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LAND USE COMMISSION

STATE OF HAWAI'I

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TRANSCRIPT OF PROCEEDINGS

The above-entitled matters came on for a Public Hearing at the Molokini Room, Makena Beach and Golf Resort, 5400 Makena Alanui, Makena, Maui, Hawai'i, commencing at 1:00 p.m. on Thursday, November 3, 2011, pursuant to Notice.

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

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A P P E A R A N C E S

COMMISSIONERS:
THOMAS CONTRADES
RONALD HELLER
LISA M. JUDGE
CHAD McDONALD
JAYE NAPUA MAKUA
ERNEST MATSUMURA

EXECUTIVE OFFICER: ORLANDO DAVIDSON
ACTING CHIEF CLERK: RILEY HAKODA
STAFF PLANNERS: BERT SARUWATARI, SCOTT DERRICKSON
DEPUTY ATTORNEY GENERAL: DIANE ERICKSON, ESQ.

AUDIO TECHNICIAN: WALTER MENCHING

Docket No. A11-790

For the Petitioner:	STEVEN LIM, ESQ. JENNIFER BENCK, ESQ. CLAYTON NISHIKAWA, Mgr. MICHAEL MUNEKIYO, Planner
For the County:	MICHAEL HOPPER, ESQ. Deputy Corporation Counsel WILL SPENCE, County DP
For the State:	BRYAN YEE, ESQ. Deputy Attorney General JESSE SOUKI Director Office of Planning

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A P P E A R A N C E S (cont'd)

Docket No. A10-789 A&B Properties, Inc. (Wai'ale)

For the Petitioner: CURTIS TABATA, ESQ.
GRANT CHUN, DAN YASUI

For the County: MICHAEL HOPPER, ESQ.
Deputy Corporation Counsel
WILL SPENCE County DP

For the State: BRYAN YEE, ESQ.
Deputy Attorney General
JESSE SOUKI
Director Office of Planning

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1 PRESIDING OFFICER JUDGE: (1:20) Good
2 afternoon. This is a meeting of the Land Use
3 Commission on November 3rd, 2011 the. First order of
4 business is the adoption of minutes from our meeting
5 of October 20th and 21st. Is there a motion to
6 approve the minutes?

7 COMMISSIONER CONTRADES: So moved.

8 COMMISSIONER McDONALD: Second.

9 PRESIDING OFFICER JUDGE: The motion's been
10 made and seconded. All those in favor say aye.
11 "Aye". Opposed? It's unanimous. Dan, you want to
12 give us our tentative meeting schedule?

13 MR. DAVIDSON: Sure. Commissioners, you
14 have the tentative meeting schedule now, preliminarily
15 blocked in through February. It looks like the
16 December meeting will be a one-day meeting now. We'll
17 be back here in January, January 4th. As always, any
18 questions, conflicts, please contact Riley or myself.
19 Thanks.

20 PRESIDING OFFICER JUDGE: Thank you, Dan.

21 AUDIENCE MEMBER: We can't hear back here.
22 Could you turn up the volume? I'm sorry but we cannot
23 hear.

24 PRESIDING OFFICER JUDGE: Okay. Can you
25 hear us now?

1 AUDIENCE MEMBER: Thank you.

2 PRESIDING OFFICER JUDGE: The next item on
3 the agenda is Docket A11-790 Kula Ridge, LLC. This is
4 oral argument on Docket No. A11-790 Kula Ridge, LLC to
5 consider the reclassification of approximately
6 34.1.56 acres of land from the Agricultural District
7 to the Urban District, and approximately 16.509 acres
8 of land from the Agricultural District to the Rural
9 District at Kula, Maui, Hawai'i for a mix of
10 residential, park and open space uses, TMK Nos.
11 2-3-001:174 and a portion of 023 --

12 Will the parties please identify themselves
13 for the record.

14 MR. LIM: Thank you, Madam Chair. Steve Lim
15 and Jennifer Benck from Carlsmith Ball, attorneys for
16 Petitioner Kula Ridge, LLC. To my right is
17 Mr. Clayton Nishikawa who's the manager of Kula Ridge,
18 LLC. To the back of us is Mr. Michael Munekiyo who's
19 project planner.

20 MR. HOPPER: Michael Hopper from Maui County
21 representing the Department of Planning. Will Spence
22 will be joining me shortly.

23 MR. YEE: Good afternoon. Deputy Attorney
24 General Bryan Yee on behalf of the Office of Planning.
25 With me is the Director, Jesse Souki from the Office

1 Planning.

2 PRESIDING OFFICER JUDGE: Good afternoon.
3 Commissioner Matsumura?

4 COMMISSIONER MATSUMURA: For the record I
5 want to disclose that I see Mr. Lim; I've used
6 Carlsmith Ball on the Big Island and I just want to
7 disclose that for the record.

8 PRESIDING OFFICER JUDGE: Do any of the
9 parties have any trouble with that disclosure?
10 Everyone fine?

11 MR. HOPPER: No, Madam Chair.

12 MR. YEE: No objection from the Office of
13 Planning.

14 PRESIDING OFFICER JUDGE: Thank you. Let me
15 update the record on this docket. The evidentiary
16 portion of the record was closed on August 26, 2011.
17 From August 31st, 2011 to November 2nd, 2011 the
18 Commission received written correspondence from David
19 Gridley, Penny Humphries/consisting of a cover letter
20 and a petition containing 80 signatures; Nelson
21 Nishikawa, Agnes Ariyoshi, Lois Nishikawa, Scott
22 Prather, Skylar Decker, Kula Community Association,
23 Taryn Sato, Erik Miller, Paul Lacno, C. Mike
24 Kido-Pacific Resources Partnership, Wailuku Main
25 Street Association, Inc.

1 On September 9, 2011 the Commission received
2 county of Maui Planning Department's list of exhibits,
3 amendment 5 and Exhibit 14.

4 On September 12, 2011 the Commission
5 received county of Maui Planning Department's list of
6 exhibits, Amendment 6 and Exhibit 15.

7 On September 19, 2011 the Commission
8 received Petitioner's Proposed Findings of Fact,
9 Conclusions of Law, and Decision and Order.

10 On September 28, 2011 the Commission
11 received Petitioner's Second Stipulation to Docket No.
12 All-790 Kula Ridge's Proposed Findings of Fact,
13 Conclusions of Law and Decision and Order signed by
14 Petitioner and the Office of Planning.

15 (Mr. Spence is now present)

16 On September 29, 2011 the Commission
17 received Maui County's Second Stipulation signature
18 page.

19 Let me briefly run over our procedure for
20 the day. First, I will call those individuals
21 desiring to provide public testimony for this docket
22 to identify themselves. All such individuals will be
23 called in turn to our witness box where they will be
24 sworn in prior to their testimony. The Chair will
25 then allow each party no more than 20 minutes to

1 present oral argument in support of its proposed
2 Stipulated Decision and Order.

3 At the conclusion fo oral argument, and
4 after questions from the Commissioners and the answers
5 thereto, the Commission will take this matter under
6 advisement. Are there any questions on our procedure
7 for today?

8 MR. LIM: No questions from Petitioner.

9 MR. HOPPER: No, Madam Chair.

10 MR. YEE: No questions.

11 PRESIDING OFFICER JUDGE: Thank you. Before
12 I call on public witnesses let me remind you that all
13 of the public testimony from previous hearings was
14 transcribed and is already a part of this record. So
15 for you that are testifying again, the Commission
16 would appreciate it if you could confine your
17 testimony to new information.

18 In addition, a 3-minute limit on testimony
19 will be enforced for those that are testifying. Dan
20 has the list I believe. We'll call the first witness.

21 MR. DAVIDSON: First testifier is Rick Adams
22 followed Cole Sturdevant.

23 PRESIDING OFFICER JUDGE: We have a seat
24 right over here. What we're going to do is we're
25 going to ask you to state your name and your address

1 into the microphone, and we'll swear you in and you
2 can begin your testimony. Can you raise your right
3 hand.

4 RICK ADAMS

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

7 THE WITNESS: I do.

8 PRESIDING OFFICER JUDGE: Okay. If you can
9 just state your name and address for the record.

10 THE WITNESS: Rick Adams, Kihei, Hawai'i.

11 PRESIDING OFFICER JUDGE: Please proceed.

12 THE WITNESS: This will be brief. Again, my
13 name is Rick Adams. I'm a contractor here on Maui and
14 been working in the construction field for 40 years
15 here.

16 Really brief: I support the Kula Ridge
17 Project, one, because it's a local developer and I
18 feel far too many of our local families, trades people
19 are sitting home when we can really use this project.

20 Secondly, and more personally, I have two
21 grandchildren who attend Kamehameha School Maui. And
22 they can't afford to rent or live up in the Kula area
23 so they live in Wailuku where they can afford it.

24 My grandson, for instance -- my daughter is
25 a single mother -- he has to catch a bus from Baldwin

1 High School at 6:45 in the morning. And because he's
2 a good student and good athlete he plays sports and
3 attends Kamehameha School. Therefore doesn't return
4 home to the bus stop till 7:00 at night. And I feel
5 there are a lot of families in that situation.

6 And we need -- I've known Clayton for about
7 ten years now -- I know this has been a vision of his
8 to have affordable housing for the local young
9 families. And my concern today is for the local young
10 families for jobs and housing. And that's all I have.

11 PRESIDING OFFICER JUDGE: Thank you. Do the
12 parties have any questions?

13 MR. LIM: No questions.

14 MR. HOPPER: No.

15 MR. YEE: No questions.

16 PRESIDING OFFICER JUDGE: Commissioners?
17 Thank you.

18 MR. DAVIDSON: Cole Sturdevant followed by
19 Steve Sturdevant.

20 PRESIDING OFFICER JUDGE: Good afternoon.
21 Can you raise your right hand.

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

25 THE WITNESS: Yes.

1 PRESIDING OFFICER JUDGE: Can you just state
2 your name and address for the record.

3 THE WITNESS: Cole Sturdevant, Kula.

4 PRESIDING OFFICER JUDGE: Can you talk into
5 the microphone.

6 THE WITNESS: Kula.

7 PRESIDING OFFICER JUDGE: Okay. Go ahead.

8 THE WITNESS: I'm going to read what I wrote
9 out. My name is Cole Sturdevant and I reside at 75
10 Ho'opalu Drive, in Upcountry community. I've lived
11 up in the Upcountry community all my life. Lived in
12 Pukalani, moved up to Kula, went to schools up there.

13 Mr. Chair and committee members, I'm taking
14 time out of work and other responsibilities to show
15 support for this Kula Ridge development. Next month I
16 will be marrying my sweetheart for life and we desire
17 to live Upcountry. I desire that this development
18 will have affordable housing available us to acquire
19 our first home.

20 The convenience of having schools, emergency
21 healthcare, grocery and drug stores make living
22 Upcountry very desirable to us. Owning a home is
23 something that I strive for, providing the utmost best
24 for my family.

25 As you know, in our present economy it is

1 very hard to realize the dream of owning a home. In
2 approving this development you will be able to help me
3 to provide for my family. Sincerely, Cole Sturdevant.

4 PRESIDING OFFICER JUDGE: Any questions?
5 Commissioners? Thank you.

6 MR. DAVIDSON: Steve Sturdevant followed by
7 Scott Loomer.

8 STEVE STURDEVANT
9 being first duly sworn to tell the truth, was examined
10 and testified as follows:

11 THE WITNESS: Yes.

12 PRESIDING OFFICER JUDGE: Thank you. If you
13 can just state your name and address for the record
14 please.

15 THE WITNESS: My name's Steve Sturdevant and
16 I live at 75 Ho'opalu in Kula. I'm here to support
17 the Kula Ridge Development. The need is a given. It
18 seems like the need for affordable housing Upcountry
19 is something that has been a need for a while. And
20 Nishikawa, he's an architect, he's a planner, he's
21 somebody that looks at a project from all different
22 angles.

23 I think that it would be a good thing for a
24 local developer like himself to be -- to have a
25 project going like this for the community.

1 And as you can see my son was here just a
2 few minutes ago. We desire him to live up in that
3 area too, you know. So that's all I have for you.

4 PRESIDING OFFICER JUDGE: Petitioner, any
5 questions for this witness?

6 MR. LIM: No questions.

7 PRESIDING OFFICER JUDGE: State? County?
8 Thank you.

9 MR. DAVIDSON: Scoot Loomer followed by
10 Dutch Akana.

11 PRESIDING OFFICER JUDGE: Good afternoon
12 sir. Can you raise your right hand.

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

16 THE WITNESS: Yes, I do.

17 PRESIDING OFFICER JUDGE: Okay. If you can
18 just state your name and address for the record.

19 THE WITNESS: Scoot Loomer, 322 Inu Place,
20 Kula.

21 PRESIDING OFFICER JUDGE: Thank you.

22 THE WITNESS: I also am here today to
23 support the Kula Ridge Project. I've been a resident
24 of Maui for 27 years, a Kula resident for 16. I'm
25 very familiar with this project's location. I live in

1 the immediate area. And my wife and I drive past this
2 site several times a day.

3 I'm also an owner in Trust Systems Hawai'i,
4 a local manufacturing business supporting the
5 construction industry here on Maui with 15 employees
6 and 42 dependents. I've known Clayton for over 17
7 years. I've worked with him personally on the Kula
8 Ridge Project since 2007.

9 In my business we see a lot of homes, a lot
10 of projects that we have the opportunity to
11 participate on here on the island. And this project
12 is a unique opportunity, in my opinion, for the people
13 who would like to live in Kula but haven't had the
14 opportunity to be able to purchase an affordable home
15 in Kula.

16 These affordable and market priced homes in
17 the area are attractive. My personal feeling, and
18 having seen countless drawings over the years from
19 many architects and homeowners, they're very
20 attractive and affordable homes of high quality and
21 design.

22 In fact, the opportunity for people to
23 purchase these homes is quite unique at this time.
24 Just this morning I checked the real estate listings
25 in the area and I found that only two homes were

1 currently available for \$400,000 or less in the Kula
2 area and only five that are available for under
3 \$500,000.

4 So these 59 homes that are affordably, to be
5 affordable homes in the area would give an opportunity
6 to 59 families to become a part of the Kula community
7 and that would not be possible without this project.
8 So I thank you and the Commission for this opportunity
9 to speak today.

10 PRESIDING OFFICER JUDGE: Thank you.

11 Petitioner, any questions?

12 MR. LIM: No questions.

13 PRESIDING OFFICER JUDGE: County? State?
14 Commissioners? Thank you.

15 THE WITNESS: Thank you.

16 MR. DAVIDSON: Mr. Akana followed by Ron
17 Deppe.

18 PRESIDING OFFICER JUDGE: Good afternoon
19 sir. Can you swear you in?

20 DUTCH AKANA

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

23 THE WITNESS: My names is Dutch Akana. And
24 I live in Wailuku, Hawai'i.

25 PRESIDING OFFICER JUDGE: Do you swear to

1 tell the truth?

2 THE WITNESS: Yes.

3 PRESIDING OFFICER JUDGE: Thank you.

4 THE WITNESS: My name is Dutch Akana. I'm
5 here today to speak on behalf of Kula Ridge Project.
6 Kula Ridge will provide affordable housing that's
7 necessary for our local children to continue to live
8 on Maui. Two of my children have benefited from
9 affordable housing on Maui. They would not have been
10 able to live on Maui otherwise. They are not low
11 income earners as in the misconception of affordable
12 housing.

13 In fact, my daughter has a master's degree
14 but still would not be able to afford a home on Maui
15 with her teaching salary.

16 An affordable home is the only option she
17 had. I strongly support this project and urge all of
18 you to consider the positive impact this project will
19 have on young local police officers, teachers, fire
20 fighters, construction workers, public service workers
21 that will benefit from these proposed homes. Thank
22 you for the opportunity to speak, today.

23 PRESIDING OFFICER JUDGE: Thank you, sir.
24 Petitioner any questions?

25 MR. LIM: No questions.

1 PRESIDING OFFICER JUDGE: County? State?
2 Commissioners? Thank you, sir.

3 MR. DAVIDSON: Ron Deppe followed by Lori
4 Yoshisato.

5 PRESIDING OFFICER JUDGE: Good afternoon,
6 Mr. Deppe. Can I swear you in?

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

10 THE WITNESS: Yes, I do.

11 PRESIDING OFFICER JUDGE: Okay. Can you
12 just state your name and address.

13 THE WITNESS: My name is Ron Deppe. My
14 address is 1660 Kokomo Road, Haiku.

15 PRESIDING OFFICER JUDGE: Thank you.

16 THE WITNESS: I came here today to testify
17 on behalf of the project. The point that I'd like to
18 make is the project affects me as a business person
19 and my employees. But we all keep hearing that. But
20 my point is my daughter was educated on Maui at Maui
21 Community College, is a Registered Nurse and is
22 employed at Maui Memorial Hospital. She actually is
23 working here on Maui to save money to buy a house in
24 Michigan.

25 So she works here, is saving money from here

1 to take there where she can afford to buy a house. So
2 she'll be employed two years in January, and then
3 she's continuing to save to buy a house not here.

4 So she's taking the money she makes in our
5 community to another community where she feels she can
6 afford a house, even though the wages will be less
7 there but she can afford to buy a house. Here she
8 can't.

9 I don't know if this project would change
10 her decision or change what she plans to do, but it's
11 something that you can think about: Why is this
12 happening and what can we do about it? Thank you.

13 PRESIDING OFFICER JUDGE: Thank you. Any
14 questions for this witness?

15 MR. LIM: No questions.

16 PRESIDING OFFICER JUDGE: Commissioners?

17 THE WITNESS: Mahalo.

18 PRESIDING OFFICER JUDGE: Thank you.

19 MR. DAVIDSON: Lori followed by Mike
20 Williams.

21 PRESIDING OFFICER JUDGE: Hi. Good
22 afternoon.

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

1 THE WITNESS: Yes, I do.

2 PRESIDING OFFICER JUDGE: Okay. State your
3 name and address.

4 THE WITNESS: Lori Yoshisato, 44 Niolopua
5 Lane, Wailuku.

6 PRESIDING OFFICER JUDGE: If you could speak
7 into the microphone.

8 THE WITNESS: Okay. Sorry. I support the
9 Kula Ridge Project and Clayton Nishikawa. Here is a
10 man that's raised his family and built a modest
11 architectural firm here on Maui, a firm that has
12 received -- received awards in high-end residential
13 homes, and is now trying to give back to the community
14 by developing affordable, elderly and market priced
15 homes in Kula for Maui's families looking for the
16 opportunity to live in Kula.

17 Affordable housing by no means means
18 inexpensive. These homes require hard working,
19 responsible families with financial means to maybe,
20 just maybe catch a break and own property in Kula, a
21 development that's been designed with Hawaiian style
22 homes, front porches, greenways, walking paths
23 throughout the development, a sign set up to encourage
24 family-oriented communities where families and the
25 elderly can interact with each other, looking out for

1 one another.

2 I think Kula Ridge is a beautiful project
3 that deserves to be a part of Maui and Maui families.
4 Thank you.

5 PRESIDING OFFICER JUDGE: Thank you. any
6 questions for the witness?

7 MR. LIM: No questions.

8 PRESIDING OFFICER JUDGE: Commissioners?
9 Thank you.

10 MR. DAVIDSON: Mike Williams followed by, I
11 think it's Roger Dix.

12 PRESIDING OFFICER JUDGE: Good afternoon.

13 MIKE WILLIAMS

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

16 THE WITNESS: Yes.

17 PRESIDING OFFICER JUDGE: Thank you. Just
18 state your name and address.

19 THE WITNESS: My name is Mike Williams. I
20 live in Wailuku.

21 PRESIDING OFFICER JUDGE: Thank you.

22 THE WITNESS: My name is Mike Williams. And
23 I'm in favor of the Kula Ridge Project. My wife Karen
24 and I are the proud parents of three, fifth generation
25 Maui-born sons. They are all currently serving our

1 country in the United States Army. After serving
2 numerous deployments overseas our sons would like to
3 return to their birthplace, to live and raise their
4 own family.

5 Finding an affordable home in Kula area is
6 currently a long shot for them. Mr. Nishikawa has
7 indicated his desire to give preference on the
8 affordable homes for Maui's teachers, police officers,
9 fire fighters, nurses, and returning military. This
10 would be a home that my sons and others of Maui's
11 local population could finally afford in Kula.
12 Mr. Nishikawa has worked honestly in addressing the
13 numerous negative comments on his project.

14 Please allow him to proceed so that my sons
15 and other local people who want to live in the Kula
16 area can afford to do so. Mahalo.

17 PRESIDING OFFICER JUDGE: Thank you, sir.
18 Are there any questions from the parties?

19 MR. LIM: No questions.

20 PRESIDING OFFICER JUDGE: Commissioners?
21 Thank you, sir.

22 MR. DAVIDSON: Roger followed by Dustin
23 Heiner.

24 PRESIDING OFFICER JUDGE: Good afternoon.

25 xx

1 Kula Ridge will give our older Maui
2 residents the opportunity to have an affordable home
3 of their own in this beautiful area of Maui.

4 Kula Ridge has won the approval of the Maui
5 County Council, the Maui Department of Planning, the
6 Mayor, the Hawai'i State Office of Planning. Please
7 approve Kula Ridge. I believe that you will be proud
8 that you did. Thank you.

9 PRESIDING OFFICER JUDGE: Thank you. Any
10 questions for the witness?

11 MR. LIM: No questions.

12 MR. DAVIDSON: Dustin followed by Priscilla
13 Mickell.

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

17 THE WITNESS: I do.

18 PRESIDING OFFICER JUDGE: Thank you.

19 THE WITNESS: My name is Dustin Heiner. I
20 live in Kihei. I feel that Kula Ridge Project is an
21 excellent idea. It is a perfect opportunity to help
22 generate more jobs for the Maui workforce, while also
23 help boosting income for the Kula and Upcountry areas
24 by providing more affordable housing for those who not
25 only need it but actually deserve it.

1 I'm in favor of the Kula Ridge Project
2 moving forward in a positive way. And the county of
3 Maui has my full support in getting this project off
4 the ground. As several employees that reside in the
5 Kula area and it would be great to see them have the
6 opportunity to be able to purchase a new home in the
7 land that they were born and raised on. Thank you.

8 PRESIDING OFFICER JUDGE: Any questions for
9 this witness?

10 MR. LIM: No questions.

11 PRESIDING OFFICER JUDGE: Thank you.

12 MR. DAVIDSON: Priscilla followed by Michael
13 Yap.

14 PRESIDING OFFICER JUDGE: Good afternoon.

15 PRISCILLA MIKELL

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

18 THE WITNESS: I do.

19 PRESIDING OFFICER JUDGE: Thank you.

20 THE WITNESS: Aloha, Commissioners.

21 PRESIDING OFFICER JUDGE: Ma'am, could you
22 state your name and address?

23 THE WITNESS: I will. I am Priscilla
24 Cabanilla Mikell, a resident of Kula at 364, Na'ala
25 Road. And I'm very pleased to be able to speak in

1 support of Kula Ridge affordable housing project
2 today.

3 Even as a young child growing up in Lahaina
4 I dreamed of one day living in Kula. Approximately 25
5 years ago my husband and I were blessed with the good
6 fortune to make that dream come true. We were told of
7 a property in Kula that was for sale within a price
8 range that we could even consider attempting to
9 purchase.

10 It was an opportunity that was totally
11 unexpected at the time since we were just a young
12 couple struggling to raise two children. It was a
13 dream come true.

14 Today I'm here to advocate for other
15 Mauians, young and old, who also desire to live in
16 beautiful and healthy Kula. The Kula Ridge Project
17 can provide the opportunity for other working class
18 Mauians to afford owning homes in Kula. These Kula
19 homeowner dreamers are the people who make up our
20 island's workforce including many who spend at least
21 an hour each day commuting to and from their Upcountry
22 jobs.

23 These are the police officers, the fire
24 fighters from the Kula and Makawao fire stations,
25 teachers from the over six private and public schools

1 in the Makawao, Pukalani and Kula Districts; the
2 nurses and other personnel who work at Kula Hospital
3 and employees of numerous and other businesses that
4 are continuing to grow in the Upcountry area.

5 Homeownership in the Kula Ridge affordable
6 project will help improve the quality of life in these
7 families by decreasing their gas costs and the time
8 spent on the road commuting to and from work, allowing
9 them more time with their families, something that's
10 so lacking in today's society.

11 There are also senior citizens who are
12 long-time Kula residents desiring to live out the rest
13 of their lives in Kula, others who grew up in Kula and
14 would like to return home to Kula, and enumerable
15 Mauians from other areas of the island who, just like
16 me, have a dream to call Kula home.

17 These Kula homeowner dreamers make up the
18 fabric of our Maui Island community deserving of the
19 opportunity to realize their dream of homeownership in
20 Kula.

21 The Kula Ridge affordable housing project
22 will provide an opportunity to realize this dream for
23 at least 59, only 59 of hundreds of Mauians that
24 desire homeownership in Kula.

25 I strongly believe that working class

1 Mauians deserve the opportunity for homeownership such
2 that I took vacation from work today to be able to be
3 here before you.

4 So I strongly and wholeheartedly encourage a
5 favorable consideration of the Kula Ridge affordable
6 housing project providing opportunities for deserving
7 Mauians, young and old, to realize their dream of
8 homeownership in Kula. Mahalo.

9 PRESIDING OFFICER JUDGE: Thank you. Any
10 questions for this witness?

11 MR. LIM: No questions.

12 THE WITNESS: Thank you very much again.

13 MR. DAVIDSON: Michael followed by Joey
14 Cremer.

15 MICHAEL YAP, Jr.
16 being first duly sworn to tell the truth, was examined
17 and testified as follows:

18 THE WITNESS: I do.

19 PRESIDING OFFICER JUDGE: Thank you. State
20 your name and address, please.

21 THE WITNESS: My name a Mike Yap, Jr. And I
22 reside at 284 Makua Street in Wailuku. I'm here, once
23 again, to testify in favor of the Kula Ridge Project
24 because of the job situation in Maui, especially Maui
25 for the whole economy. I think it would generate a lot

1 THE WITNESS: My name is Joey Cremer. I
2 live at 391 Kulalani Drive in Kula. I'm a lifelong
3 Kula resident. My older brothers were actually born
4 in Kula Hospital. I was born in Maui Memorial because
5 I'm a little younger.

6 My parents lived in Kula since 1946 after
7 the tidal wave wiped out the hospital that my mom was
8 a tuberculosis patient at. And that's how they
9 arrived at Kula. My dad followed her.

10 It wasn't their first choice to live in
11 Kula, but they loved it. They lived there the rest of
12 my dad's life. He was a carnation farmer. So they
13 didn't have any place that, any big land or anything
14 that they had from inheritance. They had to buy a
15 small, little tiny thing 'cause my dad lost the leases
16 on the carnation farms and he cleaned yards the rest
17 of his life.

18 Someone made a subdivision and it was
19 affordable for him. I don't know what their motive
20 was, whether it was to try to make money or anything
21 like that, but it worked for him. It was a very
22 humble place that he bought.

23 And I got that opportunity too. So I'm a
24 father of four, three adult children, and a
25 grandfather of one year-old boy. I have my son here.

1 That's the difference with my testimony today is that
2 I brought my son here to testify, because I want him
3 to have the opportunity that my mother had to have --
4 well, three of the children is gone because they
5 couldn't find anything that they could afford. Just
6 my brother and I could find something that we could
7 afford in Kula.

8 And my mom is 83 years old and she has her
9 great-grandchild that she can play with. And we're
10 within two blocks of my mom, was able to find
11 something. It was an opportunity that we had. My
12 brother and I pooled together to buy a place. My son
13 is living with me right now.

14 But my daughter-in-law said, "Dad, I can't
15 live with you forever. We want something of our own
16 that we can call ours."

17 And that's why I'm here and I took off from
18 work. And I urged my son to take off from work so you
19 can hear him. And that's what it's about. You know,
20 we're born here and we want to die there in Kula. We
21 love it. We want to have the opportunity to have our
22 family, our 'ohana around us.

23 My mom is half Hawaiian. My grandma's pure
24 Hawaiian. They had the opportunity to get Papakala
25 Hawaiian Homes because that was available to them.

1 But they loved Kula too much and they decided to
2 struggle to buy something up there because that's what
3 they wanted so much. Thank you.

4 PRESIDING OFFICER JUDGE: Thank you. Any
5 questions for this witness?

6 MR. LIM: No questions.

7 PRESIDING OFFICER JUDGE: Thank you.

8 MR. DAVIDSON: Clivan followed by Gil
9 Tuquero.

10 PRESIDING OFFICER JUDGE: Good afternoon.

11 CLIVAN CREMER

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

14 THE WITNESS: Yes.

15 PRESIDING OFFICER JUDGE: Okay. Just state
16 your name and address, please.

17 THE WITNESS: My name is Clivan Cremer. Our
18 address is 391 Kulalani Drive. I live with my
19 parents. I'm the eldest of four siblings. All four
20 of us attended Kamehameha Schools. The baby is still
21 in there. We are fortunate to live in Kula. And it
22 was a very close commute to school.

23 Growing up in Kula was the best thing.
24 Growing up I never knew what A/C was in houses until I
25 went to family's house downtown. It was always just

1 cool up there.

2 My family's been here forever. I -- my dad
3 told you the history of his family. My mom's family
4 originated in Kipahulu and started migrating out. And
5 my mom is almost full Hawaiian.

6 And she, like, we are able to have an
7 opportunity to have Hawaiian Homes. But because we're
8 so young, and to get on that list we'd probably be
9 around 70 before we are actually able to afford a
10 house over there.

11 So this Kula Ridge Project has affordable
12 housing that would make it easier for us to one day
13 afford a house up in Kula where we grew up. And maybe
14 me and my wife, we won't have as much arguments about
15 living inside of our parents house at home with all
16 four siblings and my son that just turned 1 on Sunday.

17 Thank you for this opportunity for Clayton
18 trying to make something for us. And I support him.
19 Thank you for letting me speak.

20 PRESIDING OFFICER JUDGE: Thank you. Any
21 questions for this witness?

22 MR. LIM: No questions.

23 PRESIDING OFFICER JUDGE: Thank you, sir.

24 MR. DAVIDSON: Gil Tuquero... (not present)
25 followed by Juno Comilay.

1 PRESIDING OFFICER JUDGE: Good afternoon,
2 sir.

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

6 THE WITNESS: I do.

7 PRESIDING OFFICER JUDGE: Thank you. Just
8 state your name and address.

9 THE WITNESS: My name is Juno Comilay. I'm
10 at 33 Ku'ukama in Kahului. I've been an Upcountry
11 resident for 15 years until 2006 when my landlord
12 wanted his house back because it was too hot in
13 Kahului.

14 Anyway, you know, been trying to look for a
15 rental. Everything was 1800 or more. It was tough.
16 So I signed up for affordable homes in Waikapu. I was
17 No. 450 something. I never left go. I found the
18 girl of my dreams in late 2006. And she wanted to
19 settle down and start a family, buy a house.

20 So we decided -- she asked me, "We gotta
21 practice pay mortgage." So I said, "Okay. How much?"
22 She said "3,000." Okay. But it was tough, you know.

23 Then in 2008 my brother, a mortgage lender
24 in Seattle, said, "If you don't buy now it's going to
25 be hard for you to borrow." So luckily we found a

1 house in Kahului, 460,000. It was well over 2,000 a
2 month.

3 The quality of life and the struggles we go
4 through, our children just, you know, they should get
5 more. They should have a better quality of life.

6 I work six days a week. My wife has
7 inconsistent days off, different shifts. Our quality
8 time with the kids is Sundays and breakfast and
9 cartoons and then we gotta do chores and clean dogs,
10 clean yard.

11 So it's no fun, you know, paying market
12 price where affordable homes is, you can give your
13 children a better quality of life.

14 My daughter just finished liberal arts. She
15 wants to be an architect, go to Oregon. She just got
16 married. Husband is in Afghanistan. Hopefully -- she
17 wants to be an architect and that has good designs on
18 her mind, self-sufficient hopes that offer aquaponic,
19 hydroponics, renewable energy. A place like Kula
20 would be ideal for designs like this.

21 Hopefully if she ever gets through school
22 and completes it there will be affordable homes for
23 her to buy because college is expensive.

24 I got a call last month from my other
25 daughter. She told me that -- she had called me to

1 apologize that she's not going to be coming home.
2 They found a place in Mississippi for \$165,000. I'm
3 happy for her because she doesn't have to go through
4 the stresses that we go through paying a high
5 mortgage, but sad that I'm not going to see them grow
6 up.

7 Anyway, we are taught to be compassionate
8 and sacrifice and make adjustments so people can have
9 the better quality of life to live. Affordable homes
10 can do that. So all I want to see is these jobs come
11 up.

12 There's so many places downtown by Salvation
13 Army you swear they were having fun with their family
14 and now they're walking around downtown with a
15 distressed look and a suitcase. Where'd their
16 families go? Everybody's still in jeopardy on losing
17 their homes.

18 So this is a much needed project. And I
19 think it's the right time if we do it now. Please
20 kokua, give aloha. Thank you.

21 PRESIDING OFFICER JUDGE: Thank you. Any
22 questions for this witness?

23 MR. LIM: No questions.

24 PRESIDING OFFICER JUDGE: Thank you, sir.

25 MR. DAVIDSON: Ed Lamb followed by Joey

1 Cresino.

2 ED LAMB

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

5 THE WITNESS: Yes.

6 PRESIDING OFFICER JUDGE: Thank you.

7 THE WITNESS: My name is Ed Lamb. I live in
8 Kahului. I'm here to support the project. With the
9 economy the way it is, creating jobs is number one,
10 you know. You would think creating jobs is a good
11 thing.

12 As well as other people have stated, with
13 the housing situation people being able to live here
14 and not move away it's just as important. They could
15 pass that house down for generation to generation to
16 generation and accomplish something. So to me it just
17 all makes sense. Thank you.

18 PRESIDING OFFICER JUDGE: Thank you. Any
19 questions?

20 MR. LIM: No questions.

21 PRESIDING OFFICER JUDGE: Thank you, sir.
22 We are going to have one more witness, then we are
23 going to take a five minute break. So you can come,
24 sir.

25 xx

1 JOEY CRESINO

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

4 THE WITNESS: Yes, I do.

5 PRESIDING OFFICER JUDGE: Thank you.

6 THE WITNESS: Hi. My name is Joey Cresino.
7 I'm in support of Kula Ridge to provide jobs --

8 PRESIDING OFFICER JUDGE: We need your
9 address too.

10 THE WITNESS: Oh. Wailuku. I'm in support
11 of the Kula Project to provide jobs for local people,
12 construction workers carpenters, electricians,
13 painters, landscapers, some of them -- in fact a lot
14 of them are out of jobs right now. If you approve
15 this project a lot of them will be back to work
16 stabling the economy again.

17 I'm a single guy, try look for house but
18 affordable housing would be the way to go for me. So
19 thank you if you approve this project.

20 PRESIDING OFFICER JUDGE: Any questions for
21 the witness?

22 MR. LIM: No questions.

23 PRESIDING OFFICER JUDGE: Okay. Thank you.
24 We're just going to take a five minute break.

25 (Recess was held. 1:50)

1 MR. DAVIDSON: Okay. Teresa Winterfield
2 followed by Cheryl Zarro.

3 PRESIDING OFFICER JUDGE: Back on the
4 record.

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

8 THE WITNESS: I do.

9 PRESIDING OFFICER JUDGE: Okay. State your
10 name and address.

11 THE WITNESS: My name is Teresa Winterfeld.

12 PRESIDING OFFICER JUDGE: Could I ask you to
13 speak into the microphone. People have said in the
14 back they can't hear you. So if you'd just get close
15 to it the closer you get the louder it gets in the
16 back. Thank you.

17 THE WITNESS: Okay. My name is Teresa
18 Winterfeld. I live in Wailuku. I've been working --
19 I've been working with Clayton for on and off seven
20 years. I know his passion. I know his integrity. I
21 know that everything that he has done has been in the
22 light. He has not done anything below board. He has
23 not done anything other than what people have asked
24 him to do.

25 He's been just busting everything he has to

1 come up with ideas and solutions to every problem or
2 every concern or every little incident that people
3 have put at him. And I think he's done a very, very
4 good job.

5 Kula Ridge is a beautiful area. It should
6 be open to everybody, not just certain people. It's
7 too bad the way that Maui County is, and it's so
8 segregated to some degree.

9 But Kula is beautiful. I personally could
10 not afford to live up there. I live, like I said, in
11 Wailuku and it's beautiful there too.

12 But the county of Maui I believe they're in
13 support of this. I haven't heard any opposition from
14 them. And Clayton is an upstanding gentleman. And
15 he's doing this for the community. He's not doing it
16 for himself. He has a vision. He has a dream.

17 And he just wants to help the people of Maui
18 fulfill their dreams and his children too. And I wish
19 you would prayerfully consider this and approve it.
20 Thank you.

21 PRESIDING OFFICER JUDGE: Any questions for
22 this witness?

23 MR. LIM: No questions.

24 PRESIDING OFFICER JUDGE: Thank you.

25 MR. DAVIDSON: Cheryl followed by Gene

1 Zarro.

2 CHERYL ZARRO

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

5 THE WITNESS: I do.

6 PRESIDING OFFICER JUDGE: Thank you.

7 THE WITNESS: I'm Cheryl Zarro. I live in
8 Pukalani and I work in Kihei, Kihei Charter School. I
9 am in support of Kula Ridge, I have been from the
10 first that I saw the project. I've known Clayton for
11 years and served as the KCC president, Kihei Community
12 Association, not Kula. And at that time the whole
13 thing was Smart Growth and it was something where you
14 integrate the economic people so you have someplace
15 that's really a community.

16 And I think right now when you look at Wall
17 Street and what's going on currently it's that major
18 divide. And I think there's a shift that's happening
19 in the generations that would be buying these homes.

20 And this represents that shift where you
21 have that combined housing and you have a community of
22 people. I think Clayton really got that when he put
23 this design together for Kula Ridge. So I am in
24 support.

25 And the only other thing I have to say, and

1 I don't want to repeat myself and stay to the rules
2 since I did testify before, my 16 year-old son saw an
3 article that was an editorial on Kula Ridge. And he
4 said, "How can somebody print something that's not
5 really true?" He's reading it saying, "This doesn't
6 sound like what I've seen," that they're not caring
7 and no greenways or things like that. I said, "It's
8 an editorial. People have their opinion and they can
9 say what they want."

10 Here's a 16 year-old that wants to maybe
11 become a police officer. He's even saying, "Well, I
12 don't think I could ever afford to actually stay."
13 And we have lost three to the mainland, three children
14 moving away, our adult kids.

15 We have two that are adult that are here,
16 one that's still in the home. But I do see the next
17 generation moving away.

18 And I see it as our teachers -- we had one
19 leave in September because of housing, left us after
20 just a month and-a-half of working and went right to
21 the mainland. Said it's because of the housing. So
22 that was just point blank. That was her reason for
23 going.

24 So I think it's important. Think it's an
25 important project and I do support it. Thank you.

1 PRESIDING OFFICER JUDGE: Any questions for
2 this witness?

3 MR. LIM: No questions.

4 PRESIDING OFFICER JUDGE: Thank you.

5 MR. DAVIDSON: Gene followed by Warren
6 Orikasa.

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

10 THE WITNESS: Yes.

11 PRESIDING OFFICER JUDGE: Thank you.

12 THE WITNESS: Hi. My name's Gene Zarro. I
13 live in Pukalani with Cheryl. And I want to bring up
14 a couple other points that haven't been brought up
15 yet. This project does a number of things regarding
16 community benefit.

17 First of all, Clayton, who we've known for a
18 long time and have appreciated watching his children
19 grow up and his family being together, Clayton is
20 going to develop a water source.

21 The county has been ineffective in
22 developing water source Upcountry in Kula and has
23 relied on private developers over the past to try and
24 help out.

25 When Clayton develops this water source, all

1 the excess water that he will not be using, and it is
2 considerable for his development, will definitely go
3 to the water list, people who have been waiting years
4 and years and years for water meters. That is a
5 community benefit that has not been brought up today.

6 Second thing is we live in Pukalani but we
7 work in Kihei. This summer -- whenever those heavy
8 rains were in Kihei, we saw flooding in Kihei that
9 came down the hill from Upcountry. That problem will
10 not be solved until we start engineering things up on
11 the upper slopes.

12 Every time there's a sensible community
13 design that is a Smart Growth that does contribute
14 positively to the engineering and the water flow, you
15 will create benefits downstream.

16 And I do think that that is an important
17 thing to note that we can create some water diversion
18 up there at the upper levels that will contribute to a
19 solution. It's not the total solution, but we have to
20 start applying small solutions, small steps to solve
21 big problems. And this is another one of those.
22 Another important aspect of community that's going to
23 come out of this development --

24 MR. DAVIDSON: Thirty seconds.

25 THE WITNESS: Sure -- is the diversity that

1 will, that is needed in a real estate market and in a
2 community. People, young people, people who need
3 affordable housing, they buy these affordable housing.
4 Some of them use it for startups.

5 By that I mean they're going to buy this
6 house and hopefully they're going to live in it for a
7 while and then maybe upgrade as their family gets
8 bigger. And it creates a real estate economy. This
9 is currently missing in Kula.

10 So for those reasons and many others I'm a
11 strong supporter of the Kula Ridge Development. Thank
12 you for your time.

13 PRESIDING OFFICER JUDGE: Any questions for
14 this witness?

15 MR. LIM: No questions.

16 PRESIDING OFFICER JUDGE: Thank you, sir.

17 MR. DAVIDSON: Warren followed by Dave
18 Geason.

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

22 THE WITNESS: Absolutely.

23 PRESIDING OFFICER JUDGE: Thank you, sir.

24 THE WITNESS: Chairman, Commissioners, my
25 name is Warren Orikasa. I reside in Waikapu. About 40

1 years ago when I came back to Maui I was this real
2 smart guy from Oahu being exposed to the city. So I
3 came back home and we got involved with the community
4 association. And there was a subdivision getting
5 ready to be put up. And I thought, "No way. I grew
6 up with all these cane fields, I don't want a
7 subdivision that's gonna destroy the whole flavor of
8 my town."

9 You know what happened? Got all these old
10 guys around. All the old-timers came up and said,
11 "Warren, you're so selfish. What you care about what
12 you had? Why don't you care about what the next
13 people gonna have? Don't be selfish." That really
14 clocked me big time. I thought I was smart. Obviously
15 I was really wrong.

16 Then a few years later there was another
17 subdivision coming up. And interestingly the people
18 from that first subdivision that we said okay to, came
19 up and said, "We don't want all this traffic. We get
20 traffic lines. We get too much congestion on the
21 roads."

22 Gosh, they have had all these million
23 reasons why it was no good, until they were reminded
24 that if it were not for the charity, the openness, or
25 the acceptance of the people who already were there

1 they would not be there. The next subdivision got
2 approved.

3 All that goes to tell you this story is that
4 so here I'm 40 years later when I look back at my town
5 which was small, it's now two, three times larger than
6 what it used to be when I was growing up.

7 The question I asked myself is: Did we do
8 the right thing by saying yes to others so they would
9 have an opportunity? Or would we have been better
10 served by saying no, I want that fallow cane field to
11 stay fallow?

12 And I think the same question is kind of put
13 forth to this Commission now. You have this issue
14 where in five years or ten years when you turn around,
15 will you look back and say, "We did a good job, man.
16 That place is still undeveloped"? Or will you look
17 back and say, "Wow, look at all those families.
18 They're all community. What an opportunity we
19 provided"?

20 I encourage your approval of this
21 subdivision. Thank you.

22 PRESIDING OFFICER JUDGE: Thank you. Any
23 questions for the witness?

24 MR. LIM: No questions.

25 PRESIDING OFFICER JUDGE: Thank you, sir.

1 MR. DAVIDSON: Dave followed by Penny
2 Humphries.

3 PRESIDING OFFICER JUDGE: Good afternoon.

4 DAVE GLEASON

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

7 THE WITNESS: I do.

8 PRESIDING OFFICER JUDGE: Thank you.

9 THE WITNESS: My name is Dave Gleason. I
10 live on 437 Kolohala Drive, which is just adjacent to
11 the Kula Ridge Project. Thank you for the opportunity
12 to testify today. Actually my wife was going to come
13 in and ended up getting tied up with work and she
14 couldn't make it, as well as my daughter who is
15 working as well. It's sometimes tough to get off, but
16 I somehow did.

17 In any case, we live on Kolohala Drive. I
18 have a mother-in-law that lives in Kalama Heights.
19 She's recently moved to Kalama Heights, well, about
20 two years ago about. She's 86 years old. My wife
21 travels down probably three times a week on an average
22 to see her mom and to try to take care of her. She
23 cherishes her independence otherwise she'd be in our
24 house.

25 But Kalama Heights is a great, great spot,

1 but at the same time if we had something around the
2 corner for senior living it would be fabulous. And I
3 think that would be shared by many, many people
4 Upcountry. There really isn't that opportunity. So
5 having that opportunity would be very good. And I'm
6 sure that Rina would be in a place that would be
7 around the corner if possible still having her
8 independence. So that's the first I'd like to
9 suggest. And hopefully it's something that we could
10 integrate in Kula.

11 In addition, my daughter, who's in her 30's
12 now, has lived most of her life in Kula. She attended
13 Kula School. She has two kids, Travis who's gonna be
14 in Kula School next year and Conner who's in first
15 grade.

16 The environment and academic standards of
17 Kula Elementary School are exactly what we like. They
18 are very, very good. My daughter, again, is proof of
19 that. She's done very well academically and doesn't
20 want to leave Kula.

21 She and her husband are looking for a home.
22 As we've heard many times today there aren't any to
23 get. So affordable housing is something that we
24 would promote for the younger group. And it's
25 something that I think Kula Ridge would provide. So

1 we would certainly ask for your support of the
2 project. Thank you very much.

3 PRESIDING OFFICER JUDGE: Any questions for
4 this witness?

5 MR. LIM: No questions.

6 PRESIDING OFFICER JUDGE: Thank you.

7 MR. DAVIDSON: Penny followed by Bryan
8 Lustig-Thurman.

9 PRESIDING OFFICER JUDGE: Good afternoon.

10 PENNY HUMPHRIES

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

13 THE WITNESS: I do.

14 PRESIDING OFFICER JUDGE: Thank you.

15 THE WITNESS: This stipulation document --

16 PRESIDING OFFICER JUDGE: Could you please
17 state your name and address.

18 THE WITNESS: Penny Humphries, 51 Kalihi
19 Place, Kula 96790. This stipulation document makes no
20 mention of the community and neighborhood input, thus
21 is disrespectful and trivializes the concerns
22 presented during prior testimony.

23 Kula Ridge would negatively impact every
24 fiber of the Upcountry community. You've received an
25 additional 80 signatures and two cover letters since

1 the August 25th testimony, for a total of 702
2 signatures. Take note there is huge opposition to
3 this high density urbanization project.

4 Upcountry Kula is country, not city. Deny
5 this developer from riding in and making his buck on
6 the backs of the taxpayers and community in the form
7 of exemptions from amending the General and Community
8 Plans for development and subdivision approval;
9 exemptions from impact fees for traffic from roadway
10 improvements, fire, electrical, plumbing, building
11 permits, demolition and inspection fees, and
12 environmental protection fees for grubbing, grading,
13 excavation and inspection all granted with a fast
14 track approval.

15 Did I say fast track? A ten-year buildout
16 for the infrastructure would be hilarious if this
17 whole mess wasn't so profoundly serious and flawed.
18 And need I mention the water issue again? Reject this
19 stipulation document and reject Kula Ridge outright.
20 Thank you.

21 PRESIDING OFFICER JUDGE: Are there any
22 questions for this witness?

23 MR. LIM: No questions.

24 PRESIDING OFFICER JUDGE: Thank you.

25 MR. DAVIDSON: Bryan followed by Pastora

1 Monces.

2 BRYAN THURMAN

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

5 THE WITNESS: Yes, I do.

6 PRESIDING OFFICER JUDGE: Okay.

7 THE WITNESS: Bryan Thurman, Kula, Hawai'i.
8 I'm in support of the Kula Ridge. Born and raised in
9 Kula. And I would like to raise my family and
10 continue to live in Kula. This gives me an
11 opportunity to maybe buy an affordable house which I
12 wouldn't otherwise. Thank you very much.

13 PRESIDING OFFICER JUDGE: Thank you. Any
14 questions for this witness?

15 MR. LIM: No questions.

16 THE WITNESS: Thank you, sir.

17 MR. DAVIDSON: Pastora followed by Ron
18 Montgomery.

19 THE WITNESS: I thank the good Lord for
20 being here. I got into an automobile accident on
21 October the 8th. My car ran into a truck. And it's a
22 good thing I didn't have no broken bones, no cuts.

23 PRESIDING OFFICER JUDGE: Ma'am --

24 THE WITNESS: But I'm here to support Kula
25 Ridge. The reason why I'm here is because our economy

1 is not that good yet. I feel that if all of you would
2 agree to have Kula Ridge Project go through it will
3 help our economy a little bit.

4 We cannot depend on the president. We
5 cannot depend on the banks. It's people like you and
6 you that has to do it. You are all Americans of
7 different races. And it's only you can do it because
8 with Kula Ridge the carpenters will have earning
9 power.

10 The business people will be boost by this
11 project, and the stores will boost their sales when
12 people have earning power to buy.

13 And the materials there are sold to build up
14 Kula Ridge will bring income into people's pockets who
15 are selling the lumber and the other things that are
16 needed to build Kula Ridge.

17 And you do not only help those people, but
18 also help those people who are farmers and who have
19 piggeries and who have cows that could be sold to
20 these people who earn money from this project. That's
21 how the economy can be made better little by little by
22 people like you and you and you.

23 We are all Americans of different races but
24 it's our job to take care of one another. In spite of
25 what the problems are, people need homes. People

1 cannot buy expensive homes. People cannot rent
2 expensive homes, not with the kind of pay that they
3 get from their employers because their employers
4 cannot afford to pay their workers more.

5 MR. DAVIDSON: Excuse me. Could you
6 conclude.

7 THE WITNESS: Yes. So Kula Ridge is just a
8 little bite to build our economy. But it's something
9 to build up Maui's economy.

10 PRESIDING OFFICER JUDGE: Thank you, ma'am.
11 Before you leave -- before you leave, ma'am, could you
12 just tell us your name and where you live.

13 THE WITNESS: My name is Pastora Monces. I
14 grew up among the cane fields (laughing) in Paia and
15 now I live in Kahului. Thanks to A&B Company for
16 making it possible for me to buy my own home in
17 Kahului. That's why it takes the community to give
18 people affordable homes. You folks can do it and you
19 can do it.

20 PRESIDING OFFICER JUDGE: Thank you.

21 THE WITNESS: I don't care what the problems
22 are. You guys can do it. (audience applause,
23 whistles)

24 MR. DAVIDSON: Ron Montgomery followed by
25 Morgan Gerdel.

1 PRESIDING OFFICER JUDGE: Good afternoon.

2 RON MONTGOMERY

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

5 THE WITNESS: I do.

6 PRESIDING OFFICER JUDGE: Thank you.

7 THE WITNESS: My name is Ron Montgomery. and
8 I live at 68 Ka Drive in Kula. I'm the president of
9 the Kula Community Association. As you have read in
10 my letter of October the 23rd the KCA Board supports
11 senior and affordable housing.

12 The KCA Board is also aware that the only
13 land use classification that supports this type of
14 housing is the Urban classification. It would seem
15 logical that if the KCA Board supports this type of
16 housing, then we must also support the application to
17 reclassify the land for Kula Ridge to Urban.

18 However, Urban zoning includes housing
19 densities from 7.26 dwellings per acre to 4.36
20 dwellings per acre. Thus, the question becomes
21 whether the density requested in this application is
22 appropriate for Waiakoa.

23 The KCA's Board position is that it is not
24 appropriate. The detailed reasoning for this is
25 included in my letter of October the 23rd,

1 respectfully disagreeing with the Applicant's own
2 interpretation of compliance to the State LUC's
3 standards in their docket.

4 Without going through every detail I would
5 ask the Commissioners to pay particular attention to
6 your land use standards for the Urban Boundary
7 Amendment concerning proximity to city-like land uses,
8 contiguity to existing urban areas and scattered spot
9 urban development.

10 In addition to these contrasts to LUC
11 standards, I offer the following: 1. Dave Taylor,
12 director of Maui's Department of Water Supply
13 presented a map this week showing requests for water
14 meters with an overlay of the designated growth areas
15 per the Maui Island Plan.

16 This proposed boundary amendment represents
17 growth in an area not identified for this level of
18 growth and currently classified as rural in the Maui
19 Island Plan.

20 2. Traditionally an applicant applies for
21 urban designation to the LUC first and then to the
22 county for particular and appropriate type of zoning.
23 The Applicant reversed this procedure strategically
24 applying right before our last elections.

25 The KCA has concerns that the State Land Use

1 Commission is endorsing the County's decision without
2 assessing its merit. The KCA Board also submitted a
3 list of conditions based on these concerns and
4 considerable input from our community. The submission
5 of conditions should not be interpreted as tacit
6 acceptance of the proposal.

7 If affordable housing is to be supported in
8 this area by the community and the KCA Board, it needs
9 to be of a design more in harmony that's called for in
10 the Community Plan that is low density rural
11 residential uses. Thank you.

12 PRESIDING OFFICER JUDGE: Thank you. Any
13 questions for this witness? (Applause)

14 MR. LIM: No questions.

15 PRESIDING OFFICER JUDGE: Thank you, sir.

16 THE WITNESS: Thank you.

17 MR. DAVIDSON: Morgan followed by Randy
18 Piltz.

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

22 THE WITNESS: Yes.

23 PRESIDING OFFICER JUDGE: State your name
24 and address, please.

25 THE WITNESS: My name is Morgan Gerdel. And

1 I live in Wailuku. Aloha, committee members. I'm a
2 licensed architect. I currently live in Wailuku Town.
3 I grew up in Upcountry Maui so I can appreciate the
4 unique character and lifestyle it can offer.

5 Kula is a blend of ranchland, farms, forest
6 and small town centers unlike anywhere else. But it's
7 still only 15 miles from Central Maui.

8 Since 2005 I've been intimately involved
9 with the design and planning of Kula Ridge. And would
10 like to discuss the reasoning behind the plan and the
11 benefits it can offer the community of Maui.

12 Conservation zoning is a design concept
13 where a proposed development is clustered to reduce
14 the development footprint and offering increased open
15 space surrounding the homes. It harkens back to the
16 village scale when driving was not necessary to go and
17 visit a neighbor.

18 In fact, the older neighborhood I'm in now
19 has that feel with lot sizes ranging from 2500 to
20 10,000 square feet. And it works. I know all my
21 neighbors really well and the community has a good
22 feel.

23 Kula Ridge is centered on this concept with
24 16 acres of rural land on the mauka portion, another
25 10 acres of park and open space below. The compact

1 grouping allows the homes to be sensitively sited
2 minimizing impacts on surrounding properties.

3 The homes are a short walking distance to
4 the Kula Community Center, schools, Kula Gym and
5 Morihara Store.

6 The Waiakoa neighborhood has an opportunity
7 to be revitalized with a slightly larger population
8 base that could allow for more small businesses on
9 Lower Kula Road. In addition, the design allows for a
10 one mile walking trail around the perimeter that can
11 be enjoyed by the entire community.

12 A University of Utah study has linked
13 communities to health, finding that men weigh an
14 average of 10 pounds less and women weigh an average
15 of 6 pounds less in a walkable neighborhood versus a
16 more suburban type. So it can actually be a healthier
17 environment for residents.

18 Although a change in the land use has been
19 requested, this project is essentially an infill
20 development in compliance with the existing community
21 plan designations that were originally requested by
22 the community. The existing residential lots
23 surrounding Kula Ridge are similar in size. There are
24 a number of homes sited on lots in the 6,000 to 10,000
25 square foot range.

1 There's a reason these lots were subdivided
2 at this size. It would be cost effect to develop, but
3 also efficient with the land. The downside with half
4 acre and larger lot sizes that consumes several times
5 more land versus a more compact, sustainable plan.

6 Please take the time to review this project
7 on its merits. Although there may be some impact to
8 the surrounding area, the benefits far outweigh any
9 negative aspect.

10 Although I was fortunate enough to be able
11 to purchase a reasonably priced home in Wailuku, I'd
12 like to offer my support to all of the hard working
13 Maui families that would appreciate the same
14 opportunity especially for our Upcountry community
15 members: Teachers, fire fighters, merchants, farmers,
16 artists that would truly value a home close to where
17 they work. The 116 new families would make the Kula
18 community a richer and more diverse place to live.
19 Thank you for your time.

20 PRESIDING OFFICER JUDGE: Thank you. Any
21 questions for the witness?

22 MR. LIM: No questions.

23 PRESIDING OFFICER JUDGE: Thank you. Good
24 afternoon, Randy Piltz.

25 THE WITNESS: Good afternoon, Chair.

1 region of the island.

2 We believe that Kula Ridge Project will
3 satisfy a significant need for affordable housing in
4 the Upcountry region where greater diversity and
5 housing product availability is desirable.

6 I understand that the Commission must
7 consider key issues in reaching its decision on the
8 Petitioner's request. These issues have been raised
9 in both public testimony and through evidentiary
10 proceedings before you.

11 If I may I'd like to take a minute to
12 summarize the perspective of the Administration as I
13 believe are worthy for your serious consideration.

14 First, there's been in-depth discussion
15 regarding the availability of water to serve the
16 future residents of this project. The mayor, along
17 with our county council, expressed in their 201-H
18 approval for the project, feel that options for
19 servicing the project are available. And that
20 Chapter 14.12 of the Maui County Code relating to
21 water availability enables the county to ensure that a
22 reliable long-term source of water is identified for
23 the project.

24 I understand that the Petitioner has been
25 working closely with our Department of Water as well

1 as other source developers towards identifying a
2 viable source option.

3 In summary, the county has the legal and
4 administrative mechanism in place to work with the
5 Petitioner to provide assurance of source delivery.
6 Other issues have arisen through the course of your
7 deliberation and through public testimony.

8 The question then is whether mitigation
9 measures are proposed are adequate to ensure the
10 impacts are addressed to allow this project to move
11 forward.

12 From the County's perspective we believe
13 that representations made by the Petitioner, the
14 parties' stipulated proposed conditions, as well as
15 the County Council's condition on the 201H approval,
16 will address the key issues raised.

17 Importantly, the county of Maui has the
18 regulatory means and the design review process in
19 place to ensure that concerns such as those relating
20 to drainage and local roadway safety will be
21 appropriately dealt with.

22 To conclude, the county is committed to
23 formulating collaborative design solutions which are
24 essential if new housing opportunities are to be made
25 available to local residents whether in Kula or any

1 other region of the island.

2 I appreciate this opportunity to offer our
3 testimony. And on a personal note I want to say that
4 my brother and I received a gift from my parents and
5 we in turn turned that gift over to my two children.
6 They live in Kula.

7 Let me tell you, if it wasn't for that
8 generous gift they would be in line for one of these
9 units. Thank you very much.

10 PRESIDING OFFICER JUDGE: Any questions for
11 the witness?

12 MR. LIM: No questions.

13 MR. YEE: No questions.

14 MR. DAVIDSON: Next two, Marcus Griffin and
15 Maria Rawe.

16 DR. MARCUS GRIFFIN
17 being first duly sworn to tell the truth, was examined
18 and testified as follows:

19 THE WITNESS: I do.

20 PRESIDING OFFICER JUDGE: Thank you. State
21 your name and address.

22 THE WITNESS: My name is Dr. Marcus Griffin.
23 I'm in Wailuku, Maui, Hawai'i. Maui needs this
24 project. Maui needs the problems. Maui needs the
25 affordable housing. Maui needs the low income

1 housing.

2 I've been a physician here for about 15
3 years. I sit on Maui Memorial Medical Center
4 executive committee. I'm a professor -- clinical
5 professor at John Burns School of Medicine, so I like
6 to think I have my pulse on the health of this
7 community.

8 I'm concerned. To give you an example:
9 About a year ago this very building that we're sitting
10 in filed for bankruptcy. Over 600 employees lost
11 their jobs.

12 In losing their jobs they lost their health
13 insurance. Many of those employees were my patients.
14 They were too shameful, too embarrassed to come to me
15 and tell me they lost their insurance.

16 These patients when they got sick ended up
17 in Maui Memorial Medical Center Emergency Room
18 department. And they got medical care. But guess who
19 paid for that medical care? It wasn't free. You paid
20 for it. You paid for it. And the rest of the people
21 in this room paid for it at about 300 percent cost
22 because they didn't have insurance. And you paid for
23 it through your state income taxes.

24 Maui needs the jobs. We have to have the
25 jobs here. We all know that national unemployment

1 right now is 9 percent. Maui is not spared from that.
2 This program is going to provide jobs for the people
3 that need the jobs in this community.

4 I understand that many people who live in
5 Kula, they're very concerned about a project like this
6 coming into their neighborhood. Nobody wants change.
7 Human nature says, you know, if it's not broke don't
8 fix it. "I'm comfortable where I am. I don't want any
9 changes in my community."

10 But change is inevitable. We all know that
11 life is dynamic. Nothing stays the same. If it
12 doesn't change it just shrivels up and dies. There's
13 no one I know better capable than Mr. Nishikawa to
14 control the change, to allow the growth to be under
15 control so that it will fit the pristine of that
16 community.

17 Kula, if you know, is a very special place.
18 And those people that live there love that place. And
19 we don't want to see it changed either. And I'm sure
20 Clayton doesn't want that aura that Kula has changed.
21 I'm sure his project will allow that to continue.

22 In fact, I believe it's my personal opinion,
23 that it would add to the pristine of the Kula
24 community. Thank you for letting me testify.

25 PRESIDING OFFICER JUDGE: Any questions for

1 the witness?

2 MR. LIM: No questions.

3 PRESIDING OFFICER JUDGE: Thank you, sir.

4 MR. DAVIDSON: Excuse me. Marcus, are you
5 also testifying for Marilyn? There are two names.

6 THE WITNESS: Yes. She's my wife.

7 MR. DAVIDSON: All right. Now Maria
8 followed by Jerry Fornecia.

9 PRESIDING OFFICER JUDGE: Good afternoon.

10 MARIA RAWE

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

13 THE WITNESS: Yes, I do.

14 PRESIDING OFFICER JUDGE: Thank you. If you
15 can state your name and address for the record,
16 please.

17 THE WITNESS: My name is Maria Rawe. I live
18 at 32 Kalihi Place in Kula, right below the Holy Ghost
19 Church and right below the projected development.

20 I'm here to testify in opposition to the
21 Kula Ridge subdivision. Our immediate community where
22 I live will be changed from rural to urban with the
23 addition of 116 homes in my backyard.

24 Now you ask yourself why would this senior
25 right here, you ask, be objecting to this change.

1 It's funny how I followed Dr. Griffin who said that
2 change is good. Of course, you know, change is good.

3 But you might deduce that this senior, this
4 old senior here, I'm retired, does not like change.
5 Quite to the contrary. I'll surprise you by telling
6 you that I like change. Actually I embrace change.
7 It's the only constant thing in the universe.

8 However, as a retired teacher having taught
9 for 40 years, I can critically think things through
10 and ask myself if the change is for the good or the
11 not so good for everyone around.

12 I came to Maui in 1971. And I have
13 witnessed 50 years of change on this beautiful island.
14 From personal experience I can give you a few examples
15 of what type of change this kind of development will
16 bring in our Waiakoa neighborhood.

17 When I lived in Makawao for 20 years from
18 1978 to 1991, my family and I used to be able to walk
19 into St. Joseph Church because their front doors were
20 not locked. Makawao has grown quite a bit since those
21 early years, as we all have seen.

22 Three years ago when my mom was visiting and
23 we wanted to light a candle for my dad's soul at
24 St. Joseph Church because it was there that my dad
25 witnessed both of my daughters' baptism, we could not

1 enter St. Joseph Church. Why, you ask? The front
2 doors were locked and have been that way for several
3 years I was told. Why, you ask? Could it be because
4 Makawao has grown from rural to urban?

5 Now when my mom visits me every year -- I
6 live in Waiakoa -- she finds it a blessing to be able
7 to go to the Holy Ghost Church to say her rosary on a
8 daily basis and enter the Holy Ghost Church whose
9 doors remain unlocked. Yes, we're in a rural
10 community where the church doors are still not locked.

11 I've used this particular example not at all
12 as a commentary on the people who would move into this
13 proposed development project. I picked it as a simple
14 example to point out that changing our community from
15 rural to urban will cause a change which will affect
16 the current tranquility of our Waiakoa community.
17 Needless to say, it will change it completely because
18 the infrastructure is not there.

19 Now, I had other things that you have in
20 front of. I have three more paragraphs. But I'm
21 going to not follow it because I would like to address
22 affordable housing since a lot of the people in
23 favor -- by the way, these people are from Wailuku,
24 Kihei and Kahului.

25 I really wish the LUC would have met in Kula

1 as you did in August. And I really wish you could
2 have met in Kahului so we could have only a half an
3 hour drive and not a 45 minute to hour drive to come
4 here. So we could have had more of the people who
5 wanted to come today to testify in opposing for Kula
6 Ridge.

7 They called me as late as last night
8 11:00 p.m., as early as this morning 7:00 a.m. They
9 just couldn't make it as they did last time when they
10 could take an hour or two from work.

11 Anyway, affordable housing. Let me address
12 that. We've heard many people speak on behalf --

13 MR. DAVIDSON: You have about 30 seconds.

14 THE WITNESS: Thank you. How much are they?
15 How much are these affordable housing? If I do my
16 math correctly, of the percentage that the Applicant
17 has presented it would be around \$400,000. Affordable
18 housing? Hmm. Don't we have enough foreclosures to
19 take care of that at that price?

20 And affordable houses will be available and
21 would be constructed if those water meters would open
22 up so that the four and five generational families can
23 build their affordable homes. Those would be
24 affordable homes.

25 Yes, I'm in favor for new affordable homes

1 to be built by those families who have waited 12 to 15
2 years for a water meter. I'm not in favor for the
3 Kula Ridge development because it is 116 homes to be
4 clustered together in a rural area where the
5 infrastructure is not there.

6 There are no sidewalks present. And I think
7 there's no sidewalk that the Applicant will put in
8 place. I think sidewalks are still in negotiation. I
9 do understand that the Applicant refused to do a
10 feasibility study for sidewalks to be on the makai
11 side.

12 I plead with you, therefore, Commissioners,
13 for you to add at least two conditions if this were to
14 be approved: That the sidewalks be in place and that
15 the affordable allotted homes, how many ever, you
16 know, there are going to be, they stay in its
17 affordable price until they're all sold.

18 The LUC should stipulate that those homes
19 cannot go up to current real estate value. Thank you
20 for listening. (applause)

21 PRESIDING OFFICER JUDGE: Thank you. Are
22 there any questions for this witness?

23 MR. DAVIDSON: Jerry followed by Godwin
24 Pelissero.

25 xx

1 JERRY FORNELIA

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

4 THE WITNESS: I do.

5 PRESIDING OFFICER JUDGE: Thank you. State
6 your name and address for the record, please.

7 THE WITNESS: My name is Jerry Fornelia. I
8 live at 590 Polipoli Place in Kula. I think the
9 project's a mistake. Of course, we're all for
10 affordable housing. But there should be smarter,
11 there are smarter ways to do it and more pono ways to
12 do it.

13 The water meter list, as she mentioned where
14 people have been waiting for years and years and
15 years, if that were honored then there would be
16 construction. There would be the temporary jobs.

17 The one thing people haven't mentioned, and
18 I don't know how many are on the Lower Kula Road,
19 which is the infrastructure the person just talked in
20 front of me mentioned. What they don't see and what I
21 wanted to ask the Land Use Commission is: will you
22 really look at this area? And even if you do, what
23 you might not see are the cars parked on both sides of
24 the road for hundreds of yards essentially making the
25 little two-lane road a one-lane. And it's already

1 very dangerous. And I'm on that road several times a
2 week so I know.

3 So when do these cars -- when are they all
4 parked? And where do they go? They'll still be
5 there. When they're there, if there's church, if
6 there's a basketball game, if the Kula Community
7 Association has a meeting, or if there's a function at
8 the community center, these cars are parked for
9 hundreds of yards. There's going to be a lot of
10 pedestrian accidents and hopefully not fatalities.

11 But that's what you won't see. But I hope
12 you really take a good look because the three main
13 components of this project or this development that
14 sound good are the affordable. Of course they -- I
15 don't know who they're affordable for since they're
16 350 and up.

17 The senior citizens, even the Kula AARP
18 chapter doesn't support this because of the terrain
19 and because it's nearly eight miles to any businesses
20 or doctors' offices or medical facilities.

21 Lastly, it will create jobs temporarily.
22 But that's kind of like the tail wagging the dog.
23 Smarter growth would be to honor the water meter
24 system. They will find ways to subdivide. There will
25 be housing sold. There will be 'ohana housing for

1 young and old. Jobs will be created in an appropriate
2 infrastructure that doesn't exist for this development
3 in this area.

4 Please, Land Use Commission, please look.
5 Make sure that we use our precious land wisely and not
6 for temporary solutions that I'm telling you it's
7 going to be very dangerous.

8 And then what are we going to do then when
9 people are killed on the road, especially the keiki?
10 And it will happen. They dart in front. The cars are
11 parked. You don't see 'em, even if you're going slow,
12 which, of course, you are.

13 Let's look back and say we did the right
14 thing and take our time and do things right. And I
15 say that with all respect to people who want
16 affordable housing. I just can't -- 350,000 doesn't
17 seem that affordable to me.

18 PRESIDING OFFICER JUDGE: Thank you. Are
19 there any questions for this witness? Thank you, sir.

20 MR. DAVIDSON: Godwin followed by Ann
21 Pirsch.

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

25 THE WITNESS: I do.

1 PRESIDING OFFICER JUDGE: Thank you, sir.

2 Please state your name and address for the record.

3 THE WITNESS: My name is Godwin Pelissero.

4 And I live on Crater Road, 17171.

5 It's interesting because the first thing you
6 asked for was something new. Nothing's new. We've
7 been here all afternoon. It's all the name. So,
8 again, one thing I want to point out, the gentleman's
9 letter that he read from the Kula Community
10 Association, read that again. Because that puts it so
11 clear what's wrong with the land use. That's what
12 this is about, land use. It's not about jobs and
13 affordable. It's about the land.

14 The land is not suitable for a project of
15 this size, this density. A project like this should
16 be on fairly flat and with facilities around. The
17 developer calls it a city-like area.

18 I don't know how many of you go to Morihara
19 Store or to Cafe 808 but that's it. This is not a
20 city. This is country.

21 A lot say, well, you're elitist because you
22 don't want it in your backyard. This isn't in my
23 backyard, other than Kula's been my backyard since
24 before the developer was born. But I don't want to go
25 there.

1 So the one thing I do want to point out is
2 the affordability aspects that Mr. Fornelia touched
3 on. I don't know if anybody's done the math on this
4 who wants an affordable home. But if you are a --
5 there's only -- there's only 34 affordable homes for
6 people who aren't seniors. Of the 34 -- uhm, yes,
7 actually there's 25 single family.

8 For the moderate income the way it's set up,
9 the house is going to cost you between 350 and
10 400,000. Well, the guy already told you there were
11 two houses for sale for that price range, that if you
12 have three people in your family. If you have four
13 people in your family the price is gonna be 370 to
14 though \$445,000.

15 Now, it just doesn't make sense to me that
16 you're going to do all this effort and have all this
17 impact and you're not saving anybody any money. Above
18 moderate is for the other -- that's 12. The above
19 moderate for 13 single-family. Those cost 400 -- for
20 a three person family are 400 to \$466,000. And for a
21 four person family they're 445,000 to \$518,000. I
22 can't afford that. I don't know and if you, you know,
23 who can?

24 The other 34 are for seniors. And they run
25 between around \$300,000. So bottom line is if you're

1 a three-person family you're going to pay, you know,
2 \$2,300 a month for 360 months, you know. It's well
3 over a million dollars.

4 So I think going to a lot of effort to and
5 give a damage and make a huge impact and you're not
6 going to solve the problem. Thank you. That's all I
7 have to say.

8 PRESIDING OFFICER JUDGE: Thank, sir. Any
9 questions for this witness?

10 MR. LIM: No questions.

11 MR. DAVIDSON: Ann followed by Sean Calder.

12 ANN PIRSCH

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

15 THE WITNESS: Yes.

16 PRESIDING OFFICER JUDGE: Thank you. If you
17 could just state your name and address for the record,
18 please.

19 THE WITNESS: Hi. My name is Ann Pirsch.
20 And I live at 75 Copp Road in Kula. I've been on Maui
21 for 36 years, 22 of them in Kula. So I've seen Kula
22 grow. I live on the bottom of Copp Road. So I do a
23 lot of walking in my area, walking around the block
24 meaning going up towards Morihara Store.

25 And when I take that turn, cars come flyin'

1 by and there is nowhere for me to go except up against
2 rocks. And I have to stand sideways in order for the
3 cars to pass. And they don't go slow. There'd go --
4 and there's kids right there coming out of Haleakala
5 Waldorf. And it's a very dangerous spot.

6 And my question was: what is "affordable"?
7 And now I've heard what is affordable: 400,000 is
8 affordable. Is that correct? What is the correct
9 amount of affordable housing? That is my answer -- my
10 question.

11 And I just looked up online and there's 1464
12 people from 1996 waiting for a water meter. It's a
13 the lot of people since 1996. And ever since I've
14 been in Kula we've always had a drought. It's 22
15 years.

16 I don't remember one year that has gone by
17 where we have not been told not to use water, you
18 know, cut back. And so that's all I have to say.
19 Please deny this. It's all I ask. Thank you.

20 PRESIDING OFFICER JUDGE: Thank you. Any
21 questions for this witness?

22 MR. LIM: No questions.

23 PRESIDING OFFICER JUDGE: Thank you.

24 MR. DAVIDSON: It appears Sean Calder isn't
25 here. The next witness is Dick Mayer followed by Mike

1 Kido.

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

5 THE WITNESS: I do.

6 PRESIDING OFFICER JUDGE: Thank you, sir.

7 THE WITNESS: My name is Dick Mayer. I live
8 on Lower Kimo Drive in Kula. I'm sorry to hear that my
9 name wasn't listed. I sent in testimony to the
10 Commission two weeks ago. Unfortunately you don't
11 have a copy of it. So I'll try to read from the
12 record. I hope it will be entered before you make
13 your final decision.

14 Having heard all the testimony presented at
15 the previous LUC meetings, having analyzed the draft
16 and Final EIS --

17 PRESIDING OFFICER JUDGE: Mr. Mayer, I'm
18 going to ask you to slow down for the court reporter.

19 THE WITNESS: I won't be able to get it in 3
20 minutes then.

21 PRESIDING OFFICER JUDGE: Try and do your
22 best. But if you're going to submit it, everyone will
23 get a copy so we'll be able to read it all. So I'll
24 just ask you to maybe summarize it and go slowly for
25 the court reporter.

1 THE WITNESS: I believe that the boundary
2 application for urban designation does not meet the
3 Land Use Commission's HAR 15-15-18 criteria for a
4 boundary change amendment. By using the word 'and' at
5 the end of criteria #7, it seems that all eight
6 standards must be met. I'm going to refer to some of
7 these standards that I don't feel have been satisfied.

8 Standard 1: "It shall include lands
9 characterized by city-like concentrations of people,
10 structures, et cetera." This area is not city-like.
11 Waiakoa is a rural village, not even a town. There
12 are very limited urban services; no wastewater system,
13 no public transport, no storm drainage, only one small
14 country store, no supermarket, a single church, one
15 gas station, and one small café. This hardly makes
16 the Waiakoa area city-like.

17 Standard 2.A, regards to "proximity to
18 centers of trading and employment." The proposed Kula
19 Ridge project is not in proximity to a center of
20 trading or employment as was claimed by the Applicant.
21 The project's own Final EIS states that the nearest
22 centers of employment and trading, Makawao and
23 Pukalani, are 6 or 8 miles away. That is not
24 'proximity'.

25 Standard 2.B: "Availability of basic

1 services such as schools, parks, wastewater systems,
2 et cetera should be available."

3 And I could go through the list. You'll
4 have it when you read it. You'll see that no way does
5 this standard get met by the various criteria:
6 wastewater, solid waste disposal, all of the other
7 things, no transit, et cetera.

8 "It shall include lands with satisfactory
9 topography, drainage, et cetera." The drainage
10 analysis is only based on a 1-hour storm. The storms
11 we have Upcountry, very often Kona storms, last many
12 more than one hour.

13 And I think those of you who are members of
14 the Kula community, residents on the Commission know
15 that we have storms that last more than an hour and
16 can cause severe drainage problems.

17 Standard 4. "Land contiguous with the
18 existing urban area shall be given more consideration
19 than non-contiguous land."

20 This land is not -- as one of the
21 Applicant's architects said, this is an infill. This
22 is not infill. The Project Area is surrounded by
23 agricultural lands on three sides with the community
24 center on the fourth.

25 The Standard 5: "It shall include lands in

1 appropriate locations for new urban concentrations."

2 It should remain rural. This is what the
3 Community Plan has designated. And if you look at the
4 Community Plan for this area you'll see that only a
5 small portion of it over here is rural and only a tiny
6 little portion is urban, totally the opposite of what
7 this Applicant is asking for. That's what the
8 Community Plan calls for, a legal document.

9 The Maui Island Plan recommendation is that
10 this area remain rural. And all three, the General
11 Plan Advisory Committee, the Planning Commission, and
12 the Director all said this should be a rural area, not
13 urban.

14 And last standard: "It shall include lands,
15 the urbanization of which will contribute towards
16 scattered spot urban development."

17 This is going to be very expensive to get
18 the infrastructure into that area. And I don't think
19 it meets that standard as well. And you'll have the
20 details.

21 I have also, which I will pass out when I
22 conclude, an analysis of the stipulation document you
23 have in front of you. In here are points in that
24 stipulation, over 250 points in the stipulation
25 document. I find that probably about 25 to 30 of them

1 are either wrong or misconstrued, incorrect.

2 And I'm urging you as you go through that
3 document in your deliberations that you'll take a look
4 at the comments that I've made here. And I think
5 you'll find that the stipulation document is defective
6 at this point and should be rejected. And I urge you
7 because the project does not meet the standards which
8 the LUC is bound to guide by. It's not a question of
9 are we creating jobs. It's not a question of do we
10 need affordable housing.

11 We do need affordable housing. And we do
12 need jobs. That's not the criteria that's before the
13 Land Use Commission. You have very strict standards.
14 And I'm hoping you will follow those standards very
15 specifically. Thank you very much. (Applause).

16 PRESIDING OFFICER JUDGE: Are there any
17 questions for this witness?

18 MR. LIM: No questions.

19 PRESIDING OFFICER JUDGE: Thank you,
20 Mr. Mayer.

21 THE WITNESS: Thank you.

22 MR. DAVIDSON: And, Mr. Mayer, both of your
23 submittals will be put in the record and duplicated
24 and given to the Commission.

25 THE WITNESS: I'll give them to the

1 stenographer right now.

2 PRESIDING OFFICER JUDGE: Actually hand them
3 to Riley.

4 MR. DAVIDSON: Next witness Mike Kido
5 followed by Al Chiarella.

6 C. MIKE KIDO
7 being first duly sworn to tell the truth, was examined
8 and testified as follows:

9 THE WITNESS: I will.

10 PRESIDING OFFICER JUDGE: Thank you, sir.
11 please state your name and address for the record.

12 THE WITNESS: C. Mike Kido, 1100 Alakea,
13 Honolulu. On behalf of the organization that I
14 represent, Pacific Resource Partnership, we would like
15 to reaffirm our strong support for the project.

16 Rather than read our testimony to the record
17 as noted by your earlier remarks, let me, if I may,
18 Madam Chair, make a few summary comments.

19 One, I'd like to note the unique mix of
20 products that I believe will meet the very pressing
21 demands in our community, both throughout the state
22 but more so on this island.

23 I have to note for the record that my
24 married daughter and my son-in-law, who's a policeman,
25 are residing in a now cramped rural cottage in Lower

1 Kula. And though I've not discussed this project with
2 them, I look upon it as an opportunity if they so
3 wish, as some others have testified before you, of
4 owning their own home.

5 What I'd like to ask the Commission is to
6 remember those times and occasions of the purchase of
7 the first home and the difficulties. I've been before
8 the Commission on a number of occasions. But, again,
9 I want to reiterate that the particular mix and target
10 for this project is noteworthy. And I would like to
11 again emphasize that. So, again, thank you for the
12 opportunity to testify.

13 PRESIDING OFFICER JUDGE: Are there any
14 questions for this witness?

15 MR. LIM: No questions.

16 PRESIDING OFFICER JUDGE: Thank you, sir.

17 MR. DAVIDSON: Al Chiarella. And the final
18 two signups after Al are Victor Reyes and Jim Bushlow.

19 PRESIDING OFFICER JUDGE: Good afternoon.

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

23 THE WITNESS: I do.

24 PRESIDING OFFICER JUDGE: Thank, sir.

25 THE WITNESS: Good afternoon, everybody.

1 Thanks for taking your time for this important
2 development. I am --

3 PRESIDING OFFICER JUDGE: Could you state
4 your name and address.

5 THE WITNESS: Al Chiarella. I live in
6 Pukalani. And I'm a Kula landowner as well. I'm a 26
7 year resident of Upcountry Maui. And I have raised my
8 children here. Three of them went to Kula Elementary
9 School. My three eldest, 20, 22, and 28 all live on
10 the mainland where housing and jobs are more available
11 and housing is more affordable. So we're not going to
12 beat the affordable housing thing to death. We know
13 we need affordable housing.

14 I think my kids would come back if it were
15 available, at least a couple of them. I think that we
16 need affordable housing in every community. Okay?
17 I'm hearing everything, "Oh, not in Kula, not this,
18 not there. We need it in Pukalani. We need it in
19 Makawao. We need it in Kahului." Everybody doesn't
20 want to live in the same place.

21 I'm an Upcountry real estate broker and have
22 been since 1985. So I always play a little game. And
23 I say: All right. Let's make believe I have a buyer
24 for Kula. What do I have to show these people? So I
25 did a search this morning and I said: All right. I

1 got a buyer up to \$450,000 in Kula today. What can
2 they choose from? Let's see. They can have a 500
3 square foot bank-owned house, older property with
4 deferred maintenance built in 1979 for \$404,250.
5 Okay?

6 Their other choice is a house built in 1978
7 that's bank owned. And that one is \$425,250.

8 The third home under 450 is in Hawaiian Home
9 Lands, which we all know there's extreme limitations
10 on that. These are your two choices, period, if you
11 want to live in Kula. There are no other choices.
12 Okay?

13 And I guess, you know, I keep hearing "not
14 in my backyard. Kula needs to remain rural." You got
15 the Kula Community Center right there. It's going to
16 be graded flat. And this is something that I believe
17 we sorely need. And I hope you guys support it.
18 Thank you.

19 PRESIDING OFFICER JUDGE: Are there any
20 questions for this witness?

21 MR. LIM: No questions.

22 PRESIDING OFFICER JUDGE: No. Thank you,
23 sir. (Applause)

24 MR. DAVIDSON: Victor followed by Jim
25 Bushlow.

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

4 THE WITNESS: I do.

5 PRESIDING OFFICER JUDGE: Thank you, sir.
6 If you can state your name and address for the record.

7 THE WITNESS: "Aloha, Mr. Chairman and
8 members of the State Land Use Commission. My name is
9 Victor Reyes. And my family lives at 46 Kalihi Place.
10 I have a degree in agriculture."

11 PRESIDING OFFICER JUDGE: Sir, we have your
12 testimony in front of us so you don't need to read it
13 into the record. It's in the record. So if you could
14 summarize it that would be great.

15 THE WITNESS: Okay. Thank you. Since the
16 core of this hearing is to consider the request to
17 take a major piece of agricultural land and reclassify
18 and subdivide it primarily to urban use, I submit
19 before you that it will be a mistake to appropriate a
20 very productive land to the requested residential use.

21 It will be a serious miscarriage of your
22 responsibility to allow the urbanization of the
23 subject parcel.

24 I understand that the Commission is looking
25 for testimonies with new information to help in

1 addressing whether or not the Petition meets the LUC
2 criteria.

3 I submit the following very important, very
4 significant pertinent information obtained from the
5 National Resource Conservation Service, of NCRS of the
6 U.S. Department of Agriculture or USDA that relates to
7 the soil and agricultural productivity of this land.
8 I also have attached to my testimony the pictures. I
9 hope you take a look at it for better absorption of my
10 testimony.

11 The property was a vegetable farm. I've
12 lived in this area for over 30 years and I remember it
13 was being farmed intensively at that time. Before you
14 is a USDA aerial picture of the land as an active
15 farm. Clearly visible was an active truck farming
16 operation with field plots, plant beds and vegetable
17 crops. Soil type is Prime Kula farm soil.

18 As also shown in figure 1 the USDA
19 classifies the soil of this land as Kula cobbly loam
20 or KXAD. Among the significant properties of this
21 soil types -- this soil type, are it has very deep top
22 soil, typically about 54 inches. It has high
23 iron-exchange capacity, typically about 626.4 million
24 equivalent per hundred grams.

25 It is a measure of source ability to hold

1 nutrients and make them available to roots. The
2 higher the number the better. For example, sand is
3 less than 5 while compost is more than 200.

4 Available water capacity is excellent.
5 Typically .13 centimeter per centimeter of soil. It
6 is a measure of the soil's ability to hold water and
7 make it available to plants. The higher the number
8 the better. The sand would be less than .05.

9 Bulk density is low, typically .55 grams per
10 cc or cubic centimeter. It is a measure of soil's
11 porosity and ability to have a well A rated root zone.
12 The lower the value the better. Sand would be
13 typically 1.25. Organic matter content is high,
14 typically 11.64 percent. It is a measure of soil
15 fertility. The higher the value the better. Very
16 sandy soil would be less than 1 percent.

17 I mention all this and I appreciate your
18 indulgence. I have a Bachelor's Degree in soils
19 science with emphasis in chemistry and a Ph.D. in soil
20 microbiology and biochemistry.

21 I note that the participant mentioned that
22 there's on -- this is a very insignificant portion of
23 the ag land. There's about 220,000. But this
24 particular type of soil of very productive ag land in
25 the map is only about 300,000 acres.

1 pony show about how it's important for jobs and how it
2 needs affordable housing, all the stuff that rolled
3 over to County Council.

4 However, as Mr. Mayer stated, that has no
5 place here really. We all need affordable housing. I
6 don't know if \$400,000 is affordable housing. Can't
7 help that.

8 As far as construction jobs, how many
9 thousands of homes are already approved on this
10 island? How many thousands? They're already there
11 for the construction industry. What we're talking
12 about is changing a rural neighborhood to urban.

13 You can't really think that 34 affordable
14 homes in the \$400,000 area is gonna do anything for
15 the affordability for the lower income people on this
16 island? Maybe you can. I can't.

17 As far as the stip documents I think Mr.
18 Mayer made all the sense in the world with that. It
19 just doesn't fit for Land Use Commission. I don't
20 think there's one stipulation that fits. It is
21 Waiakoa Village. There's no jobs. There's no
22 supermarkets. You gotta gas station that's closed.
23 You gotta restaurant that's for sale, about to close
24 the door.

25 (Audience member: It closed)

1 You've got a supermarket that's gonna be in
2 litigation. If it's not because nobody's paid for it,
3 so there's going to be big shakeups there. There's
4 nothing there. It's Waiakoa. It's not an urban area.
5 With the 401 fast track the mayor came up and had a
6 meeting with the neighborhood. And they, quite
7 simply, stated "fast track's a misnomer."

8 That's from Alan's mouth. He also said,
9 "Show me the water. I'd wish we'd change that." You
10 know, his representative just stated: Well, we assure
11 you we're going to do this, that and the other thing.

12 Well, let's face facts. He's a politician.
13 By the time this thing gets off the ground he's
14 probably not going to be in office. So whoever said
15 that I guess we'll probably handle it. We in the
16 neighborhood are going to be climbing uphill. We're
17 going to pay for all the roads. We're going to pay
18 for all the improvements, the taxpayers.

19 The developer's going to slide right by,
20 which is what he's been trying to do for six
21 and-a-half years. And it's going to fall on the
22 taxpayer's back. You folks know that. You've
23 listened to all the testimony. You're all pros. I
24 just hope you make the right decision on Kula Ridge.
25 Thank you.

1 PRESIDING OFFICER JUDGE: Are there any
2 questions for the witness?

3 MR. LIM: No questions.

4 PRESIDING OFFICER JUDGE: Thank you. Okay.
5 At this time we're going to take a five minute break
6 and then we'll come back with oral argument. Thank
7 you.

8 (Recess was held. 3:10-3:20)

9 MR. DAVIDSON: We have four more testifiers
10 on Kula Ridge. And then we'll commence with oral
11 argument. The four testifiers are Lucienne deNaie,
12 Jackie Haraguchi, Cathy Riley and Darwin Kiabu, if
13 they can all be ready to testify. First up Lucienne.

14 PRESIDING OFFICER JUDGE: Is Lucienne deNaie
15 here? Is Lucienne deNaie in the room? It's her turn
16 to testify followed by Jackie Haraguchi.

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

20 THE WITNESS: I do.

21 PRESIDING OFFICER JUDGE: Please state your
22 name and address for the record.

23 THE WITNESS: Thank you. My name is
24 Lucienne deNaie. I live at 320 Door of Faith Road in
25 Pa'uwela, Haiku, Maui. Good afternoon, Commissioners.

1 Thank you for coming to Maui, but I sure wish you were
2 in Kula or Kahului like everybody else. This is a
3 long way to go.

4 I'd like to speak just to the one thing.
5 And I wasn't going to say anything, but having
6 observed over the years how many projects come and
7 promise that they're going to provide senior housing,
8 affordable housing and jobs and we are still waiting.
9 I just hope that the Commission takes that into
10 account.

11 When we're talking about, you know, needing
12 jobs, we have Kahului Town Center, 430 units, urban
13 infill. They have a water meter. They have
14 infrastructure. They are in an urban area. They've
15 had permits for years. They just have to keep
16 renewing them. Where are those jobs?

17 Permitting a project does not equal jobs.
18 And I think we need to realize that in this economy.
19 Because of that we need to look at the project itself.
20 It shouldn't just be about the jobs.

21 It should be: Is this a great project?
22 Does it meet the requirements of the law? And is it a
23 good fit for the community? Is it really good
24 planning?

25 You look at something like -- I hate to say

1 it, but Kula Malu just down the road from this
2 project. It had to be approved. It was jobs. It got
3 half built. It was going to be senior housing. It
4 disappeared. There's no senior housing there.

5 I think the public would just like, you
6 know, all of the agencies and commissions to kind of
7 take the blinders off and look realistically is
8 something really gonna happen? Is it really gonna
9 mean what it says? Is it really a good fit? And
10 that's all I have to say.

11 I just think that you really need to look at
12 the facts and not the hopes and dreams and wishes. We
13 all wish there were more jobs. We all wish there were
14 more affordable housing. But we have thousands and
15 thousands of units approved that aren't getting built
16 right now for reasons I think we all understand.
17 Thank you.

18 PRESIDING OFFICER JUDGE: Are there any
19 questions for the witness?

20 MR. LIM: No questions.

21 PRESIDING OFFICER JUDGE: Thank you.

22 MR. DAVIDSON: Jackie Haraguchi followed by
23 Cathy Riley.

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

1 and testified as follows:

2 THE WITNESS: Yes, I do.

3 PRESIDING OFFICER JUDGE: Thank you. Just
4 state your name and address for the record.

5 THE WITNESS: My name is Jackie Haraguchi.
6 I'm from Wailuku. I am the executive director of the
7 Maui Contractors Association. I'm here to let you
8 know that we're in full support of this project.

9 Clayton has been working on it for quite a
10 few years from now. As we all know projects take time
11 and money. And it's not like a project is going to be
12 built tomorrow. So in regards to jobs, temporary or
13 not, jobs are jobs and people need them right now.
14 People are foreclosing, businesses are closed and we
15 need it.

16 The other thing about affordable housing,
17 the county has already something in place that will
18 basically let the developer know the price of the
19 housing is based on median income.

20 So all the grumbling that I hear about the
21 affordable housing and jobs, it's so close to me
22 because my daughter lives Upcountry. She's renting.
23 She has to move out. She has no place to go. She's
24 old enough to buy a home but can't afford a home. So
25 it's something that's dear to heart to a lot of us

1 here.

2 And in regards to the Kula community, I feel
3 for them, but I also know that they're against so many
4 other things that happened. It's very heartfelt for
5 me because I'm -- I have four children and those, my
6 four kids need someplace with their family. So I urge
7 and I ask you humbly to support this project. Thank
8 you.

9 PRESIDING OFFICER JUDGE: Are there any
10 questions for this witness? Thank you.

11 MR. DAVIDSON: Cathy Riley followed Derwin
12 Kiabu.

13 PRESIDING OFFICER JUDGE: Good afternoon.

14 CATHY RILEY

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

17 THE WITNESS: I do.

18 PRESIDING OFFICER JUDGE: Thank you. State
19 your name and address for the record, please.

20 THE WITNESS: Cathy Riley, 406 South Alu
21 Road, Wailuku.

22 PRESIDING OFFICER JUDGE: Thank you. You
23 may proceed.

24 THE WITNESS: I've worked for Clayton
25 Nishikawa since 2001. I've seen this project, how

1 this project has unfolded and how Clayton for five
2 years has continually fulfilled everything we have
3 required of him, at the same time strived to do the
4 very best thing for the Maui community and for Kula
5 Ridge.

6 In 2006 Mayor Arakawa stated that there was
7 a need for affordable housing on Maui. Maui residents
8 young and old were leaving Maui to make their homes on
9 the mainland where they could afford a home. Nothing
10 has changed. Our families are still leaving. He
11 promised to assist anyone who would step up and build
12 affordable homes.

13 Clayton, with the heart of a local boy who
14 wanted to do something good, stepped up to the plate.
15 And because everything that he does, he does with
16 excellence, he thought: wouldn't it be great to have
17 affordable homes in Kula? It would give young people
18 the opportunity to raise their families in a place
19 that is not only beautiful but steeped in local
20 salt-of-the-earth tradition and heritage.

21 The result is Kula Ridge. Kula Ridge is a
22 tiny pocket of 116 units on 51 acres beautifully
23 designed by award-winning Maui architects on the
24 slopes of this huge Mount Haleakala. It's very small
25 in relation to the area. As you have seen, Clayton

1 has willingly made every effort to accommodate the
2 needs of the government and the community.

3 I lived in Kula in the early '70s. In 1973
4 we bought our home in the old Wailuku Heights. We
5 knew that the cane fields below our home were
6 scheduled to become housing subdivisions someday. At
7 that time I was horrified.

8 But now, 38 years later, I see those homes
9 being built. And I'm happy to see other people have
10 homes like I do. The quality of my life has not
11 changed. Every generation gives up something for the
12 children, the next generation. Our parents did. And
13 life changes.

14 I believe that we are here on this earth to
15 help one another, especially those who have less than
16 we do. I hope that you share that belief and that you
17 recognize Mr. Nishikawa's sincere effort to do
18 something good for Maui, and you will approve the Kula
19 Ridge affordable housing subdivision. Thank you.

20 (Applause)

21 PRESIDING OFFICER JUDGE: Are there any
22 questions for this witness? Hearing none, thank you.

23 MR. DAVIDSON: Derwin Kiabu, the last
24 testifier.

25 xx

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

4 THE WITNESS: I do.

5 PRESIDING OFFICER JUDGE: Thank you. Please
6 state your name and address for the record.

7 THE WITNESS: Good afternoon. My name is
8 Derwin Kiabu from Wailuku. I'm a registered
9 architect, former or immediate past president of the
10 Maui Chapter of the American Institute of Architects.
11 And I'm here today and I'm in support of this project.

12 I want to bring up is design. Kula Ridge,
13 the project that is thoughtfully designed, blends in
14 the Kula lifestyle. If you look at the plans, I'm
15 sure you have it in your packets, the homes reflect
16 and capture the Kula area, capture the charm of the
17 old plantation design while still incorporating
18 today's modern features and conservation thinking.

19 Another item I'd like to bring up is
20 density. There are actually 116 total units planned
21 for the 48-acre parcel. The overall density for the
22 project is 2.4 homes per acre which is lower than we
23 allowed -- lower than allowed in the Upcountry Kula
24 Plan. Lot sizes start off at 6,000 square feet and
25 goes on up from there. I'm glad I saw this map back

1 here that shows the Kula Community and all the
2 designations which you've noticed.

3 There is a mix of agriculture, urban and
4 rural areas. In the immediate vicinity of Kula Ridge,
5 if you noticed looking at maps, there are existing
6 lots that range from 6,000 square feet on up to 10 --
7 10,000 square feet homes immediately adjacent to the
8 property.

9 Kula Ridge would be similar in that
10 character and it's located in an area that I would
11 consider infill. Also looking at the lower -- or the
12 upper section, excuse me, of the property, is bounded
13 by the agriculture zoning. The southern -- the lower
14 portion of the property is bounded by rural. And
15 there's actually an urban designation along the west
16 side of the property -- or south side of the property.
17 Excuse me.

18 And the Kula Ridge development also lays out
19 a similar pattern where, as far as density-wise, it
20 will keep the homes on the lower section which is
21 closer to the urban and rural neighbors similar and
22 move up to the larger lots which is adjacent to the ag
23 designations.

24 The existing Upcountry Community Plan for
25 the property is single family and rural. The Maui

1 Planning Commission recommended the property to be
2 included in a rural boundary of the Upcountry
3 Community Plan in the Maui Island Plan.

4 The property was zoned Interim and the Maui
5 County Council approved the project. And Kula Ridge
6 received the zoning of 201H affordable housing
7 project. Another item I'd like to bring up is --

8 MR. DAVIDSON: Excuse me, sir. You have 30
9 seconds.

10 THE WITNESS: As far as the 201H exemptions,
11 if you note, not all of the exemptions are taken as
12 previously stated from some of the opponents. Please
13 take a look. There are a lot of items or conditions
14 on this project that Clayton is actually not taking an
15 exemption and he's going to have some improvements
16 done outside the property.

17 And, finally, I feel there is a need for
18 affordable housing Upcountry. Almost all of the
19 affordable housing projects are in the Central, South
20 or West side of the island. I know many families, and
21 friends who would like to live Upcountry.

22 There are many people that I know that work
23 Upcountry. And there's no really affordable home to
24 purchase in Kula right now. Thank you.

25 PRESIDING OFFICER JUDGE: Thank you. Are

1 there any questions for this witness? Hearing none,
2 thank you, sir.

3 THE WITNESS: Thank you.

4 PRESIDING OFFICER JUDGE: That concludes the
5 public testimony. Petitioner, would you go ahead with
6 your oral argument. Again, we're going to be limiting
7 the parties to no more than 20 minutes to present your
8 oral argument.

9 MR. LIM: Thank you, Madam Chair, Members of
10 the Commission. First of all, I'd like to thank the
11 Commission members for their kind consideration of
12 this Petition. I know that Mr. Nishikawa is very
13 appreciative of your time and your hard work, so are
14 we on the Carlsmith team and through Mike Munekiyo's
15 office and all of our consultants. So thank you again
16 for listening to our presentation of the Petition.

17 I was just talking to Mr. Nishikawa on some
18 of the comments we heard today. And he was laughing
19 to some degree about him taking about five and-a-half
20 years now of sliding by the regulations to get to this
21 point. He's been in this process since approximately
22 2005. And ever since then he's been proceeding
23 through the various entitlement steps.

24 And it's a little bit unusual for the
25 Commission in terms of the way the project is being

1 presented to you. You usually see the projects as the
2 first blush for the State land use reclassification.
3 But in this case the project has gone through the
4 County Council, and received approval of Resolution
5 No. 10-53 in October of 2010.

6 I think as we go through the steps of the
7 criteria we will be resting on our Proposed Decision
8 and Order that we have a stipulation with the state
9 and the county in that the proposed reclassifications
10 to urban and to rural are reasonable and they're not
11 violative of HRS section 205-2.

12 They're consistent with the policies and
13 criteria established pursuant to HRS Sections 205-16,
14 205-17, and 205-A-2. And that reclassification of the
15 Petition Area is consistent with the traditional and
16 customary Native Hawaiian rights and resources for the
17 project contained in Article XII section 7 article 11
18 sections 1, 3 and 7 of the Hawai'i State Constitution
19 and HRS section 205-16.

20 So now that I've gotten some of the legal
21 jargon out of the way, you have been sitting here
22 listening to a lot of public testimony. And I think
23 one of the statements made today by one of the project
24 opponents highlights, at least for us, some of the
25 distinctions in terms of what certain persons'

1 perceptions of what the project is all about.

2 One of the testifiers indicated to you that
3 the presentation by the witnesses, the heart felt
4 presentation by some of the project supporters with
5 respect to jobs, the need for jobs, the need to
6 provide housing for themselves and therefore their
7 family on the requirements that they would like to see
8 placed on the development, they have been satisfied
9 through the affordable housing resolution, and the
10 need to try to keep the family units as a whole
11 intact, and the ability and opportunity to live in
12 Kula like their parents do.

13 One of the testifiers called that a dog and
14 pony show. I think that highlighted for us the big
15 distinction in terms of what certain people in the
16 Kula community are viewing the project as versus what
17 Mr. Nishikawa has been trying to propose.

18 You've heard a lot of the public testimony
19 in support of the project indicating this is a special
20 project by a special developer. This is a local guy.
21 He's the big story local guy makes good. As he
22 testified earlier Mr. Nishikawa was working for many
23 years building higher-end residences. And it became
24 his dream to one day provide for local families
25 affordable housing for local families for Maui. And

1 it was this opportunity that gave him the unusual
2 opportunity to push forward and pursue that dream.

3 You hear in many of the testifiers from the
4 public, they're talking about opportunities, dreams,
5 hope, those kinds of -- those kinds of ideas. And I
6 think that this is a project that is unique and
7 special for Kula.

8 And I think that it represents the hope and
9 opportunity that many people have to not only live in
10 affordable housing within the island of Maui, but also
11 a special place up in Kula.

12 The State Land Use criteria for Urban
13 District boundaries we've detailed those in our
14 submittals also. But I think one thing that's
15 important to highlight is that the proposed project is
16 immediately adjacent to an existing Urban District. I
17 don't know that you can see the map that well there on
18 the Commission's map No. 1, but it is the same Urban
19 District that includes the Morihara Store and Café
20 808.

21 So we believe that under the land use
22 criteria that it is adjacent to an existing urban
23 district and will become part of that district.

24 There is some discussion on the fact that
25 the affordable housing prices would not be in -- I

1 guess would not be affordable. If you look at the
2 proposed decision that we have at Page 14 paragraph
3 No. 90, we've detailed some of the proposed breakouts
4 for the affordable housing units proposed on the
5 project. Seventeen senior housing units would be
6 offered at the below-to-moderate income range. This
7 is the 81 percent to 100 percent range. As the
8 Housing and Human Concerns director Jo-Ann Ridao
9 testified on July 15th, and you'll find that at
10 Page 153 of that transcript, those price ranges for
11 the senior units would be 210,000 to 260,000. So it's
12 not the 350 or the 450,000 that you've been hearing.

13 Furthermore, an additional 17 senior units
14 would then be offered at ranges to the moderate income
15 which ranges between 260,000 up to 400,000. So there
16 is a significant component of the project that would
17 be affordable to a lot of people.

18 Like you heard some of them testifying
19 today, these are people like teachers, firemen, police
20 and some of our veterans. This is something that is
21 near and dear to Clayton's heart and the reason why
22 he's processing this project the way that he is.

23 I think that the compliance of the project
24 with the Land Use Commission decision-making criteria
25 and the provisions of 205-17 is significant. The

1 natural systems, the cultural, historical and natural
2 resources, and other natural resources have been
3 analyzed and there has been no adverse impact found.

4 The Land Use Commission's criteria look
5 toward proposing opportunities for employment and
6 economic development. That's definitely going to
7 happen with this project. One of the more important
8 criteria is the housing opportunities for all income
9 groups. I think that this Kula Ridge Project will be
10 important in pushing that particular goal.

11 The 201-H resolution was processed through
12 the county, as you've heard the testimony and was
13 rejected the first time but then brought back again,
14 and with the project addressing many issues that
15 you've heard today. The sidewalk issue is going to be
16 handled.

17 The resolution states that the specific
18 alignment of the sidewalk mauka or makai shall be
19 defined by the Applicant in coordination with the
20 Department of Public Works and neighboring property
21 owners.

22 Some of the traffic and roadway improvement
23 issues. You've heard some talk today about the
24 traffic issues along Lower Kula Road.

25 It's important to note that as part of the

1 201-H resolution the Applicant did not specifically
2 request exemptions so they're going to be required as
3 indicated by the Department of Public Works'
4 testimony. They're going to be required to follow the
5 standard county roadway improvements, offsite
6 improvements along Lower Kula Road.

7 The key difference I think that I've seen in
8 this particular project, is that there's a big
9 distinction between the views of at least some of the
10 existing Kula residents and the project itself and
11 some of the project supporters who also live in Kula.

12 I think that the distinction that I've been
13 seeing is that the people who have someone else that's
14 coming up in the line and who needs affordable
15 housing, those are the people that you see coming to
16 support the project.

17 And I think that that's the big goal of
18 Mr. Nishikawa in all of this. That he wants to
19 provide for affordable housing opportunities for
20 people, especially those who have lived in Kula all
21 their life to come back and to stay with their
22 families.

23 So I will go ahead and rest right now and
24 reserve five minutes for rebuttal, if need be, and
25 stand ready for any questions.

1 PRESIDING OFFICER JUDGE: County, would you
2 like to give your oral argument.

3 MR. HOPPER: Thank you, Madam Chair and
4 Members of the Land Use Commission. The Department of
5 Planning is in support of this Petition. It supports
6 the Petition for several reasons. First, the Maui
7 County Council approved this project after multiple
8 meetings, hours of testimony and deliberations. The
9 approval was made subject to 17 conditions or project
10 modifications to mitigate the impacts of the project.
11 And in addition, several exemptions were granted for
12 the project from the Maui County Code.

13 This shows that the County Council, the
14 Legislature of the county and representatives of the
15 people of Maui County approve this project.

16 However, it also does have an indication
17 more specific to the Land Use Commission's
18 decision-making criteria. And that is compliance with
19 long-range development plans such as the General or
20 Community Plans. It should be noted that the County
21 Council is the same body responsible for several items
22 of importance to the Commission.

23 One, the County Council adopts General and
24 Community Plans and amendments to those plans. In
25 addition, the County Council is currently reviewing

1 the Draft Maui Island Plan which is slated to be a
2 long-term growth plan for the island of Maui and part
3 of the General Plan.

4 And, finally, the Maui County Council also
5 enacts and amends zoning and subdivision laws. So the
6 body responsible for these laws granted approval of
7 this project over many hours of deliberation. Though
8 a Community Plan Amendment or change in zoning were
9 not obtained for this project because of the 201-H
10 approval process, the same body with the authority to
11 grant these approvals and the body that adopts, again,
12 the Community Plan and General Plan, approved of this
13 project in an expedited manner as allowed and required
14 by state law.

15 In addition, you heard the testimony of
16 Planning Director Will Spence. And he also discussed
17 the Community Plan and Draft Maui Island Plan. He
18 noted that in the Kula Community Plan adopted in 1996
19 that this Project Area -- Petition Area was slated for
20 development and could include up to 195 units
21 potentially written in that plan.

22 This project does provide fewer units than
23 that. But the main point is that this project in the
24 Kula Community Plan was set for development for over a
25 decade, for over 15 years in fact.

1 In addition, the project is now within the
2 proposed Rural Growth Boundaries of the Draft Maui
3 Island Plan in front of the council. This project was
4 not within those Rural Growth Boundaries until after
5 the County Council granted its approval of the 201H
6 project and then it was placed within the Rural Growth
7 Boundaries of the Draft Maui Island Plan.

8 Again, the same body that's going to decide
9 finally on that plan is the County Council who has
10 approved this project. And this shows consistency as
11 per your criteria with the long range plans of the
12 county including the General and Community Plans.

13 In addition, Director Spence also discussed
14 the various project modifications or conditions to be
15 placed on the project. Among them are requirements
16 for offsite sidewalk improvements, accessory dwelling
17 restrictions, archaeological monitoring conditions and
18 a condition setting forth the rate of construction of
19 affordable homes or senior duplexes with respect to
20 the market rate homes.

21 While several exemptions were granted from
22 the Maui County Code through the 201H approval
23 process, the majority of the County Code is being
24 followed, meaning the project is going to be built to
25 county standards for the most part.

1 Some examples: There were two exemptions
2 granted for subdivision standards. One was for park
3 dedication. A park's going to actually be donated, a
4 3-acre park with a comfort station, to satisfy the
5 project's park subdivision requirements.

6 And right-of-way sizes within the
7 subdivisions will be allowed to be 20-foot wide for
8 the pavement and a 24-foot wide right-of-way. In all
9 other respects the project will be required to make
10 all subdivision improvements that are required of any
11 subdivision either affordable or not affordable.

12 In addition, drainage improvements will be
13 required pursuant to the county code. Water supply
14 infrastructure improvements will be required and not
15 exempted for this project. And school impact fees
16 must be paid per the project modifications voted on
17 for the 201H approval process.

18 These are all requirements that a market
19 rate project would have to comply with whether or not
20 it was affordable. This is basically, for the most,
21 part this project is being asked to comply with the
22 same standards as market rate projects with some
23 exceptions as noted.

24 The Commission also heard the testimony of
25 Jo-Ann Ridao, the director of the Department of

1 Housing and Human Concerns. Director Ridao testified
2 that Kula is currently an area that does not have
3 affordable housing.

4 It's non-existent up there, in her opinion.
5 Now people growing up in Kula may be unable to live
6 there due to the cost of living. And we've heard some
7 testimony on that today. That was an important factor
8 that Director Ridao noted in her testimony as well as
9 the factor I believe that the County Council
10 considered in approving the project.

11 In addition Director Ridao testified that an
12 affordable housing agreement will be required to be
13 entered into.

14 And as part of that draft agreement, at this
15 point the proposal is to have the projects to stay
16 affordable for 25 years from the date of the initial
17 sale of the units. That's consistent with Maui
18 County's workforce housing policy.

19 But that's the draft -- the status of the
20 draft affordable housing agreement with the developer
21 at this stage. That must be approved by council
22 pursuant to the 201H approval condition.

23 In addition, you've heard the testimony of
24 the Dave Taylor, director of the Department of Water
25 Supply who testified that while the issue of the water

1 source is not 100 percent settled at this point,
2 options do exist for providing water to this project
3 which may include, among other things, contribution by
4 the developer to assist the county in developing
5 additional infrastructure for water in that area in
6 exchange for source credits.

7 If -- that agreement was approved by the
8 Maui County Council. But perhaps most importantly on
9 the water issue is that, as with any other
10 subdivision, market rate or affordable, prior to final
11 subdivision approval this project must show access to
12 a long-term reliable source of water. Otherwise it
13 will not be able to get built. And that's pursuant to
14 County Code and is a standard for all subdivisions.

15 Now, this is again, the same requirement for
16 affordable and non-affordable projects and combined
17 with -- if the Commission decides to put its typical
18 infrastructure condition requiring a ten year buildout
19 of infrastructure, should the developer fail to
20 develop water within that time, it may face the
21 possibility of an, essentially a downzoning or
22 down-classification back to its original
23 classification through a Petition for an Order to Show
24 Cause.

25 Again, that's something that the department

1 did find significant in recommending its approval. So
2 at this point the County rests and appreciates the
3 Commission's time in this docket. Thank you.

4 PRESIDING OFFICER JUDGE: Mr. Yee, would
5 the State like to give oral argument?

6 MR. YEE: Yes, thank you. The Office of
7 Planning supports the Petitioner's request for
8 reclassification with conditions. This is a project
9 which relative to most LUC cases is relatively small
10 in geographic size. It's roughly 34 and-a-half acres
11 to be reclassified from ag to urban, and another 16
12 and-a-half acres from ag to rural.

13 It is important, as has been emphasized by a
14 variety of speakers, that this is a 201-H project or
15 this qualifies as a 201-H affordable housing project.

16 The term "affordable housing" can be
17 misleading. The price of single family homes in
18 Hawai'i at a market rate is very expensive.

19 The purpose of affordable housing is not
20 really to provide single-family homes for the poor.
21 It's really simply to allow the middle class to be
22 able to afford a home for themselves. So workforce
23 housing might be a better term to be used or to be
24 considered for these people.

25 What's important is that the economy has a

1 diversity of options. Workforce housing is often
2 unavailable to people. So that it's necessary to
3 either impose restrictions or to provide incentives so
4 that this type of workforce housing is made available
5 within the economy.

6 In this particular case it qualifies as an
7 201-H project. And that allowed them to be exempted
8 from certain of the county requirements including a
9 county plan amendment.

10 But it's also important to recognize that as
11 it qualifies for 201-H affordable housing project, it
12 represents a legislative determination that these kind
13 of projects are to be encouraged and are to be
14 facilitated. That's the reason why some of these
15 exemptions were provided to them. And also as a
16 qualifying 201-H project the Petition meets the
17 priority guidelines set forth in the Hawaii State Plan
18 for such workforce housing.

19 Having said that, certainly we acknowledge
20 that workforce housing generally provides higher
21 densities. This can raise a variety of concerns
22 including water and traffic. The Office of Planning's
23 support for the project does not mean that we have
24 ignored these concerns or that they should be ignored.
25 I just want to briefly address a few of them.

1 Potable water has been an important factor,
2 issue that we have talked about in the evidentiary
3 hearing. We first want to be clear that the
4 Petitioner will not be taking water from anyone above
5 them on the water meter list. The Petitioner will
6 either pay to develop new water infrastructure, which
7 don't currently exist, or they'll be waiting in line
8 like everyone else.

9 This area is not in a water management area
10 and there's no current danger to the sustainable yield
11 of the aquifer. So the concern is not is there enough
12 water in the ground.

13 The concern is what is the infrastructure
14 that can be built that can draw water up from the
15 aquifer in an economically feasible way.

16 The precise method by which Petitioner is
17 going to accomplish this is less clear. There are
18 various alternatives that they've raised. And
19 although a greater level of certainty would have been
20 preferable, the Office of Planning, nevertheless,
21 believes that Petitioner should be given an
22 opportunity to move forward with the project.

23 There are three major reasons why we say
24 this. First, as we said, this is a workforce housing
25 project. And it's important to allow them -- it's

1 important to have workforce housing in the state and
2 in all geographic regions. And so this provides an
3 important addition to the community that would be
4 desirable.

5 Second, the Petitioner has at least said
6 that they were willing to pay up to \$2 million to
7 improve the county's water system. The Office of
8 Planning specifically asked to include that provision
9 in the Findings of Facts of the Stipulated Order. The
10 willingness to provide \$2 million to improve the
11 County's water system, while it's true there is no
12 agreement between Petitioner and the county,
13 nevertheless indicates there's a reasonable likelihood
14 that some agreement with the county can be reached.

15 It may not be a certainty, but it provides a
16 level of comfort that this project should be allowed
17 to move forward.

18 And finally, we also note that this is a
19 county issue. The provision of water is a county
20 ordinance and the Petitioner's required by the county
21 resolution to comply with the county's Show Me the
22 Water Ordinance before final subdivision approval.

23 As the county itself noted in the final
24 analysis, if the Petitioner is unable to get its water
25 meter, the deadline for infrastructure construction by

1 the LUC will eventually lapse and the Petition Area
2 will be subject to reversion. 'Til then, however, we
3 believe the Petitioner should be given an opportunity
4 to provide needed affordable housing to the citizens
5 of Maui.

6 The second issue of concern for the Office
7 of Planning is sustainability. It has not been
8 discussed much by the witnesses but it is an important
9 issue to the Office of Planning because it is part of
10 the Hawaii State Plan. We have laid out in the
11 Findings of Fact the specific sustainability measures
12 that this Petitioner will be implementing.

13 We realize that this is workforce housing
14 and there are cost restrictions on how much money you
15 can spend upfront to provide for sustainability.

16 Nevertheless, and given that fact we believe
17 that the measures set forth in the Findings of Fact
18 and as represented by the Petitioner are consistent,
19 then, with the principles of sustainability set forth
20 in the Hawaii State Plan.

21 The third particular issue I wanted to talk
22 about was traffic. The Petitioner has agreed to the
23 various Department of Transportation concerns
24 regarding the TIAR, including an agreement for the
25 construction of a left-turn storage lane. So from the

1 state's Perspective the traffic concerns are
2 addressed.

3 We've heard of a variety of other concerns
4 that don't necessarily relate to state roadways. And
5 within the particular paragraph 227 you will see a
6 provision or finding of fact regarding the speed
7 bumps, regarding sidewalks, and regarding the
8 condition of Lower Kula Road.

9 These are primarily county concerns. And I
10 don't want to minimize the importance of the concern,
11 especially to the people who live in the area. But
12 at the level of the Land Use Commission the particular
13 location of the sidewalk, the particular changes to
14 the county road or whether or not speed bumps should
15 be installed, can be and will be adequately dealt with
16 at the county level.

17 As we've noted in paragraph 227 of the
18 Findings of Fact speed bumps will be installed if
19 requested by the county. The sidewalks will be put in
20 in consultation with the county and in conformity with
21 the County Council resolution. And the Lower Kula
22 Road will be improved as required by county ordinance.

23 With this agreement and the conditions we
24 have put into the Proposed Decision and Order, the
25 Office of Planning has no objection on the basis of

1 transportation to this project.

2 There have been a variety of other issues
3 which I will not be getting into in any detail, but
4 will be happy to answer any questions on. But the
5 Office of Planning has looked at the issue of
6 drainage. We are satisfied that the archaeological,
7 cultural impacts, civil defense is addressed,
8 wastewater and infrastructure deadline, compliance
9 with the County Council Resolution No. 10-57.

10 We've included as well a condition regarding
11 the impact on adjacent agricultural lands as well as
12 provision on scenic and open spaces and have a
13 specific provision in the Findings of Fact that the
14 Petitioner has agreed to comply with all mitigation
15 measures recommended by its consultant in the Final
16 Environmental Assessment.

17 Based upon the evidence in this case and the
18 Petitioner's representations, the Office of Planning
19 recommends approval of this Petition for
20 reclassification with conditions. Thank you.

21 PRESIDING OFFICER JUDGE: Petitioner, did
22 you want to take those five minutes for your reserved
23 time for rebuttal?

24 MR. LIM: I'll just make a final closing
25 statement, short one. Thank you very much, Madam

1 Chair and Members of the Commission. Just for the
2 record the Petitioner, again, recommits to all of the
3 representations made to the Commission during this
4 proceeding.

5 Those would include all of the
6 representations contained in your Proposed Decision
7 and Order before you relating to traffic, water,
8 drainage and energy sustainability.

9 I think that we have come a long way in the
10 process. And I know that Mr. Nishikawa wanted me to
11 thank you for your kind attention. I think that the
12 closing statement that I have is we'd like the
13 Commission, as he stated earlier in his August 26th
14 testimony, to please let Kula Ridge be part of the
15 solution and not just part of the problem, and to
16 allow Clayton to give back to the Maui community the
17 things that have been provided to him.

18 So we appreciate your kind attention to our
19 Petition. We ask for your support and thank you very
20 much.

21 PRESIDING OFFICER JUDGE: Thank you.
22 Commissioners, at this time do you have any questions
23 for the parties?

24 COMMISSIONER HELLER: Yes. I have a
25 specific question regarding the proposed stipulation,

1 specifically in the conditions at page 56, paragraphs
2 2 and 3. Kind of a mechanical question. But in
3 paragraph 2 it says that, "The initial deed for each
4 unit sold in the project would include restrictions
5 regarding 'ohana units. And it talks about the
6 conditions of restrictions.

7 Then in paragraph 3 dealing with wastewater
8 facilities, it says the "condition shall be written
9 into each initial deed." I'm just wondering why are
10 those two paragraphs different in terms of the
11 mechanics of how it's handled.

12 In one case it says, "in the conditions and
13 restrictions". In the other case it says "in the
14 initial deed". Is there some reason why they're
15 different?

16 MR. LIM: No. And we would agree to having
17 the revisions refer to the CC&R's recorded against the
18 project. We have had in certain circumstances in
19 which conditions have said: "You put this in the
20 initial deed."

21 The problem with that is when it gets then
22 sold to the next person the developer isn't involved,
23 and those deeds come under straight warranty deeds
24 without those conditions in them. So we would prefer
25 that the conditions relate to the restrictions being

1 mentioned in the CC&R's recorded against the property
2 because those always follow all of the lots within the
3 project.

4 COMMISSIONER HELLER: So in paragraph No. 3
5 you would change that to "refer to the CC&R's"?

6 MR. LIM: That's correct.

7 COMMISSIONER HELLER: Thank you. That was
8 my only question.

9 PRESIDING OFFICER JUDGE: Okay. As noted
10 earlier the Commission will take this matter under
11 advisement. And we'll take a five minute break to
12 set up for the next docket.

13 MR. LIM: Thank you very much.

14 (Recess was held. 4:05-4:15)

15

16 xx

17 xx

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22 xx

23 xx

24 xx

25 xx

1 PRESIDING OFFICER JUDGE: (Gavel) Okay.
2 We'll go back on the record. This is an action
3 meeting on Docket No. A10-789 A&B Properties Wai'ale
4 to consider the acceptance of A&B Properties, Inc's.
5 Final Environmental Impact Statement.

6 Will the parties please identify themselves
7 for the record.

8 MR. TABATA: Good afternoon, Madam Chair,
9 Members of the Commission. Curtis Tabata appearing on
10 behalf of Petitioner A&B Properties, Inc. Also
11 present today is Grant Chun vice-president of A&B
12 Properties, Inc. and Dan Yasui director of planning
13 and entitlement of A&B Properties, Inc.

14 MR. HOPPER: Michael Hopper with the Maui
15 County Department of Planning. With me is Will
16 Spence, planning director.

17 MR. YEE: Good afternoon. Deputy Attorney
18 General Bryan Yee on behalf of the Office of Planning.
19 With me is Jesse Souki, director of the Office of
20 Planning.

21 PRESIDING OFFICER JUDGE: Thank you. Good
22 afternoon. Commissioner McDonald?

23 COMMISSIONER McDONALD: Yes, thank you,
24 Chair. I have a disclosure to make. The attorneys
25 Matsubara Kotake representing the Petitioner has

1 provided legal services to my firm in the past. I was
2 never personally involved with any of the matters.
3 And I don't believe it will affect my decision-making
4 ability in any way.

5 PRESIDING OFFICER JUDGE: Thank you for your
6 disclosure, Commissioner. Do any of the parties have
7 any objections to Commissioner McDonald's continued
8 participation in this docket?

9 MR. HOPPER: No objection, Madam Chair.

10 MR. TABATA: No objection.

11 MR. YEE: No objection.

12 PRESIDING OFFICER JUDGE: Okay.
13 Commissioners? Thank you. Let me update the record
14 on this docket. On August 25th, 2010 A&B Properties
15 filed a Petition for Land Use District Boundary
16 Amendment to reclassify approximately 545.229 acres of
17 land at Wailuku and Waikapu, county of Maui, Hawai'i
18 identified as tax map key 3-8-05: portions 23 and 37,
19 3-8-07:71, portion of 101 and 104 from the State Land
20 Use Agricultural District to the State Land Use Urban
21 District together with an Environmental Impact
22 Statement preparation notice.

23 On September 23, 2010 and by a written order
24 dated October 7, 2010, the Land Use Commission agreed
25 to be the accepting authority pursuant to Chapter 343

1 HRS, and determined that the proposed action may have
2 a significant effect on the environment to warrant the
3 preparation of an Environmental Impact Statement.

4 The Office of Environmental Quality Control
5 published notice of the availability of the EISPN in
6 its October 8, 2010 issue of The Environmental Notice.
7 The 30-day public comment period for the EISPN ended
8 on November 8th, 2010.

9 The Office of Environmental Quality Control
10 published notice of the availability of the Draft EIS
11 in its June 8, 2011 issue of The Environmental Notice.
12 The 45-day public comment period for the DEIS ended on
13 July 22, 2011.

14 On October 7, 2011 Petitioner filed its
15 proposed Final EIS.

16 Let me briefly describe our procedure for
17 today on this docket. First, I will give opportunity
18 for the Petitioner to comment on the Commission's
19 policy governing reimbursement of hearing expenses.

20 Then I will call for those individuals
21 desiring to provide public testimony to identify
22 themselves. All such individuals will be called in
23 turn to our witness box where they will be sworn in
24 prior to their testimony.

25 After the completion of the public testimony

1 portion of the proceedings staff will provide its
2 report. After staff has provided its report the
3 Petitioner will make its presentation.

4 After the completion of the Petitioner's
5 presentation we will receive any comments from the
6 Maui County Planning Department and the State Office
7 of Planning. And after we have received the comments
8 of the Petitioner, Maui County, and the State, we will
9 conduct deliberations.

10 Are there any questions on our procedure for
11 today?

12 MR. TABATA: No questions.

13 MR. HOPPER: No questions, Madam Chair.

14 MR. YEE: No questions.

15 PRESIDING OFFICER JUDGE: Mr. Tabata, has
16 our staff informed you of the Commission's policy
17 regarding your reimbursement of hearing expenses?

18 MR. TABATA: Yes. We are aware of the
19 policies and the Petitioner will comply.

20 PRESIDING OFFICER JUDGE: Thank you. I
21 believe we have a list of people for public testimony.
22 And Dan will call you in order.

23 MR. DAVIDSON: The first testifier is Irene
24 Bowie followed by Mr. Pelegrino.

25 PRESIDING OFFICER JUDGE: Good afternoon.

1

IRENE BOWIE

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

4

THE WITNESS: I do.

5

PRESIDING OFFICER JUDGE: Thank you. If you
6 can state your name and address for the record.

7

THE WITNESS: Irene Bowie, Maui Tomorrow
8 Foundation, Wailuku, Hawai'i. Aloha, Commissioners
9 and staff. I'll summarize my submitted comments.
10 Maui Tomorrow Foundation asks the Commissioners not
11 accept the Wai'ale Final EIS until it provides a full
12 and accurate description of two important areas: 1.
13 domestic water supply and 2. wastewater disposal.

14

The present FEIS tells us that many
15 important areas of the project and their impacts will
16 be discussed later. This is segmentation and it's not
17 allowed under state EIS law.

18

The Final EIS lists two potential sources
19 for projected water supply, a proposed 6 to
20 8 million-gallon per day capacity treatment plant for
21 surface water diverted from Waihe'e Stream in the
22 Nawaiaha region, but doesn't acknowledge that surface
23 waters from this area are part of a state designated
24 water management area, and as such any use of surface
25 water already diverted or not would require a water

1 use permit.

2 The impacts to competing public trust uses
3 of the currently diverted water's the subject of the
4 State Supreme Court appeal --

5 PRESIDING OFFICER JUDGE: Could I just ask
6 you to slow down a little bit for the court reporter.

7 THE WITNESS: Oh, sure. -- are also not
8 discussed. The diverted waters are public waters and
9 subject to competing claims which should be recognized
10 and discussed in the EIS.

11 The second proposed water source for Wai'ale
12 would be groundwater wells. These would not be
13 located in the designated 'Iao Aquifer, but rather in
14 the Kahului or Waikapu aquifer. Potential impacts to
15 those aquifers from such a large water demand should
16 be discussed.

17 The document cites a sustainable yield of
18 427 mgd for Maui, but this is unverified. Two thirds
19 of that supposed capacity lies in remote East Maui
20 locations with no test data. The confidence ranking
21 of those aquifers' sustainable yield in the Water
22 Resource Protection Plan is listed as a 3, which is
23 defined as "least confident, limited to no hydraulic
24 data."

25 This information should be included in the

1 Final EIS reference to the Ko'olau aquifer sector
2 since every aquifer in this sector is ranked a three.

3 The Final EIS promotes available water in
4 the Kahului aquifer without including the ongoing
5 position of the Commission on Water Resource
6 Management staff who question the reliability of the
7 Kahului aquifer in their comments on the Wai'ale
8 project.

9 They do not believe reliance should be made
10 of long-term potability of groundwater in the isthmus.

11 Waikapu aquifer has a sustainable yield of
12 3 million per day. The Waiale project's peak demand
13 is estimated at 2.8 million gallons per day.

14 This means any well field in the Waikapu
15 aquifer supplying the Wai'ale project would need to
16 commit the entire sustainable yield of the aquifer to
17 one project. And the possible impacts of this should
18 be discussed in the EIS.

19 The Final EIS also lacks specific
20 information regarding wastewater treatment. Its scope
21 section lists state and county lands that may be
22 impacted by the project including the Kahului
23 wastewater facility, but does not discuss any specific
24 impacts to the Kahului plant other than stating that
25 it would need upgrades if Wai'ale's discharge was to

1 be accommodated.

2 This facility has been the subject of public
3 attention for its potential impacts to nearshore
4 waters due to nutrient levels in the effluent injected
5 offshore.

6 The impact of increasing the plant's
7 capacity to process an additional 908,000 gallons a
8 day of wastewater is not discussed and is another
9 example of segmentation.

10 Maui Tomorrow Foundation asks that the
11 required information be included to meet EIS standards
12 clearly set by state law. And we thank you for your
13 consideration.

14 PRESIDING OFFICER JUDGE: Thank you. Are
15 there any questions for this witness?

16 MR. TABATA: No questions.

17 MR. HOPPER: No questions.

18 MR. YEE: No questions.

19 PRESIDING OFFICER JUDGE: Thank you.

20 MR. DAVIDSON: Mr. Pelligrino followed by --
21 I'm having trouble with the name John -- is it Duffy?
22 Offey? I apologize.

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

1 THE WITNESS: Yes.

2 PRESIDING OFFICER JUDGE: If you can just
3 state your name and address for the record.

4 THE WITNESS: Aloha mai kakou. My name is
5 Kukuau Pelligrino. And my address is P. O. Box 967
6 Wailuku, Hawai'i 96793. Aloha mai kakou owalu ho'ouia
7 ko au Pelligrino ka aina ma'i kai --

8 THE REPORTER: Would you slow down please.

9 THE WITNESS: I'm a cultural and lineal
10 descendant of the ahupua'a Waikapu. I'm a kalo farmer
11 on kuleana land and born and raised in the 'aina. My
12 family's from that 'aina and I'm currently building my
13 home to continue living there and for the rest of my
14 descendants in the future. I'm also part of the
15 Waikapu Community Association Board.

16 I would like to first state that the impacts
17 of this project's potentially have on the island of
18 Maui and the Waikapu and Wailuku ahupua'a are great.
19 Although a project such as this may have a beneficial
20 impact to those in need of housing, I believe that --

21 PRESIDING OFFICER JUDGE: Sir, can you just
22 slow down a little bit. She has to record everything
23 you say. So thank you.

24 THE WITNESS: I believe the adverse impacts
25 to cultural and natural resources outweigh the

1 benefits. A project of this magnitude can take away
2 the historical character of the Waikapu ahupua'a and
3 community which is one of the last remaining intact
4 historical communities on Maui.

5 The Waikapu ahupua'a still remains that
6 country feel yet it's close to town, in close
7 proximity to town.

8 PRESIDING OFFICER JUDGE: Sir, I'm sorry to
9 interrupt you, but we're not discussing the merits of
10 the case today. It's simply about the acceptance of
11 the EIS document. So if you have discussion on
12 that...

13 THE WITNESS: Okay. I'm sorry. I'm just
14 introducing some of the important factors as to why,
15 which will be a spring board to what I'm going to talk
16 about which I'll just go straight to. As a cultural
17 resource specialist and a lineal descendant and other
18 works that I've published on the ahupua'a of Waikapu,
19 one of the major impacts that this project is going to
20 have on our ahupua'a of Waikapu and the greater
21 community are on the pu'uone, the cultural resources
22 of our sand dunes which originally and historically
23 started in the ahupua'a of Waihe'e and went all the
24 way to Keali'i Pond.

25 Currently the only remaining sand dunes that

1 exist, which are cultural resources because of the
2 number of iwi kupuna or burials that are found within
3 these intact sand dunes, are in Waihe'e, parts of
4 Wailuku and the last remaining are in Waikapu where
5 this project is currently going to impact them.

6 The consultants that partook in the cultural
7 assessment failed to recognize the importance of the
8 these pu'uone or sand dunes in relationship to the
9 ahupua'a of Waikapu as well as how they could be
10 incorporated as a beneficial factor for this
11 particular development.

12 Not against development, but I think that
13 the lack of information and resources that were put
14 forth regarding the pu'uone was insufficient. And I
15 would like to see a much more extensive study put
16 forth in the EIS about the impacts on the sand dunes
17 as well as the water resources.

18 As a kuleana kalo farmer the water that
19 could potentially be utilized for this project will
20 and may potentially come from our ahupua'a in the
21 water resources of the stream and the streams that we
22 gather our water for farming kalo in.

23 I suggest that, again, a more extensive
24 study take place regarding the EIS and that you not
25 make any decisions on this EIS, the Final EIS today.

1 Mahalo.

2 PRESIDING OFFICER JUDGE: Are there any
3 questions for this witness?

4 MR. TABATA: No questions.

5 MR. DAVIDSON: John Dewey followed by Daniel
6 Kanahale.

7 PRESIDING OFFICER JUDGE: Good afternoon,
8 Mr. Dewey.

9 JOHN DEWEY

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

12 THE WITNESS: I do.

13 PRESIDING OFFICER JUDGE: Thank you.

14 THE WITNESS: My name is John V. Dewey,
15 resident of 'Iao Valley Maui. Earlier you spoke to
16 those, talked about the availability of water. That
17 Show Me the Water Bill came before the county council
18 in December of '05, compliments of Dane Kane, approved
19 in 2008. I testified eight times for the availability
20 of Show Me the Water Bill.

21 As you folks don't live on Maui, I'm the
22 president of Hui Ona Nawaika. Nawaika is the four
23 streams in West Maui: Waikapu, Uehu, 'Iao and Waihe'e.
24 The four streams are now designated. They were
25 designated in 2009. It's been so long. We started in

1 this 2003. It's been so long I lose track of the
2 dates, I'm sorry. 'Iao aquifer was designated in 2003
3 I believe. We had a contested case hearing to restore
4 stream flows to the four streams. It was finally
5 completed in 2009, I believe. Everybody drew water
6 from the four streams at Nauwaieha had to put a water
7 use permit application in. After the contested case
8 hearing --

9 PRESIDING OFFICER JUDGE: I'm sorry. Could
10 you slow down just a bit again for the court reporter.

11 THE WITNESS: I understand. This is a very
12 exciting (audience laughter) thing for us. After the
13 contested case hearing the hearings officer
14 recommended 34 -- were you the same court reporter at
15 the contested case hearing? You look almost the same.
16 I'm sorry -- the hearings officer recommended
17 34.5 million gallons a day restored to the four
18 streams in Nawaieha. When the Commissioners voted
19 they voted for 12 and-a-half million gallons. Waihe'e
20 got 10, Waiehu got two and a half, 'Iao got zero as
21 did Wailuku. And we had filed in the Supreme Court --
22 appealed to the Supreme Court which is going to hear
23 our case soon.

24 As of that process I'm not privy to this
25 draft EA -- EIS, whatever it is, but I did get some

1 information earlier, and this Wai'ale treatment plant,
2 the 9 million gallons Wai'ale treatment plant which
3 has been buzzing around for 3 or 4 years now.

4 One thing I want to mention is 2550 houses
5 they plan on building, they want to build. A house is
6 not a home. It takes a heap of living in a house to
7 make a home. They want to build 2550 houses. The
8 average use, daily use in Central Maui is 616 gallons
9 which means 1.6 mgd at the minimum for this project.

10 Waihe'e River has a Q90 of 24 million
11 gallons, Q90 simply means USGS jargon is that's the
12 amount of flow 90 percent of the time, 10 million was
13 returned to the stream leaving 14 million, 6.4 million
14 of that is thankfully returned to kuleana uses. So
15 that leaves 7.61 million gallons. If we get our way
16 in the Supreme Court 14 million gallons would be
17 returned to Waihe'e.

18 And that leaves 3.16 million gallons a day
19 for Wai'ale treatment plant which they want
20 9 million gallons. So I don't know what's going to
21 give there. But, anyway, that's some facts and I like
22 facts.

23 Another thing that kind of concerned me. I
24 know in 2009 you folks were all excited about A&B
25 putting 27,000 acres in agriculture. Well, they have

1 36,000 acres. That leaves 9,000 to develop. So the
2 27,000 is fine. Put that, save that for ag. You got
3 another 9,000 they can develop. The big question is
4 where's the water going to come from.

5 One of the other sources they're talking
6 about in the thing that I got is is drilling wells in
7 Kahului aquifer which has a sustainable yield of
8 1 million gallons.

9 Their rationale for that is during the
10 contested case hearing they test -- HCS employees
11 testified that water reservoir leaks between 6 and
12 8 million gallons a day. So the rationale is using
13 that water will cover the aquifer which is already
14 pumping 1.07 million gallons right now. So my thing
15 is there would also be EMI water, East Maui water
16 and --

17 MR. DAVIDSON: Excuse me, sir. I'm not sure
18 we articulated it. We've been following the 3-minute
19 rule all day and we'd appreciate it if you could try
20 to meet that standard also.

21 THE WITNESS: Are we done?

22 MR. DAVIDSON: Well, take 30 seconds to
23 conclude.

24 THE WITNESS: Thank you very much. I
25 appreciate it. My last statement is that when --

1 when, not if, when HC&S goes out of business where are
2 they going to get the water from? If they're saying
3 that the water comes from Waihe'e and Waihe'e goes to
4 the reservoirs, feed the Kahului aquifer, and the cane
5 and along Waikapu, when they go out of business where
6 is the water going to come for the project? Thank you
7 very much for this.

8 PRESIDING OFFICER JUDGE: Are there any
9 questions for this witness?

10 MR. TABATA: No questions.

11 MR. DAVIDSON: Mr. Kanahele followed by Mark
12 Hyde.

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

16 THE WITNESS: I do.

17 PRESIDING OFFICER JUDGE: Thank you.

18 THE WITNESS: Aloha mai kakou. My name is
19 Daniel Kanahele. I reside on Kupulau Drive, Kihei.
20 Thank you for the opportunity to testify. I feel that
21 the environmental impact statement for this project is
22 incomplete. It should discuss plans for the federal
23 section 106 consultation process but does not.

24 The section 106 of the Historic Preservation
25 Act requires that federal agencies consider any

1 effects that their undertakings will have on historic
2 properties. Historic properties are defined as those
3 properties that are listed in the National Historic
4 Register of Places or fulfill the requirements for
5 being listed in that register.

6 Undertakings include or are defined as
7 activity or program funded in whole or in part under
8 the direct or indirect jurisdiction of the federal
9 agency including those carried out on or behalf of
10 federal agencies and those requiring federal permits
11 or license approval.

12 I believe there's a trigger here. The
13 project fauna and flora survey identified the
14 Blackburn's Sphinx Moth on site. The Blackburn's
15 Sphinx Moth is a federally protected species under the
16 Endangered Species Act.

17 This would require the project to consultant
18 with the U.S. Fish & Wildlife Service and also the
19 state's Fish and Wildlife people in order to get a
20 takings permit for the moth.

21 In the Auahi wind farm habitat plan they
22 stated that an endangered species permit also triggers
23 the section 106 process for properties or projects
24 that may have properties that could be listed or are
25 listed under the National Historic Preservation

1 Register or for placement on the Register.

2 Here on the project site -- and could you
3 please give me a 30 second notice when I'm that close.

4 MR. DAVIDSON: Sure.

5 THE WITNESS: And I'll complete in a timely
6 manner. The project has documented 80 known
7 pre-contact iwi. And I know that these findings have
8 been discussed before the Maui Island and Lana'i
9 Burial Council on several occasions. And this is, I
10 think, good groundwork for the actual implementation
11 or initiation of the section 106 process. But it's
12 not the section 106 process.

13 In 1992 the 106 process was amended which
14 provided a basis for Native Hawaiian consultation in
15 the Section 106 process. It clarifies that properties
16 of religious and cultural significance to Native
17 Hawaiian organizations may be eligible for listing in
18 the National Register of Historic Places.

19 Although the project has said that there are
20 no historic properties listed currently, the section
21 does provide for properties that could be listed if
22 they fulfill the criteria. And it does give way to
23 Native Hawaiian organizations to weigh in on things
24 that have a religious and cultural significance.

25 So as a Native Hawaiian organization I'm

1 requesting that this process be initiated. And I'm
2 requesting that an addendum be added to the EIS which
3 discusses plans for the implementation of the federal
4 section 106 consultation process.

5 And in the future if this comes up for a
6 District Boundary Amendment, state District Boundary
7 Amendment, I would hope that a condition would be put
8 in place that this section 106 process would occur
9 before that is approved. Thank you so much for your
10 time.

11 PRESIDING OFFICER JUDGE: Are there any
12 questions from the parties?

13 MR. TABATA: No questions.

14 PRESIDING OFFICER JUDGE: I have a question,
15 sir. I'm sorry. I'm just a bit confused. I'm not
16 familiar with this 106. But are you saying that the
17 EIS identifies the Act 106 for the Blackburn's Sphinx
18 Moth, but it doesn't identify it for the cultural
19 significance of the iwi?

20 THE WITNESS: No. I'm saying that the fact
21 that there is an endangered species that's been
22 identified on the site requires that a federal agency
23 provide a permit for takings, for loss, incidents of
24 takings of loss of this endangered species. And the
25 permit is a federal act. And that undertaking

1 the day. I'd like to discuss two matters in the FEIS:
2 Water and climate. The discussion of water in my view
3 in the FEIS is both inadequate and inaccurate. In
4 essence the FEIS claims that Maui has lots of water,
5 drawing this conclusion by taking the CWRM's map of
6 Maui's aquifers, totaling the listed sustainable
7 yields and resting its case.

8 The real state of water availability on Maui
9 bears no resemblance to this view. The current state
10 is complex and fraught with water shortages,
11 particularly in places where the majority of Maui's
12 population resides, in central and south Maui where
13 this project is proposed to be sited.

14 These shortages need to be acknowledged and
15 discussed by the Applicant if the FEIS to be of value
16 and to be complete. Consider the following omissions
17 from the Applicant's discussion of water availability:
18 75 percent of Maui's municipal water supply comes from
19 the 'Iao aquifer complex. Ninety-five percent of the
20 water to my community in south Maui comes from the
21 same complex.

22 At the same time the 'Iao complex, as you
23 know, has been declared impaired by the CWRM and is
24 now subject to its oversight. Even under the CWRM's
25 oversight, the United States Geological Survey

1 continues to document the decline of the aquifer
2 measured by the steady rise over the past 25 and more
3 year of the transition zone between the salt and the
4 freshwater lens in the aquifer.

5 The report also omits reference to the fact
6 that recently two large developments in south Maui,
7 Wailea 670 being one, and Makena Resort the other,
8 both been denied access to county water because there
9 is an inadequate supply.

10 And as you already heard this afternoon
11 there are water issues that are extremely severe in
12 Upcountry. New water meters are rarely issued.
13 Drought conditions persist and farmers are
14 periodically threatened with water cutoffs.

15 So as you can see water supply on Maui is
16 constricted and far different than that portrayed by
17 the Applicant. And while maps are certainly helpful
18 as a starting point, they're not the end of the
19 discussion.

20 I'd like to bring your attention to the fact
21 that besides the standard of review that's required by
22 your administrative rules dealing with environmental
23 impact statements, there is an intersection when it
24 comes to water with constitutional protections of
25 water as a public trust asset, which has been

1 interpreted several times by the Hawai'i Supreme Court
2 and is also expanded upon in the State Water Code.

3 These things, then, dictate that there be a,
4 what's called a cautious approach to water use, and
5 even a shifting of the burden of proof under the
6 wording of the Water Code to the party who wants to
7 become a user.

8 Now, if you tie these three legal standards
9 in the environmental impact statement law, the
10 constitution and the Water Code, and compare it to the
11 level of information that the Applicant has submitted
12 to you and to our community, I submit that it is
13 meager, it is simplistic.

14 And I think it misstates the availability of
15 water for this project and wholly avoids discussion of
16 what impact taking water for this project may have on
17 other water rights and potentially other developments
18 that may arise in the future.

19 So in summary, the FEIS fails to meet either
20 the spirit or the letter of the law. I also would
21 like to draw your attention --

22 MR. DAVIDSON: Could you conclude, sir?

23 THE WITNESS: I will. I'd like to draw your
24 attention to the inadequate discussion of climate in
25 the FEIS. I've submitted to you points and

1 authorities and I recommend those to you in some of
2 the scientific citations that are included there.

3 But, again, you have a cross-section now of
4 law and of fact including the climate change that's
5 occurring in Hawai'i, none of which is adequately
6 discussed in the FEIS. Thank you for your attention.

7 PRESIDING OFFICER JUDGE: Thank you, sir.

8 Are there any questions for the witness?

9 MR. TABATA: No questions.

10 PRESIDING OFFICER JUDGE: Thank you.

11 MR. DAVIDSON: Dick Mayer followed by
12 Lucienne deNaie.

13 PRESIDING OFFICER JUDGE: Good afternoon,
14 sir. Actually you're still under oath.

15 THE WITNESS: I agree.

16 PRESIDING OFFICER JUDGE: Sorry, it's a
17 different proceeding. I have to swear you in again.
18 Do you swear to tell the truth?

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

22 THE WITNESS: I will continue to try to tell
23 the truth.

24 PRESIDING OFFICER JUDGE: Thank you. Please
25 state your name and address.

1 THE WITNESS: My name is Dick Mayer. I live
2 on Lower Kimo Drive in Kula. I was going to speak
3 about water but the gentleman before me, Mr. Hyde, I
4 think spoke more eloquently and completely, then I'll
5 skip that topic.

6 I first want to say I was the vice-chair for
7 the General Plan Advisory Committee and still am the
8 vice-chair of the General Plan Advisory Committee
9 which is putting together the Maui Island Plan.
10 Although a member of that group, I'm not speaking on
11 their behalf. I'm speaking on my own behalf today.
12 But I would comment on some of the things that that
13 group did.

14 The Maui Island Plan right now is before the
15 County Council. And being before the Maui Council it
16 has not yet adopted the urban growth boundaries which
17 are key components of planning for the whole central
18 part of Maui as well as all the urban areas of Maui.

19 I would urge you at this stage to turn down,
20 before you take action, this EIS because it has not
21 yet discussed what is really going to be the key
22 component of development in Central Maui, namely,
23 where urban development should take place, and what
24 conditions the plan would have for that type of
25 development taking place.

1 I, on the Maui Island GPAC, did vote in
2 favor of Wai'ale. But the plan now has changed from
3 what we saw originally. And I don't know what the
4 council will do.

5 They have several options in front of them,
6 several variance on maps. And I would urge you not to
7 adopt this EIS because it does not yet really discuss
8 what the county's going to be wanting in its EIS.

9 There's another reason why I'm asking you to
10 delay it. I don't think there's a rush for you to
11 approve this EIS at this time because the company
12 applying for this, A&B, has another project nearby,
13 the Kahului Town Center of approximately 500 units,
14 town Center, plus an adjoining condo which they just
15 recently went to the County Council asked -- to the
16 Planning Commission asked for an extension on that
17 project because they don't have a market for those 500
18 units, which will actually almost all be affordable
19 units intended for much of the same market that this
20 proposal before you is for. So I don't think there's
21 a rush to have to approve it.

22 Now, what are the defects in the plan?
23 Three. One's water, which I think has previously been
24 discussed. Second is wastewater. We don't know where
25 that's going to be handled and how it's going to be

1 handled. And I think that's a very important
2 consideration, given the location of the present
3 wastewater plant on Maui and the need, perhaps, to
4 move it at some point. We should know where that
5 plant is going to be and how the wastewater is going
6 to be handled.

7 But most importantly, something that others
8 perhaps didn't look at -- as a teacher I did look
9 at it -- that's a section on schools in the EIS. It
10 trivializes that issue in a few paragraphs on page
11 100.

12 And let me give an example of where a good
13 EIS was done, a proper EIS. Pulehua Project, which is
14 coming before the council tomorrow morning, has a
15 detailed thing. It says that for those 800 homes in
16 the Pulehua the EIS says 239 elementary school,
17 elementary students, 115 middle school, 136 high
18 school, a total of 490 students.

19 This project that's being proposed is three
20 times the size. So multiplying those numbers by 3,
21 and these are roughly the same types of communities,
22 many affordables and many market units, would be 717
23 elementary, 343 middle school, 408 high school
24 students being added. That's 1400 students.

25 This EIS doesn't even mention those kinds of

1 numbers. They say a few students will move from other
2 areas of the island. But they still will need schools
3 in this community. This EIS describes one middle
4 school, no elementary school, even though
5 approximately 700+ students will be added -- will need
6 elementary education.

7 Nearby is Pumaika'i Elementary which is
8 already almost full and has still several hundreds, if
9 not a thousand, units still to be developed in the
10 Kealani and Maui Lani Project.

11 The EIS is totally deficient in discussing
12 the educational needs. And the location for an
13 elementary school definitely should be in this
14 project. And because it's not there, on the face of
15 it it should be delayed. And I don't think there's a
16 problem since they have already 500 units approved.
17 You have already given approval to 600 units in South
18 Maui, North Kihei for land change. There's already
19 enough adequate urban classified land. You could wait
20 until the EIS is done properly. Thank you.

21 PRESIDING OFFICER JUDGE: Are there any
22 questions for the witness?

23 MR. TABATA: No questions.

24 PRESIDING OFFICER JUDGE: Thank you. Thank
25 you, Mr. Mayer.

1 THE WITNESS: Thank you for your time.

2 MR. DAVIDSON: Lucienne followed by Jacob
3 Verkerke followed by Clare Apana. Those are the
4 listed witnesses.

5 THE WITNESS: Thank you. My name is
6 Lucienne deNaie. I was sworn in before.

7 PRESIDING OFFICER JUDGE: It's a different
8 docket so we'll have to swear you in again.

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

12 THE WITNESS: I do. I'm speaking today on
13 behalf of Sierra Club Maui Group as a member of its
14 conservation committee. I passed out more in-depth
15 comments. The Sierra Club did admit, like, 13 pages
16 of comments on the Draft EIS. And, you know, equal
17 number on the prep notice. So these are comments from
18 Sierra Club.

19 And I'm going to speak a little bit to
20 those. But because of the time and everything I would
21 like to just also speak from my own experience as well
22 in reading the EIS myself.

23 First of all, I would like to thank A&B
24 because they granted additional time to the community
25 to review the Draft EIS. That was very gracious of

1 them. Secondly, I'd like to say the gentleman who
2 spoke earlier about us needing to think about the
3 future generations is absolutely right.

4 Of course we need to think about their
5 well-being in terms of housing and jobs and schools
6 and so forth. But we also need to think about the
7 quality of life.

8 And one of the concerns I have about this
9 Project Area is really it's best known on Maui for the
10 dump and for the scrap yard and for the hazardous use
11 that it's been put to. So it really deserves
12 environmental scrutiny, I feel, because it has a past
13 that is hardly typical of a residential development.

14 The mainstay of our environmental law is
15 really looking at alternatives. And what do we know
16 about alternatives in Wai'ale? And why do we need
17 alternatives there?

18 Well, you'll be told by the representatives
19 that all the impacts, if there are any, are mitigated
20 or perhaps they don't even exist. But, really, I
21 question whether this is accurate.

22 You'll be told, for instance, that all
23 cultural sites are protected, and that there's a low
24 risk of any more burials being found. But you won't
25 really be specified the amount of testing that's been

1 done on the 500 acres comes out to about two trenches
2 every -- or 1 trench every two-acres. So a lot of
3 things could be missed.

4 In fact, the historic record of both this
5 property and the sand mining portion of it, which were
6 the sand mine for years, and the neighboring property,
7 Maui Lani, is that trenches and tests were done and
8 then numerous burials were later discovered.
9 Trenchers don't find burials. They occasionally do.

10 Good preservation strategies, minimize
11 impacts to burials, those good preservation strategies
12 are not included in this EIS. Instead, we're told:
13 All burials are in one place; nothing else is going to
14 be found. We'll just, you know, do these six small,
15 one large area and five small areas. And that's all
16 we need to know. But that's really not accurate. And
17 it's really not true.

18 You're going to be told there'll be plenty
19 of water and it's not going to use water from 'Iao
20 Aquifer. But is 'Iao Aquifer connected to Kahului
21 Aquifer? Is it connected to Waikapu Aquifer? Are
22 there going to be impacts if it goes to pump wells in
23 those aquifers?

24 And you'll be told that there's a good
25 financial reason to put the affordable housing

1 component that the county is donated land for
2 affordable housing next to the former unlined landfill
3 because it's near to shops, it's near to this, it's
4 near to that.

5 This was never in this place before. And it
6 got moved there. That's one of things I think you'll
7 really want to know. The map that was presented to
8 the community -- you'll be told the community weighed
9 in on this in 2005, that they loved this project.

10 But they were shown a completely different
11 map. They were showed this map that had a village
12 built around the park. And everybody loved it. It
13 had a health and wellness center. It had a botanical
14 garden. It had all kinds of things. It had an
15 additional 200 acres.

16 It was a different project. So you really
17 need to ask these folks to go back and meet with the
18 community again, and not accept this EIS. There's no
19 rush. You really should be looking at alternative 4
20 which is "needs more work" before it can be properly
21 vetted as an EIS. It is not ready for Final EIS
22 status at this point.

23 Back to the cushion of alternatives. I
24 serve too on the General Plan Advisory Committee. And
25 we came up with a map that's very, very different than

1 the map that's presented in your EIS. Why did we do
2 that? Because we saw this earlier map and an even
3 earlier map than that. And we put together a big
4 green space to try to address the citizen concerns
5 because we heard from dozens and dozens of citizens
6 that they didn't like this project; and they would
7 only support it if it had some sort of protection for
8 what gave this land its character. And that's that
9 dune system.

10 Those dunes are protected whether they have
11 a bone in them or not. They're protected in our
12 Community Plans, which is not acknowledged in the EIS.
13 And they're protected as a cultural resource. The
14 dunes themselves are a cultural resource.

15 So I really suggest that you look through
16 this document very carefully; you look through the
17 comments that have been submitted. Because when we
18 sat through these meetings we wanted to do what was
19 right. We submitted a plan that has been adopted by
20 two citizen bodies and our Planning Department is
21 supporting it. And yet it's not even discussed as an
22 alternative.

23 That does not qualify, in my view, and I'd
24 not think in any environmental attorney's view, of
25 really fully examining alternatives. The discussion

1 of this is just to minimize it and to ascribe it to
2 the Sierra Club or Maui Tomorrow a their idea rather
3 than the result of a public process.

4 So please look at the map that came out of
5 the public process. I know it's hard to understand
6 the difference between the two. We'd be happy to
7 provide more information, but we really need to
8 respect the fact that people weighed in on this.
9 Thank you.

10 PRESIDING OFFICER JUDGE: Are there any
11 questions for this witness?

12 MR. TABATA: No questions.

13 PRESIDING OFFICER JUDGE: Thank you.

14 MR. DAVIDSON: Final two witnesses: Jacob
15 Verkerke followed by Clare Apana.

16 PRESIDING OFFICER JUDGE: Just for everyone
17 to know after the conclusion of the public witnesses
18 we are going to continue this matter until tomorrow
19 morning.

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

23 THE WITNESS: Of course.

24 PRESIDING OFFICER JUDGE: Thank you. Please
25 state your name and address for the record.

1 THE WITNESS: My name is Jacob Verkerke.
2 I'm a resident of the town of Waikapu and speaking in
3 my capacity as the president of the Waikapu Community
4 Association.

5 Good afternoon, Chair, and Members of the
6 Commission. Thank you for this opportunity to provide
7 testimony on the Wai'ale Final Environmental Impact
8 Statement.

9 The Waikapu community will be the community
10 most impacted by the proposed project. And I offer
11 the following comments on the document. As the Final
12 Environmental Impact Statement this document fails to
13 meet the Implied Intent Test inherent in its title.
14 Too many of the sections in this document do not rise
15 above the level of speculation.

16 They simply fail to make an actual
17 statement, fail to provide a definitive basis for
18 decision-making on land use questions and
19 environmental impacts, without real statements
20 providing definitive and comprehensive, factual
21 information gained from a thorough and concerted
22 investigative effort, and actual statements clearly
23 stating how the planned development will address or
24 mitigate important aspects of environmental impact.

25 Bodies such as this Commission are asked to

1 act in blind faith. Much of the language in this
2 document is evasive, ambiguous and suggestive of
3 eventual clarification. This cannot be considered an
4 acceptable approach and thus this FEIS as presented
5 should not be accepted.

6 What are some of the most important areas of
7 environmental impact that do not rise above the level
8 of speculation? What about the source of potable
9 water for the proposed development? You've heard
10 detailed testimony in this issue already. The Waikapu
11 Community Association shares the concerns that have
12 been expressed this afternoon.

13 What about the proposed plans for onsite
14 wastewater treatment? The FEIS includes discussion of
15 the plan to install injection wells. While the
16 document talks about restrictions on injection wells
17 based on their location relative to the UIC line,
18 there's no discussion on the impact the proposed well
19 head protection plan being drafted by the Department
20 of Water Supply.

21 That plan was discussed recently at a public
22 information meeting at the Waikapu Community Center.
23 So information on the potential impact of that
24 protection plan is available.

25 Again, should that not be part of the

1 discussion on environmental impacts and mitigations?
2 Again, does this omission not render the FEIS unfit
3 for acceptance? What about other environmental
4 impacts, aspects of the cultural and historical
5 environment?

6 You will hear or have already heard others
7 with more specific expertise testify with concerns
8 regarding burials, and the extensive dune system and
9 about concerns for the preservation of those dune
10 systems themselves.

11 The Waikapu Community Association shares
12 those concerns as they involve important components of
13 the community's cultural, historical and physical
14 environment.

15 The proposed Wai'ale subdivision will be
16 largely situated on lands that are part of the
17 historical ahupua'a of Waikapu and are, as such, part
18 of the area that the WCA is actively focused on in its
19 attempts to protect and strengthen the many facets of
20 the endangered Hawaiian small town.

21 The community of Waikapu offers a vital
22 opportunity to revitalize and re-emphasize all that is
23 special and desirable in traditional small towns in
24 Hawai'i. Too many of them have been lost. Many of
25 them are lost to development proposals that did not

1 properly plan for the protection of that unique
2 physical, cultural, historical environment.

3 This brings me to the key item in the
4 testimony I offer on behalf of the Waikapu Community
5 Association. For the Waikapu community, preservation
6 of its identity as a separate small town is central
7 and essential.

8 That separate identity is not a name
9 associated with a nondescript area the old-timers will
10 remember. That separate identity requires visually
11 recognizable boundaries. Those boundaries are
12 well-defined in the recommendations provided by the
13 GPAC in their thorough work on the Maui Island Plan.
14 The process of creating and adopting the Maui Island
15 Plan is not complete.

16 And thus the parameters to be contained in
17 the Maui Island Plan that should guide this Wai'ale
18 development are not finalized.

19 The Waikapu Community Association plans to
20 vigorously present its case for inclusion of well
21 defined open space boundaries, creating visual
22 separation between Waikapu and its northerly neighbors
23 Wailuku and Kahului such as proposed by the GPAC.

24 The FEIS claims consistency with the Draft
25 Maui Island Plan, but presents a master plan that was

1 never reviewed as part of the Maui Island Plan Urban
2 Growth Boundary maps and is completely different from
3 the maps found in the MIP.

4 The LUC should also keep in mind that this
5 entire boundary amendment application is premature
6 since the issue of Urban Growth Boundaries is not
7 settled.

8 As proposed in the conceptual plans for the
9 proposed Wai'ale development included in the FEIS,
10 housing elements of the development would be situated
11 in parts of the location where open space
12 separation --

13 MR. DAVIDSON: Excuse me, sir. If you could
14 summarize.

15 THE WITNESS: I'm almost done. Yep, thank
16 you. This open space would form part of a continuous
17 green belt and would also provide a buffer between
18 Maui Land and the new Wai'ale development.

19 As presented to this Commission the FEIS
20 fails to adequately address a very important aspect of
21 physical and social environment of the area. It's an
22 obvious attempt to preempt the work still being done
23 to adopt the Maui Island Plan, which would provide
24 clear direction for proposed developments such as
25 Wai'ale.

1 I will present this testimony in digital
2 form to the Commission later on. Attached to that you
3 will find the Waikapu Community Association Statement
4 of Values that was adopted in 2010.

5 The Statement of Values describes what the
6 Waikapu community has determined to be vital standards
7 and guidelines for any and all endeavors affecting
8 this community. The Statement of Values was provided
9 to the Applicant and its representatives as part of
10 the comments on the Draft EIS. Thank you for your
11 time.

12 PRESIDING OFFICER JUDGE: Are there any
13 questions for this witness?

14 MR. TABATA: No questions.

15 PRESIDING OFFICER JUDGE: Thank you.

16 MR. DAVIDSON: Clare Apana.

17 CLARE APANA

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

20 THE WITNESS: I do.

21 PRESIDING OFFICER JUDGE: Thank you. If you
22 could state your name and address for the record
23 please.

24 THE WITNESS: Clare Apana. Malama ka kane
25 ula, Wailuku, Maui. Please excuse me. I am so

1 nervous. I am not practiced in doing this. And I
2 don't have any particular geological degree. I have
3 common sense. And I was born in the sand dunes. I've
4 grown up in these sand dunes playing, and now visit
5 these sand dunes regularly as the people from the CIA
6 know. And I try to malama the iwi kupuna there.

7 It's taken me four years to get burials
8 covered where the bones were glistening in the sun.
9 But I persisted to do this. And the way that I'm
10 treated is shameful. I spoke early but I sent you my
11 first letter to Grant Chun that we needed a TCP study,
12 a traditional, cultural place study, because this area
13 is too important, too large. And I talked to him
14 about how important it was, how important this area
15 was in case he didn't know.

16 And what has ensued is I was asked to be
17 interviewed for the CIA, which I agreed to. And then
18 my interview was never finished. I actually gave the
19 consultants information about this place which they
20 didn't have any idea of where the burial preservations
21 would be, where the burials were.

22 And in return I asked them for some better
23 maps because the maps were not to scale. I never
24 received these maps. I never received the GPS points
25 that I asked for. And I never received a completion

1 of my interview.

2 In the CIA -- I mean in the Draft EIS it
3 says that I refused to sign. That's not true. We
4 never finished it and I was never offered to sign
5 that. Now I've been offered to sign an incomplete
6 interview. I'll tell you the FEA -- the FEIS is
7 incomplete. I have not finished my interview.

8 And then PBR says that they doubt or
9 question whether I am a cultural practitioner. I
10 assure you I am practicing my culture at one of the
11 highest, most highest respected levels.

12 I'm trying against this human separation to
13 protect the iwi kupuna. And let me tell you when they
14 say there's no sand mining, that means no sand mining
15 perhaps without a special use permit from you.
16 Because when they get urban and they get to grade --
17 they get to take as much as they want out of the land.
18 Behind my house they took out 40 to 60 feet on a
19 grading permit. And if that's not sand mining, I
20 don't know what it is. I just want you to be aware of
21 that.

22 They have brought forth a burial treatment
23 plan. The very first burial treatment plan was quite
24 inadequate. I wrote to that effect. And the Burial
25 Council was given no say. They said, "it's already

1 done. You can just make a comment." That burial
2 treatment plan was about eight pages long in August.
3 In September another Burial Treatment Plan 146 pages,
4 and I'd like to correct that in the record, it's 146
5 pages was printed.

6 The Burial Council has never seen this plan
7 and never allowed to make comments, although they have
8 purview over two or three of the features.

9 I just am so sorry that we cannot work
10 together. And for this reason I feel that we really
11 need that 106 process, which I also asked the
12 developer for, so that other Native Hawaiian
13 organizations could weigh in about these very
14 important cultural features.

15 And you're correct, they are historic
16 features. And they are under the Federal Graves
17 Protection Act.

18 As a matter of fact, this particular
19 archeologist has been cited by NAGRA for having
20 burials that exceed ten years before being reinterred.
21 If that wasn't an involvement with the federal
22 government that directly involves our iwi kupuna, then
23 I don't know what else is.

24 I have done my best to work with everyone so
25 that we could come together on this, but at this point

1 the only way that I feel the kanaka ma'oli will get
2 any kind of a fair shake will be with the 106 process.

3 And I ask you to require them to do that,
4 and to require a traditional cultural practice study
5 which will then have an ethnographic study, which has
6 its own qualifications and rules and guidelines that
7 have to be followed so that there is not as much sway
8 in the people who are making the cultural impact
9 assessment. They have to follow the guidelines.

10 I'm sure that the kupuna who are the
11 cultural CIA people would love to see that no more
12 dunes are impacted; that we don't have multi-family on
13 them which is in the plan right now. That we don't
14 have mixed-use on top of the dunes that are not yet --
15 are not yet touched. I give you these pictures.

16 MR. DAVIDSON: Could you conclude in 30
17 seconds.

18 THE WITNESS: I will, yes. They are
19 pictures of dunes that have been touched. You see the
20 orange fences and dunes that have not yet been
21 touched. They look pretty much the same. In the
22 burial treatment plan they say that all burials are
23 found at 145 to 240 feet in elevation.

24 I would suggest that to give this very small
25 area of dunes that are not yet impacted a fair chance

1 that if it is over 140 feet you should not put
2 anything on it. You should not be planning to put
3 multi-family on that. And I would ask this developer
4 to draw their plans without having to impact the few
5 remaining things --

6 MR. DAVIDSON: Excuse me. Thank you. We
7 really need to --

8 THE WITNESS: Thank you very much.

9 PRESIDING OFFICER JUDGE: Are there any
10 questions for this witness?

11 MR. TABATA: No.

12 PRESIDING OFFICER JUDGE: Okay. That will
13 conclude the public testimony for this docket.
14 Tomorrow we will recommence, and start with the staff
15 report at 9:00 a.m.

16

17 (The proceedings were adjourned at 5:15 p.m.)

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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 matters on the 3rd day of November 2011;

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 _____ 2011

HOLLY M. HACKETT, HI CSR #130, RPR
Certified Shorthand Reporter

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