only have one specific suggestion to  
18 offer. If we're as concerned as we all obviously are  
19 about the sanctity of the use of the nearshore lands,  
20 I know the people at 'O'oma have not yet reached any  
21 final decision as to actually how those lands, the  
22 thousand foot setback, should be dedicated or used.

23           I would suggest that they and you might want  
24 to consider some kind of an agreement by which that  
25 land be a thousand to 1500 feet back from the no

1 construction zone, be dedicated in perpetuity to  
2 public recreational use, public access with a firm  
3 forever type promise, "We will never build on that  
4 land," some contract you can take to court and  
5 enforce.

6 Our daughter Michelle spent four years as  
7 one of the plaintiffs fighting Hokulia. They finally  
8 won their battle when it looked like it was hopeless  
9 for so much of that time. You have to give the people  
10 better weapons to use when agreements, supposedly  
11 legal agreements, are broken. Thank you.

12 CHAIRMAN PILTZ: Questions?

13 MS. BENCK: No questions.

14 CHAIRMAN PILTZ: County?

15 MR. GONZALEZ: No questions.

16 MR. YEE: No questions.

17 MR. LIND: No questions.

18 CHAIRMAN PILTZ: Commissioners, questions?

19 Thank you. Okay. Go ahead.

20 COMMISSIONER JUDGE: That research that you  
21 were talking about, the digging of the slanted --

22 THE WITNESS: Yes, ma'am.

23 COMMISSIONER JUDGE: -- is that for  
24 injection wells?

25 THE WITNESS: That could be. It was done at

1 Keahole Point in 1991 and 1992. We drilled and cased  
2 a well from the shoreline 300 feet offshore, curved at  
3 approximately 80 degrees so that it broke up to the  
4 sea floor.

5           It could be used to bring a cable or  
6 pipeline ashore, to run a cable or pipeline of  
7 arbitrarily great size from the shore to the ocean.

8           The idea was to get under the coastline  
9 without damaging or destroying the coastline. And  
10 that still exists and it's still being used at NELHA.

11           COMMISSIONER JUDGE: I'm sorry. What is it  
12 used for? I still don't understand. It's for a  
13 cable?

14           THE WITNESS: Well, you want to run a  
15 pipeline or a cable from one side -- the mauka side of  
16 the shoreline out into the ocean. It doesn't really  
17 matter too much what you want to run through that,  
18 that pipeline.

19           This gives you a protected pipeline which is  
20 invisible at the shoreline not like those huge  
21 concrete monstrosities which are currently protecting  
22 the cold and warm water pipes that come ashore at  
23 NELHA. You don't see anything.

24           COMMISSIONER JUDGE: Okay. Thank you.

25           CHAIRMAN PILTZ: Thank you.

1 COMMISSIONER KANUHA: Mr. Chairman.

2 CHAIRMAN PILTZ: Okay. One more question,  
3 sir. Duane.

4 COMMISSIONER KANUHA: Thank you for your  
5 testimony, George. I think a lot of us found it to  
6 be --

7 THE WITNESS: I'm sorry I cannot hear you.

8 COMMISSIONER KANUHA: I said thank you for  
9 your testimony.

10 THE WITNESS: Thank you.

11 COMMISSIONER KANUHA: A lot of us found it,  
12 I think, to be quite interesting. So are you  
13 indirectly telling us that the data that you're  
14 involved with with the university was conclusive or  
15 inconclusive in terms of impacts?

16 THE WITNESS: I think it's inconclusive  
17 because there are so many different alternative  
18 approaches being considered for getting or achieving  
19 fresh and potable water, for getting rid of  
20 stormwater, for getting rid of highly saline effluents  
21 from an RO process or from pumping sewage in whatever  
22 stage of treatment out to sea.

23 You talk to a dozen scientists and you're  
24 going to get probably 13 answers. I think the  
25 solution might be to get them all together in one room

1 and lock the doors.

2 COMMISSIONER KANUHA: Okay. Thank you.  
3 Appreciate it.

4 CHAIRMAN PILTZ: Any other questions one  
5 more.

6 COMMISSIONER JUDGE: There was an earlier  
7 testifier and I don't recall who, but it was in there  
8 saying that from 1991 to 2002 there was some studies  
9 where the nitrogen levels of the offshore waters has  
10 increased by 401 percent.

11 THE WITNESS: I heard that too. And I was  
12 about to look for him to ask if I could get a copy of  
13 his testimony. It's very deeply puzzling and  
14 depressing information. I have to accept his word for  
15 it. It is a shock to me.

16 But it's a shock we should expect because  
17 you spend years and years with thousands of people  
18 allowing their septic tanks and sewage treatment  
19 plants, and in the older days, the cesspools to leak  
20 downwards to sea level, and float out to sea on top of  
21 the freshwater lens because they too are less dense  
22 than seawater.

23 And sooner or later the most mixable of  
24 those liquids are going to reach the ocean carrying  
25 nutrients with them. I'm not -- I don't disbelieve

1 the information he gave at all.

2 COMMISSIONER JUDGE: Thank you.

3 CHAIRMAN PILTZ: Any others? Thank you very  
4 much. (Audience applause) Alfredo Martinez followed  
5 by Michael Akau.

6 ALFREDO MARTINEZ  
7 being first duly sworn to tell the truth, was examined  
8 and testified as follows:

9 THE WITNESS: I do.

10 CHAIRMAN PILTZ: State your name and  
11 address.

12 THE WITNESS: My name is Alfredo Martinez.  
13 I live in Mt. View, Hilo side. My address is the  
14 general delivery, postal. It's general delivery Mt.  
15 View, Hawai'i 96771.

16 I'm in favor of a development like this  
17 because of the planning and the development of the  
18 planned communities.

19 I live out in Mt. View and I see people  
20 hauling water. And those developments out there are  
21 not very good. I see 'em just to electricities, some  
22 people sanitation very limited.

23 We've got to move into the area of having  
24 projects like this, work out the problems, but have  
25 the electrical, the telecommunications, fiberoptics,

1 sewer, water underground and developed correctly. And  
2 I think this is a very good way to go.

3 And I'm in support of this development type.  
4 I'd like to see more of it. I'd love to see this in  
5 the Puna District. If this was to happen in the Puna  
6 District, infrastructure, hospitals, everything would  
7 be so much better.

8 Being able to go to the store and buy  
9 things. Right now I travel 10 to 15 miles to go to  
10 the store. I think this type of a Project and this  
11 type of planned communities is just really what  
12 Hawai'i can really use and the children of Hawai'i  
13 could really use.

14 I'd to thank you for your time in allowing  
15 me to come up and speak. Like I said I'm for this  
16 type of a project. Thank you very much.

17 CHAIRMAN PILTZ: Questions?

18 MS. BENCK: No questions.

19 MR. GONZALEZ: County, no questions.

20 MR. YEE: No questions.

21 MR. LIND: No questions.

22 CHAIRMAN PILTZ: Commissioners? Thank you.  
23 Go ahead, Michael.

24 MICHAEL AKAU

25 being first duly sworn to tell the truth, was examined

1 and testified as follows:

2 THE WITNESS: I do.

3 CHAIRMAN PILTZ: State your name and  
4 address.

5 THE WITNESS: My name is Michael Akau. I  
6 live at 45-621 Maunaloa Street, Honoka'a, Hawai'i  
7 96727.

8 CHAIRMAN PILTZ: Go ahead.

9 THE WITNESS: My name is Michael Akau. I'm  
10 the business representative of the Hawai'i Operating  
11 Engineers Union Local 3 District 17.

12 On behalf of Local 3 I'm here to testify in  
13 strong support of 'O'oma Beachside Village. The  
14 reason is simple. We need to jump start the  
15 construction industry to get the people of the Big  
16 Island back to work.

17 We currently have 30 percent of our  
18 membership out of work. The prospects for the coming  
19 year is not looking good. There is some public sector  
20 infrastructure work going on but for the most part  
21 private investments is just not there.

22 So when we have a developer come forward  
23 with a plan as well thought out as 'O'oma Beachside  
24 Village, especially during these tough economic times,  
25 we need to do our part as a community to support it.

1 After all, this Project is anticipated to provide  
2 millions of dollars of investment in our island's  
3 economy.

4 In the case of 'O'oma we have a developer  
5 that went about things the right way. The Project's  
6 team has met with the community, they've talked with  
7 neighbors and created a plan that complements the Kona  
8 Community Development Plan.

9 We know past projects for this site were  
10 envisioned for the wealthy, but this Project is  
11 different and worth our support because it's all about  
12 the local working people.

13 It will provide hundreds of good-paying jobs  
14 for those in the construction industry, not just the  
15 heavy machine operators I represent.

16 When construction workers are employed it  
17 benefits the entire economy because it means that more  
18 money is being spent in area businesses which helps  
19 preserve countless other jobs.

20 This Project really is a no-brainer. Our  
21 community needs it and we urge you to make it a  
22 reality.

23 CHAIRMAN PILTZ: Questions?

24 MS. BENCK: No questions.

25 MR. GONZALEZ: No questions.

1 MR. YEE: No questions.

2 CHAIRMAN PILTZ: Intervenor?

3 MR. LIND: No questions.

4 CHAIRMAN PILTZ: Commissioners, any  
5 questions? Thank you very much. At this time we're  
6 going to take a five-minute break. We're in recess  
7 five minutes.

8 (Recess was held.)

9 We're back on the record. For the  
10 information of the public the Land Use Commission  
11 generally hears public testimony on the first day of  
12 its scheduled two-day hearing in order to provide for  
13 an orderly hearing process.

14 There will be another opportunity for those  
15 members of the public to testify again on this docket  
16 the next time we're here on island.

17 We will be quitting today as soon as we go  
18 through the public testimony. And we're trying to get  
19 out of here by 4:30. So please limit your time to  
20 three minutes.

21 Our first person up here now is Keith  
22 Johnson followed by Blake Cullum.

23 KEITH JOHNSON

24 being first duly sworn to tell the truth, was examined  
25 and testified as follows:

1 THE WITNESS: Yes.

2 CHAIRMAN PILTZ: State your name and  
3 address.

4 THE WITNESS: My name is Keith Johnson. My  
5 address is 74-5032 Hanahanai, Kailua-Kona. I'm a  
6 member of the community of Kailua-Kona, not a huge  
7 community but we're very strong.

8 I've been to hearings like this before.  
9 Each time we are talking about changing the use of our  
10 open space to, you know, anything other than staying  
11 open space, there's always opposition coming from our  
12 community.

13 My father and my mother live in here in  
14 Kailua-Kona. My kids, I raised them here in Kona. My  
15 grandkids are now being raised here in Kona. When we  
16 gather we talk about some of the issues that we're  
17 hearing today. And in every case the open space they  
18 see disappearing.

19 For me it's one thing. I grew up in  
20 Southern California, lots of homes. My kids grew up,  
21 they only know the open space of Kona. And when it's  
22 being taken away they're strongly opposed to it.

23 As I said, Southern California is where I  
24 grew up. Thirty years ago there was a piece of land  
25 down Huntington Beach. I went to a meeting just like

1 this as a high school kid. I got up and said, "Open  
2 space is disappearing in our land. Keep the open  
3 space."

4           You know what? It's still actually there.  
5 So I came out today and would like to say that between  
6 myself and my family I strongly oppose the rezoning of  
7 the 'O'oma property from the conversation open space  
8 to urban development. That's it.

9           CHAIRMAN PILTZ: Thank you. Petitioner?

10          MS. BENCK: No questions.

11          MR. GONZALEZ: County no questions.

12          MR. YEE: No questions.

13          MR. LIND: No questions.

14          CHAIRMAN PILTZ: Commissioners? Thank you.

15 Blake Cullum followed by Jeff Reiner.

16                   BLAKE CULLUM

17 being first duly sworn to tell the truth, was examined  
18 and testified as follows:

19           THE WITNESS: I do.

20           CHAIRMAN PILTZ: State your name and  
21 address.

22           THE WITNESS: My name is Blake Cullum. I  
23 live at 74-5032 Hanahanai Place, Kailua-Kona, Hawai'i.  
24 Thank you, guys, for being out here today to hear us,  
25 to all of us in the community. I'm speaking on behalf

1 of young people like myself who've enjoyed the  
2 Kohanaiki and Pine Trees area. I needed to be here  
3 today to speak and defend it because it's part of who  
4 I am.

5 I spent the majority of my day as a keiki in  
6 and out of the water of Kohanaiki, what is known as  
7 the Pine Trees area. I spent my days, much as I do  
8 still, surfing, camping, fishing, diving and  
9 exploring.

10 This amazing location and its loving 'ohanas  
11 like the Freitas' inspired the growth of respect for  
12 the land and ocean and its people. It was here I  
13 discovered the inter-connectivity between humans and  
14 nature and the intrinsic value within all living  
15 things.

16 I'm here to speak for the land that's given  
17 so much to me and my community. You've turned your  
18 ears deaf to her. Your westernized view of  
19 development as moving forward is a farce.

20 The Big Island people pride themselves in  
21 how much they give to others, their abilities that  
22 connect them to the lands such as hunting, fishing,  
23 story telling and being proficient watermen.

24 Having grown up in this area I firsthand  
25 understand the value of this land that nourishes both

1 many physically and spiritually.

2           What you are proposing is a direct threat to  
3 what I and so many others value as a way of life. We  
4 treasure the openness and untamed landscape of the Big  
5 Island.

6           I firsthand know the impacts of both  
7 residential and commercial development. Your  
8 bulldozers will rip through beautiful and culturally  
9 significant landscape. Your golf courses that ooze  
10 toxic pesticides and reef-killing fertilizers will  
11 cloud the pristine waters.

12           Your houses and structures will be an  
13 eyesore and a beacon of exclusion representing the  
14 divisiveness that Hawaiian culture is the antithesis  
15 to.

16           What you will be building is a watered-down  
17 misrepresentation of Hawaiian culture and values. You  
18 will placate the few with promises of cultural  
19 preservation, but we all know when the landscape is  
20 altered culturally significant items lay forever  
21 interred lost to generations to come.

22           Any way you cut it, with all your studies  
23 and findings it's still damage control. Your  
24 commercial profiteering will be hiding under a guise  
25 catering to the local community with promise of jobs,

1 Hawaiian names for its communities and other ventures,  
2 all the while being a gilded misrepresentation of what  
3 Hawai'i is really about: The preservation of the  
4 past, respect for the land, intelligently constructing  
5 a sustainable future and love and aloha for all.

6               What is keeping you in the near future from  
7 changing your own proposed setback? You are  
8 challenging an open land ruling in a location loved  
9 and cherished by the Big Island and its people.

10              Development of the Big Island's coast has  
11 led to a large mistrust to new coastal development.  
12 You are threatening a lifestyle that's an embodiment  
13 of Hawaiian cultural values.

14              The community is not with you. We should  
15 not allow economic pressures to set a precedent for  
16 developing conversation land. Take your development  
17 elsewhere. (Applause)

18              CHAIRMAN PILTZ: Questions for the  
19 Petitioner?

20              MS. BENCK: Just one question, please. Are  
21 you aware of any golf course being planned for this  
22 Project?

23              THE WITNESS: There is a golf course right  
24 out in front of Pine Trees right there that's  
25 polluting our surf spots out in the lineup right now

1 as we speak.

2 MS. BENCK: Thank you. Are you aware of  
3 there being any plans for a golf course for this  
4 Project for 'O'oma Beachside Village?

5 THE WITNESS: No. There will be development  
6 and I understand the impact and the runoff on the  
7 inland aquifers that are there.

8 MS. BENCK: I understand, but --

9 THE WITNESS: You understand what happens  
10 when they pour concrete for pads for the houses and it  
11 rains and all of that silt leaches down into our  
12 oceans through the water, inland waters?

13 MS. BENCK: So to return to the question --  
14 (audience applause) as of right now you're not  
15 aware --

16 THE WITNESS: We don't know what you're  
17 going to do. You guys promise this and that. You  
18 make changes and things are built without the  
19 knowledge of the community.

20 MS. BENCK: Thank you.

21 THE WITNESS: And that's all I have to say.  
22 (Audience applause)

23 CHAIRMAN PILTZ: Questions? Just a minute.  
24 One second. Hold on. County?

25 MR. GONZALEZ: County, no questions.

1 MR. YEE: No questions.

2 MR. LIND: No questions.

3 CHAIRMAN PILTZ: Commissioners? Okay.

4 Thank you very much.

5 THE WITNESS: Thank you all for listening.

6 CHAIRMAN PILTZ: Jeff Reiner.

7 THE WITNESS: Yes.

8 CHAIRMAN PILTZ: Followed by Michael Kramer.

9 JEFF REINER

10 being first duly sworn to tell the truth, was examined  
11 and testified as follows:

12 THE WITNESS: I do. My name is Jeff Reiner.  
13 My address is P. O. Box 621 Captain Cook. I would  
14 like to address a limited resource today and what has  
15 been talked about, our coastal lands.

16 Coastal lands and shorelines are limited  
17 resources throughout the world and especially in  
18 Hawai'i. These lands comprise a small percentage of  
19 the land but are disproportionally used by the public.

20 More than 50 percent of the population in  
21 the United States lives in coastal areas. And these  
22 coastal areas make up only 10 percent of the nation's  
23 land mass.

24 However, on the Island of Hawai'i, if you  
25 use a thousand foot setback from the shoreline those

1 lands only comprise 1.5 percent of the Island of  
2 Hawai'i land base. If you use one mile boundary they  
3 still only comprise 7.5 percent of the land base of  
4 the Island of Hawai'i.

5           Importantly, 75 percent of the shoreline of  
6 the Island of Hawai'i are cliffs of varying heights.  
7 According to the Hawai'i County General Plan the best  
8 beaches on the island are along the coast between Kona  
9 and Kawaihae.

10           Even though it is evident, as all the  
11 testimony has pointed out, that these coastal lands  
12 protect shorelines and support healthy ecosystems, the  
13 aesthetic qualities of these lands are also important  
14 to people.

15           Although aesthetics is not a physical or a  
16 biological function of riparian areas, they do provide  
17 a function for mankind.

18           Aesthetic qualities of riparian areas are  
19 difficult to quantify. But when preserved or restored  
20 they enhance livability and add to the quality of life  
21 for residents and visitors.

22           It is important to protect these coastal  
23 lands because once riparian functions and aesthetic  
24 qualities are lost they are difficult and expensive to  
25 restore, if restoration is possible at all. Thank

1 you.

2 CHAIRMAN PILTZ: Petitioner, questions?

3 MS. BENCK: No questions.

4 MR. GONZALEZ: County no questions.

5 CHAIRMAN PILTZ: State?

6 MR. YEE: No questions.

7 CHAIRMAN PILTZ: Intervenor?

8 MR. LIND: No questions.

9 CHAIRMAN PILTZ: Anyone on the Commission?

10 Thank you. Michael Kramer followed by Rod Hinman.

11 MICHAEL KRAMER

12 being first duly sworn to tell the truth, was examined

13 and testified as follows:

14 THE WITNESS: I do.

15 CHAIRMAN PILTZ: Name and address for the  
16 record.

17 THE WITNESS: Michael Kramer. P. O. Box  
18 390595 in Keauhou. Hello. I'm Michael Kramer. I  
19 serve on the board of directors of the Sustainability  
20 Association of Hawai'i.

21 I also served on the Hawai'i County Energy  
22 Commission last year. And I founded the Kuleana Green  
23 Business Program of the Kona-Kohala Chamber of  
24 Commerce.

25 And from a sustainability standpoint I don't

1 really want to repeat what several folks have said.  
2 There is one underlying assumption about this and  
3 other developments in this corridor.

4           And that is the proposed 2-lane in each  
5 direction infrastructure road, the highway, that that  
6 will be able to handle the anticipated 30 to 50,000  
7 people that are expected to travel down that road  
8 after all of these developments are put into place.

9           And that is not going to be adequate  
10 infrastructure. So then it will have to go to three  
11 lanes. And pretty soon we're looking at Honolulu  
12 which is really not what any of us would like.

13           So it's not so much that this development  
14 all by itself causes a problem for infrastructure. It  
15 is the pattern of development of already approved  
16 projects that is already going to tax that  
17 infrastructure.

18           So we really should not be approving from a  
19 sustainability standpoint and a traffic standpoint, we  
20 should not be adding to that infrastructure.

21           But you'd never know it by looking at me but  
22 I'm actually an investment advisor. My firm, Natural  
23 Investments, is a federally registered investment  
24 advisor and we manage a nine figure portfolio for  
25 clients all over the country focusing on green and

1 socially responsible investments.

2           So I'm in the business of managing risk for  
3 my clients and their money. So I wanted to introduce  
4 an idea here that the Securities and Exchange  
5 Commission two months ago passed a ruling that was  
6 going to require all publicly traded corporations to  
7 acknowledge climate change risk as material to the  
8 bottom line.

9           They're going to have to start reporting on  
10 the risks and opportunities to their business of  
11 climate change. And this is brand new. It's not  
12 getting a lot of press yet. But the implications of  
13 this on our society are significant.

14           Climate change risk is real. For coastal  
15 areas this is a significant issue. And that tsunami  
16 was a "no saw me" or whatever you wanna call it that  
17 happened this week. But the truth is that sudden or  
18 gradual sea change is accepted as an inevitable  
19 proc -- as inevitable.

20           So we really should not be developing  
21 residential subdivisions of any kind along coastal  
22 areas any longer that are low lying given climate  
23 change risks.

24           To me when you're talking about risk from an  
25 investment standpoint, if these folks came to me and

1 were looking for investors in a Project like this I  
2 wouldn't do it for that fact alone, that it is a  
3 financial risk this is not worth taking given where  
4 this Project is situated.

5           So I just wanted to introduce that idea as  
6 you all as a Commission consider other types of  
7 shoreline development. It is no longer appropriate  
8 along coasts to live along coasts.

9           We really should be taking this very  
10 seriously both from an insurance standpoint and the  
11 cost of that; it's going to become prohibitive, but  
12 also just a basic public safety issue. We should not  
13 be living along the costs anymore. It's going to  
14 become an issue.

15           And I'm not trying to be Chicken Little.  
16 When the Securities and Exchange Commission issues a  
17 ruling like this, we ought to probably take it  
18 seriously. That's not a radical organization by any  
19 stretch. So thank you very much. (Audience applause)

20           CHAIRMAN PILTZ: Questions, Petitioner?

21           MS. BENCK: No questions.

22           CHAIRMAN PILTZ: County?

23           MR. GONZALEZ: County no questions.

24           MR. YEE: No questions.

25           MR. LIND: No questions.

1                   CHAIRMAN PILTZ: Commissioners? Thank you.  
2 Very informative. Rod Hinman followed by Michael  
3 Reimer.

4                   ROD HINMAN  
5 being first duly sworn to tell the truth, was examined  
6 and testified as follows:

7                   THE WITNESS: I do.

8                   CHAIRMAN PILTZ: Name and address for the  
9 record.

10                  THE WITNESS: My name is Rod Hinman.  
11 73-4372 Hulilau Street here in Kailua-Kona, 96740.  
12 I'm also a member of the Mayor's Energy Advisory  
13 Commission this year, although I'm not speaking on  
14 their behalf.

15                  I'm here to oppose this reclassification of  
16 this land out of conversation district. It's my  
17 feeling that land is in conversation to conserve it,  
18 not to develop it.

19                  I'd like to bring to the mind the Kona  
20 Community Development Plan put together by hundreds of  
21 people and thousands of people hours of work. On  
22 Page 4-32 of that plan it notes that -- first of all,  
23 that there's plenty of space in the general Kona area  
24 to develop way more than we need for the anticipated  
25 development in the near future.

1           And it directs -- the will of the people is  
2   that the development be directed towards compact  
3   villages, this is nice, it's a compact village, but  
4   along proposed transit routes like the Ane Keohokalole  
5   Highway, also known as the mid-level road. This  
6   development is not along that road.

7           The community development plan states that  
8   the community is opposed to development along the  
9   shorelines. This development plan is about as  
10   democrat a process as we have had in terms of planning  
11   in this County.

12           And I really would hope that you will  
13   respect the wishes of those who live here. Thank you.  
14   (Audience applause)

15           MS. BENCK: No questions.

16           CHAIRMAN PILTZ: County?

17           MR. GONZALEZ: County, no questions.

18           MR. YEE: No questions.

19           MR. LIND: No questions.

20           CHAIRMAN PILTZ: Commissioners? Thank you  
21   very much. Michael Reimer followed by Winfield P.  
22   Chang.

23                           MICHAEL REIMER  
24   being first duly sworn to tell the truth, was examined  
25   and testified as follows:

1                   THE WITNESS: I do.

2                   CHAIRMAN PILTZ: State your name and address  
3 for the record.

4                   THE WITNESS: My name is Michael Reimer. I  
5 live 75-6081 Ali'i Drive in Kailua-Kona, 96740. From  
6 south to north, both mauka and makai the terrain  
7 marked by the Queen Ka'ahumanu Highway is littered  
8 with promises of environmentally conscious  
9 development.

10                  Yet the land is scarred with assurances of  
11 affordable housing, infrastructure, schools, public  
12 services, libraries, parks.

13                  We see instead a trail of broken promises,  
14 developments totaling over 10,000 homes gone fallow  
15 and access to shoreline resources continue to be  
16 restricted. How many more empty promises do we need?  
17 How many more non-performing guarantees can we afford?

18                  As tragic as that is socially and  
19 economically there is still a larger problem. This  
20 island needs open space.

21                  It needs wilderness preservation for  
22 watersheds to preserve what is left of our indigenous  
23 plants and wildlife.

24                  It needs buffers to prevent unbridled runoff  
25 to the sea that will kill the coral that generates our

1 white sand beaches. It needs free unrestricted access  
2 to the shoreline to be used for all.

3           The youngest geologically, the Big Island  
4 presents the most fragile of emerging landscapes.  
5 Coral is developing and being destroyed faster than it  
6 is emerging in growth.

7           Our potable water is strained to the point  
8 where near-brackish waters are being supplied to water  
9 supply lines.

10           And watersheds are being grubbed, flooded  
11 and abandoned on developments flooding downslope with  
12 sediment to transport to the ocean impinging shoreline  
13 life. We can do better and we must do better. Times  
14 have changed.

15           I am pleased that the Land Use Commission  
16 has brought together so many people of the, of  
17 different viewpoints and certainly stakeholders in the  
18 Project. You now have the very difficult process of  
19 separating reality from rhetoric.

20           The request for a zoning change, I think, is  
21 at best premature in that it fails to consider all the  
22 future ramifications. It is still too nebulous.

23           And I ask you now let it be known from this  
24 day forth that the Land Use Commission will be a  
25 conscientious steward of the land providing the needed

1 balance for fragile environments and providing total  
2 access for residents to the limited shoreline  
3 resources for all times and for all people. Thank you  
4 very much.

5 CHAIRMAN PILTZ: Thank you. Petitioner?

6 MS. BENCK: No questions.

7 CHAIRMAN PILTZ: County?

8 MR. GONZALEZ: County no questions.

9 MR. YEE: No questions.

10 MR. LIND: No questions.

11 CHAIRMAN PILTZ: Commissioners, any  
12 questions? Thank you. Winfield Chang followed by  
13 Ronald Mitchell.

14 WINFIELD CHANG

15 being first duly sworn to tell the truth, was examined  
16 and testified as follows:

17 THE WITNESS: I do.

18 CHAIRMAN PILTZ: State your name and address  
19 for the record.

20 THE WITNESS: I'm Winfield Chang. And I  
21 reside at 73-1422 Kaloko Drive here in Kailua-Kona.  
22 I'm testifying as a private citizen and as a Native  
23 Hawaiian. Although I was born on the East Hawai'i  
24 side I've been a resident here in West Hawai'i for 30  
25 years.

1                   I am fiercely protective of our Kona  
2 lifestyle. And consequently I strongly oppose this  
3 petition application. For all the reasons that were  
4 previously enumerated surrendering additional open  
5 space, conversation land is totally unacceptable on so  
6 many levels.

7                   I don't think many people in Kona ever  
8 envisioned the scope of Kohanaiki. And we're afraid  
9 that this development is going to turn into another  
10 Kohanaiki. And we don't want that. So I hope the  
11 Land Commission takes back with you the passion that  
12 we feel about this.

13                  Irrespective of the unions and the  
14 developers, we are here to protect our community. And  
15 the scarcity of pristine coastal lands is tragically  
16 dwindling and has a negative impact on our entire  
17 community, Hawaiian community and non-Hawaiian  
18 community.

19                  And I'd like to clear up a couple things  
20 that happened here earlier. One, I'm an active member  
21 of the Kona Hawaiian Civic Club.

22                  There was earlier testimony by Bucky Leslie  
23 indicating the Association would be in favor of this.

24                  That is so totally off the boards. He had  
25 introduced a resolution at a last convention on a

1 similar project called Kona Kaiola that was supposedly  
2 a fast track and was supposed to be a done deal.  
3 Well, that resolution was unanimously rejected by the  
4 Association. So I just wanted to clear that up.

5 Another thing that bothered me was the  
6 remarks about the agreement between the National Park  
7 System and the 'O'oma development.

8 It would suggest that the National Park  
9 System endorses this Project and actively supports it.  
10 I don't think so. So I just want to clear up some of  
11 those things.

12 And this eternal mantra of developers  
13 providing jobs, I think that's so shortsighted. The  
14 jobs are going to come, they're going to go. But the  
15 land that's been desecrated is going to stay for  
16 generation after generation. And we cannot allow this  
17 to happen.

18 This traffic gridlock we have north and  
19 southbound is unimaginable. And not one single home  
20 has been built yet on the Kohanaiki portion. And we  
21 can't leave it to the County. We can't depend on the  
22 County to protect us.

23 Look at the bypass road at Hokulia,  
24 Palamanui where the developer stipulated on providing  
25 roads.

1                   And what did the County do? They let them  
2 off the hook. So we can't depend on the County. So  
3 we have to depend on you. So I hope you take this  
4 home with you and really give us a break. Thank you.  
5 (Audience applause)

6                   CHAIRMAN PILTZ: Petitioner any questions?

7                   THE WITNESS: Any questions?

8                   MS. BENCK: No, no questions.

9                   MR. GONZALEZ: County, no questions.

10                  MR. YEE: No questions.

11                  MR. LIND: No questions.

12                  CHAIRMAN PILTZ: Commissioners? Thank you  
13 very much. Next person is Ronald Mitchell followed by  
14 Daisy Mitchell.

15                                 RONALD MITCHELL

16 being first duly sworn to tell the truth, was examined  
17 and testified as follows:

18                  THE WITNESS: Yes, I do.

19                  CHAIRMAN PILTZ: State your name and

20                  THE WITNESS: Ron Mitchell, 77-153 La'aloa  
21 Avenue, Kailua-Kona.

22                  CHAIRMAN PILTZ: Speak into the mic. Thank  
23 you. Go ahead.

24                  THE WITNESS: Yeah, we've been involved in  
25 both sides, Kohanaiki and 'O'oma since March of 2003.

1 I guess a lot of you know me in here. We've been  
2 taking care of the beach front you can say  
3 maka'ainana.

4 We were first approached by Protect  
5 Kohanaiki 'Ohana to do that because of issues down at  
6 the beach and the homeless issue. Since then it's  
7 been all pau. And, yes, we do support it, the  
8 Project, 'O'oma.

9 CHAIRMAN PILTZ: Questions?

10 MS. BENCK: No questions.

11 CHAIRMAN PILTZ: County?

12 MR. GONZALEZ: No questions.

13 MR. YEE: No questions.

14 MR. LIND: No questions.

15 CHAIRMAN PILTZ: Okay. Commissioners?

16 Thank you very much. Next person up is Daisy Mitchell  
17 followed by Tom Lawson.

18 THE WITNESS: Hi, my name is Daisy Mitchell.

19 CHAIRMAN PILTZ: Let me swear you in.

20 DAISY MITCHELL

21 being first duly sworn to tell the truth, was examined  
22 and testified as follows:

23 THE WITNESS: Yes.

24 CHAIRMAN PILTZ: Okay. Go ahead.

25 THE WITNESS: My address P. O. Box 2627

1 Kailua-Kona, Hawai'i. And I'm here today to clearly  
2 say that I support 'O'oma. The man before me is my  
3 husband. We were hired by Kohanaiki to maintain the  
4 shoreline on Kohanaiki. And then we approached the  
5 landowner for 'O'oma to do the same there.

6               When we did this in 2004 there were 45  
7 homeless campsites. There were drug activity going on  
8 down there. And thank goodness to nature, a huge surf  
9 came in and everything was cleared out.

10              Unfortunately all those people relocated and  
11 the beach was an open opportunity for us to go and  
12 clean up.

13              We were part of a group that did clean up  
14 'O'oma Beach. As a result of that clean-up there were  
15 75 large construction-size bags, five king-size  
16 mattresses, two automobiles, one motorcycle and five  
17 make-shift toilets. It took us three days to get that  
18 place cleaned up.

19              This is my point. I know everybody's  
20 talking about conversation of land. What are we  
21 conserving it for? It broke my heart to go down there  
22 and see all this trash just being discarded with no  
23 responsibility whatsoever.

24              If any of you travel that Jeep trail that  
25 goes down to the beach, you see that there's dumping

1 that goes on. And since we have been there in 2004  
2 the dumping has pretty much non-existed.

3 We have seen commercial landscapers drive  
4 their vehicles on the Jeep road and dump their stuff  
5 on the side. We have seen fishermen drop five trash  
6 bags of aku head on the property.

7 So my thing is what are we conserving our  
8 land for? It saddens me that the land is being  
9 treated and mistreated this way. I support 'O'oma.  
10 I'm sorry, but privatization, the developer's coming  
11 in and offering a way out to try and take care of the  
12 land.

13 I was born here. I am raised here. I have  
14 lineal descendants on both side mauka and makai. So  
15 as far as growth, growth is inevitable. it is. As far  
16 as I'm concerned I love Kona. I'll always love Kona.  
17 I'll probably die here in Kona.

18 But for me where we're at now I support what  
19 the developer's going to do because it's him that has  
20 invested. He's already invested since 2004. The  
21 landowner invested since 2004 to maintain that  
22 shoreline.

23 And I know our surfers go down and they use  
24 the beach access. It comes right down to malama the  
25 'aina. Is my three minutes up?

1 CHAIRMAN PILTZ: Yes. Go ahead.

2 THE WITNESS: Thank you.

3 CHAIRMAN PILTZ: Questions?

4 MS. BENCK: Thank you, no questions.

5 CHAIRMAN PILTZ: County?

6 MR. GONZALEZ: No questions.

7 MR. YEE: No questions.

8 MR. LIND: No questions.

9 CHAIRMAN PILTZ: Commissioners? Thank you  
10 very much. Tom Lawson followed by Diane Ware.

11 TOM LAWSON

12 being first duly sworn to tell the truth, was examined  
13 and testified as follows:

14 THE WITNESS: I do.

15 CHAIRMAN PILTZ: Name and address please.

16 THE WITNESS: My name is Tom Lawson. And I  
17 reside at Keapu, get my mail at Kealakekua, P. O. Box  
18 614.

19 I want to say thank you for all of you  
20 members to be here and all of the people out on both  
21 sides that have taken their time to come here. I  
22 can't believe the beauty and the ability of the  
23 professional witnesses, these public witnesses. It's  
24 just amazing.

25 So I strongly are against the development.

1 And I hope this isn't just a tally of who's for, who's  
2 for, who's against, who's against that gets us to  
3 whether we make a decision on this pro or con.  
4 Because there's a lot more to it than a score sheet  
5 tally.

6               This area was deemed to be a conservation  
7 area by some people who were pretty forethoughtful.  
8 They put this into conservation for a reason.

9               And I don't think that the reasons to take  
10 it back out of conservation are nearly strong enough  
11 to go through that whole process of eliminating this  
12 and putting it back -- or putting it into urban.  
13 That's just not the way to do it.

14              Kona has lost so much beach. I come from  
15 Kaneohe. And I couldn't believe when we moved here  
16 that Big Island didn't have any beaches, or very few.  
17 Sandy beaches were almost nonexistent.

18              And I was thinking, gee, don't know if I  
19 really want to live here because this is one of the  
20 things people come to Hawai'i for is the beaches.

21              People here have an overwhelming desire --  
22 and did I use the word correctly? "Overwhelming".  
23 Overwhelming. What does that really mean? An  
24 overwhelming desire for open space, for parks.  
25 Overwhelming.

1               This is pretty wide open when people use a  
2 word like that. So we're speaking today for not these  
3 people here present by also for the future.

4               We were fortunate when I lived in Kaneohe to  
5 have a boat on Ke'ehi Lagoon. And they had this -- it  
6 was beautiful. We had a good time.

7               But we come back into the mooring at Ke'ehi  
8 Lagoon, and they had this unfortunate thing like this.  
9 And it was a pause. And every four or five minutes  
10 everybody in Ke'ehi Lagoon had to pause.

11              That's what they did. They stretched, they  
12 did something else. And it was because of the  
13 airplanes flying over Ke'ehi Lagoon.

14              Then we found out why the moorage rates were  
15 so low. We found out why there were so many mooring  
16 balls that weren't even used by the people that lived  
17 in Honolulu. And it was this Ke'ehi pause.

18              And if you've never experienced it it  
19 doesn't seem like it's a big thing to be annoyed every  
20 five minutes. It's almost like the Chinese water  
21 torture. (Witness slowly rhythmically thumping on  
22 desk). All of a sudden you have to stop everything  
23 you're doing, even thinking, and wait for the plane to  
24 fly over. And it's a very difficult kind of thing.

25              Even though 'O'oma has done a good job and

1 they have all their people and all their principles in  
2 line, there's an old saying, and it's definitely true  
3 in real estate, "location, location, location."

4           And this is the wrong -- it may be the right  
5 kind of development because I think they're going  
6 after it the right way, but it's the wrong location.  
7 This is not where it should be.

8           Just the one thing alone with the airport.  
9 It's going to marginalize that process so that people  
10 come in there, they find out and they're going to feel  
11 like they will be sold a bill of goods because they  
12 will be under that same pause.

13           Now, coming along with this airport idea I  
14 think it's been talked about before, but these planes  
15 that come off of Honolulu are passenger planes.  
16 They're easy, easy, quiet. They have done a lot of  
17 mitigation on jet engines so that they don't create a  
18 lot of noise.

19           The military is going to come in here.  
20 They're going to come in with these huge planes,  
21 C-5A's and bigger. And like one of the other  
22 witnesses said they come in at full throttle. They  
23 leave at full throttle. It's a touch-and-go  
24 situation. It's not like these 707 KC-135 tankers or  
25 the subchasers where they come down easy and go out

1 easy.

2 And why are they using Kona Airport?

3 Because there's not a lot of people that live here.

4 There's not going to be a lot of people complaining.

5 They're not going to impact a lot of people.

6 So that's the airport thing. So page 84 on the EIS --

7 CHAIRMAN PILTZ: Can you wrap it up, please.

8 THE WITNESS: Sure. Page 84 on the EIS

9 shows some of these flight plans. And I'd like you to  
10 check that page out. Thank you.

11 CHAIRMAN PILTZ: Petitioner, questions?

12 MS. BENCK: No questions.

13 CHAIRMAN PILTZ: County?

14 MR. GONZALEZ: No questions.

15 MR. YEE: No questions.

16 MR. LIND: No questions.

17 CHAIRMAN PILTZ: Commissioners? Thank you.

18 Diane Ware followed by Momi Greene.

19 DIANE WARE

20 being first duly sworn to tell the truth, was examined  
21 and testified as follows:.

22 THE WITNESS: I do.

23 CHAIRMAN PILTZ: Name and address, please.

24 THE WITNESS: Diane Ware. My address is  
25 99-7815 Kapoha in Volcano, Hawai'i. 96785.

1                   CHAIRMAN PILTZ:  Go ahead.

2                   THE WITNESS:  And I just want to make a  
3 little clarification here.  I am on the Sierra Club  
4 executive board.  And I'm not speaking today for that  
5 board.  We have as a group formed a committee about a  
6 month ago to look at this issue.

7                   And we approved for Janice, who spoke  
8 earlier, to be our spokesperson as she had more  
9 background and information on this area.  So I just  
10 wanted to clarify that that she was approved to make a  
11 statement for Sierra Club membership.

12                  And personally I would like to urge you to  
13 keep this 'O'oma lands in its current conservation  
14 zoning or classification.

15                  I would like to see this board uphold the  
16 land classifications that have been made for good  
17 reason on this property, this area.

18                  And also the State Constitution as it has  
19 been presented chapter -- Article II and all of its --  
20 Chapter 6, all the natural, cultural preservation to  
21 make sure that this is not just words that we see.  To  
22 uphold what has come before, and as this has been  
23 designated conservation for good reason.

24                  And I would like to refer now to the Ala  
25 Kahakai National Historical Trail Draft Comprehensive

1 Management Plan that has a table for this coastline or  
2 the whole trail of high potential cultural sites and  
3 complexes along the Ala Kahakai.

4           And it names specifically half way down,  
5 Keahole Point to Kaloko ahupua'a, includes small  
6 clusters of permanent houses, associated graves, small  
7 he'iau, temporary shelters including that at 'O'oma  
8 habitation cluster.

9           And it's much more, as people have said,  
10 than just a few sites or a few plants flora, fauna. I  
11 know there are native endemic plants all over the  
12 property.

13           This is an ecosystem, a landscape that needs  
14 to be preserved. And you're the only people that can  
15 do it.

16           And I would like to suggest at this time  
17 that landowners when they purchase land they know  
18 this.

19           If they have other intentions, if they have  
20 intentions of a large complex resort, whatever, that  
21 it should be on already zoned urban land, not trying  
22 to change something afterwards, after the fact that  
23 maybe they have purchased this property at a discount  
24 price, I don't know, because of its current  
25 restrictions.

1           Then hope to turn it around, taking all of  
2   our times and threatening our ecosystems. And then  
3   turning it into something that the law as it is now  
4   does not encompass.

5           And I would like to also have -- I read that  
6   study on the pristine waters here which are one of the  
7   resources that needs protecting. Anchialine ponds,  
8   endemic coastal flora and fauna. I'd also like to  
9   read from Beaches of Hawai'i. Many years ago --

10           CHAIRMAN PILTZ: Ma'am, could you summarize  
11   and finish up quickly.

12           THE WITNESS: -- by John Clark that says,  
13   "Many families find their way to this area preferring  
14   the seclusion of undeveloped surroundings to the  
15   crowds in the developed public beaches."

16           Where we are right now was once similar  
17   land. I was here 30 years ago; brought my sister down  
18   at the coast, the bay, turned around and saw what was  
19   coming: Bulldozers, the anchialine ponds, everything  
20   where we are now was open space that was very special.

21           And I don't come here often because I have  
22   never stepped in these buildings before. I recently  
23   hiked from below Kawaihae, Spencer's down to this  
24   beach which, by the way, the waters had all this  
25   little green algae lookin' stuff in it, lime green.

1 CHAIRMAN PILTZ: Finish up, please.

2 THE WITNESS: And it was one resort after  
3 another.

4 CHAIRMAN PILTZ: Thank you. Questions?

5 MS. BENCK: No questions.

6 MR. GONZALEZ: No questions.

7 MR. YEE: No questions.

8 MR. LIND: No questions.

9 CHAIRMAN PILTZ: Commissioners? Thank you.  
10 Momi Greene followed by Jim Medeiros.

11 MOMI GREENE

12 being first duly sworn to tell the truth, was examined  
13 and testified as follows:

14 THE WITNESS: I do, sir.

15 CHAIRMAN PILTZ: Name and address, please.

16 THE WITNESS: Momi Greene. I live at  
17 73-4366 Pukeawe Street. And this is at Keahole  
18 Agricultural Park.

19 CHAIRMAN PILTZ: Go ahead.

20 THE WITNESS: I am actually from O'ahu from  
21 the ahupua'a of Pu'uhe'emiki in Punalu'u, O'ahu. I  
22 moved up here in 1987 with my husband and my three  
23 children.

24 And I purchased a lease which is 45 years  
25 counting down at Keahole Agricultural Park where I

1 developed a 5-acre plumeria farm.

2               We hand dug 1,000 holes and planted one  
3 thousand plumeria trees. I've maintained this  
4 business over 23 years in the agricultural park.

5               In 23 years I have seen a very large, large  
6 change in the ag lot area. The main change that has  
7 happened is the airport. And the second is the  
8 highway.

9               You can come to my house and sit on my porch  
10 and watch on a 3-day weekend, a good one to choose was  
11 the last Presidents' Day. And I counted over 55  
12 private jets. There were so large a number of private  
13 jets that they had to send them to Maui to park. So  
14 that's a fact right there.

15              We don't have any space left for these kinds  
16 of things. I'm totally against changing something  
17 that is conservation to urban development not only on  
18 this island but any of the other islands in Hawai'i  
19 Nei at this point in time.

20              We need to keep 'O'oma in its present  
21 status. I'm a Hawaiian cultural practitioner. I grow  
22 ipo and I take my ipo down to areas from Wawalo'i to  
23 (inaudible). I don't know if I would be even welcome  
24 there to do that anymore.

25              I take my grandchildren with me and I teach

1    them what I have learned over the last 18 years about  
2    this practice. I don't know if I'm gonna be allowed  
3    to go there, but as far as I'm concerned this is where  
4    the natives, the original inhabitants of these lands  
5    went and did their practices.

6                   And I would like to continue to keep doing  
7    that and passing these traditions, as I think I have  
8    the right to do.

9                   The reason I'm here is not only for myself.  
10   I'm here for my grandchildren and all my  
11   great-grandchildren and other generations to follow.  
12   We're all on the same journey here. Every one of us  
13   take a different road.

14                   I would like to ask everyone to look to  
15   their higher power whomever it may be, Buddha,  
16   Jehovah, Akua and see in your heart if this is really  
17   something that is right.

18                   If it's right is it the right time?  
19   Sometimes in this world we want things and we want  
20   them badly, but it's the wrong place at the wrong  
21   time. Thank you. (Audience applause)

22                   CHAIRMAN PILTZ: Petitioner?

23                   MS. BENCK: No questions.

24                   CHAIRMAN PILTZ: County?

25                   MR. GONZALEZ: No questions.

1 CHAIRMAN PILTZ: State?

2 MR. YEE: No questions.

3 MR. LIND: No questions.

4 CHAIRMAN PILTZ: Thank you. Jim Medeiros  
5 followed by Ross Wilson.

6 JIM MEDEIROS

7 being first duly sworn to tell the truth, was examined  
8 and testified as follows:

9 THE WITNESS: Yes.

10 CHAIRMAN PILTZ: Name and address for the  
11 record.

12 THE WITNESS: Jim Medeiros, 84-5587 Honaunau  
13 Beach Road. And I'm with Protect Keopuka 'Ohana.  
14 Aloha, ladies and gentlemen of the Commission. I'm a  
15 certified descendant of 'O'oma.

16 CHAIRMAN PILTZ: Can you speak a little  
17 louder, please.

18 THE WITNESS: I'm a descendent of 'O'oma.  
19 And I am -- and with that standing I am for open  
20 spaces. And I hope that you Commissioners are for  
21 open spaces. We really need them.

22 I also request consultation, direct  
23 consultation in the process as a descendant with  
24 standing on issues of all of the cultural and  
25 archaeological preservation plans and all of the

1 mitigation plans, the perpetual access plans for  
2 descendants, what's known as at Jeep trail access for  
3 the public, all those concerns.

4           And I'd like to tell you Commissioners for  
5 maybe take into consideration when you see just one  
6 Hawaiian come up here not representing an entire  
7 workforce or different work forces, that they still  
8 represent a lot of people.

9           Myself, I'm involved with organizations and  
10 I can give you numbers. But when you see a Hawaiian  
11 just see a lot of people because they're representing  
12 a lot of families, a lot of future. And they don't  
13 have scientific data at times and numbers, but the  
14 numbers are there for the future.

15           So please take the weight of all the  
16 testimony today from those who might not be from  
17 professional fields. And their emotions are as heavy  
18 on the scale.

19           Please respect all of that and know that we  
20 all are here for the open spaces, for continuing our  
21 culture and traditional practices.

22           We have been involved as a community and as  
23 the people of Kona in many developments, many of these  
24 issues that came before you for decision as you've  
25 heard.

1                   Many decisions that you've made, things  
2 never was followed, things not complete. So the trust  
3 is not totally there.

4                   So we all come out here. This is very far.  
5 This Marriott is far from Honaunau, far from any  
6 people. But they took the time out of their day to  
7 come out here 'cause it was serious for them, was so  
8 important.

9                   And our days are so important to us regular  
10 people out there because it is tough economically.  
11 But we make the sacrifice because it is that  
12 important. So thank you, ladies and gentlemen.  
13 Mahalo. (Audience applause)

14                  CHAIRMAN PILTZ: Jim, thank you.  
15 Petitioner, any questions?

16                  MS. BENCK: No questions.

17                  CHAIRMAN PILTZ: County?

18                  MR. GONZALEZ: No questions.

19                  MR. YEE: No questions.

20                  MR. LIND: No questions.

21                  CHAIRMAN PILTZ: Commissioners? Jim, thank  
22 you very much. Ross Wilson.

23                  THE WITNESS: Present.

24                  CHAIRMAN PILTZ: Do we have any other person  
25 that would like to testify? Okay, go ahead, Ross.

1                   THE WITNESS:  Yes.

2                               ROSS WILSON

3   being first duly sworn to tell the truth, was examined  
4   and testified as follows:

5                   THE WITNESS:  I do.

6                   CHAIRMAN PILTZ:  Aloha, everybody.  I've  
7   been asked by Alika Desha from the Royal Order of  
8   Kamehameha to present his testimony today.  And I have  
9   copies for the Commissioners.

10                  "Aloha.  Normally we do not participate in  
11   matters of private development due to the importance  
12   of us remaining neutral with various families involved  
13   within the ahupua'a, but we feel we must comment on  
14   your planning and design for this Project.

15                  "The protection of our culture and sacred  
16   wahi pana is our number one priority.  The Order of  
17   Kamehameha I was established on April 11, 1865 by His  
18   Majesty King Kamehameha V, Lot Kapuaiwa to honor the  
19   legacy of his grandfather, the unifier of these  
20   islands, Kamehameha the Great.  The Order was  
21   reorganized by Prince Jonah Kuhio Kalaniana'ole in  
22   1902.

23                  "One of the Order's major purposes is to  
24   preserve and perpetuate the ancient customs and  
25   traditions of Hawai'i.  Your handling of the many

1 sensitive issues regarding coastal development of your  
2 Project is commendable.

3               "Having said that, the 'O'oma Beachside  
4 Village vision and design stands as an example for  
5 other developers to follow.

6               "The Royal Order of Kamehameha I Moku O Kona  
7 quietly monitors developments such as this to ensure  
8 that cultural sites are not affected. Your 1,100-foot  
9 shoreline setback distances are refreshing to say the  
10 least.

11              "This is the first of its kind and we  
12 commend your planners and designers in protecting this  
13 area.

14              "We appreciate your untiring efforts and  
15 proper protocols followed in your many meetings with  
16 your cultural advisory group made up of lineal  
17 descendants of 'O'oma ahupua'a.

18              "Oftentimes a difference of opinion occurs.  
19 That's okay. Your passion and sensitivity to hear  
20 their mana'o and to do the right thing for our culture  
21 is greatly appreciated.

22              "Working together is important and  
23 oftentimes overlooked. Mahalo a nui loa for doing the  
24 right thing. O wau i ho no, Ali'i Alika Desha,  
25 Kakaolelo O Kona."

1           CHAIRMAN PILTZ:  Petitioner?

2           MS. BENCK:  No questions.

3           CHAIRMAN PILTZ:  County?

4           MR. GONZALEZ:  No questions.

5           MR. YEE:  No questions.

6           MR. LIND:  No questions.

7           CHAIRMAN PILTZ:  Commissioners?  Thank you,  
8  Ross.

9           THE WITNESS:  Thank you.

10          CHAIRMAN PILTZ:  Is there anyone else in the  
11 audience who would like to testify at this time?  I'd  
12 like to thank all of those that have testified today.  
13 Tomorrow we will be starting with our Petitioner's  
14 hearings.

15          Hopefully we can get through them so we as  
16 Commissioners can hear what the County has to say,  
17 what the State and the Intervenors.  Thank you very  
18 much for coming today.  We're now in recess until  
19 tomorrow morning at 9:00 o'clock.

20          (The proceedings were adjourned at 4:16 p.m.)

21                               --oo00oo--

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C E R T I F I C A T E

I, HOLLY HACKETT, CSR, RPR, in and for the State  
of Hawai'i, do hereby certify;

That I was acting as court reporter in the  
foregoing LUC matter on the 3rd day of March 2010;

That the proceedings were taken down in  
computerized machine shorthand by me and were  
thereafter reduced to print by me;

That the foregoing represents, to the best  
of my ability, a true and correct transcript of the  
proceedings had in the foregoing matter.

DATED: This \_\_\_\_\_ day of \_\_\_\_\_ 2010

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HOLLY M. HACKETT, CSR #130, RPR  
Certified Shorthand Reporter

