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LAND USE COMMISSION  
STATE OF HAWAI'I

ACTION )  
A15-798 WAIKAPU PROPERTIES, LLC, et al. (Maui))  
\_\_\_\_\_)

TRANSCRIPT OF PROCEEDINGS

The above entitled matter came on for an action  
hearing at Maui Arts & Cultural Center, Haynes Meeting  
Room, One Cameron Way, Kahului, Maui, Hawai'i  
commencing at 9:30 a.m. April 29, 2015 pursuant to  
Notice.

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

## A P P E A R A N C E S

Commissioners:

Edmund Aczon  
Kent Hiranaga  
Aaron Mahi  
Chad McDonald (Chair)  
Jonathan Scheuer  
Arnold Wong

Executive Officer: Dan Orodener  
Chief Clerk: Riley Hakoda  
Staff Planner: Scott Derrickson  
DEPUTY ATTY. General: Diane Erickson

Docket No. A15-798 Waikapu Properties, LLC, et al.

For the Petitioner: James Geiger, Esq.

For the State: Bryan Yee, Esq.  
DEPUTY ATTORNEY GENERAL  
Rodney Funakoshi, Drtr. Office of Planning

For the County: Michael Hopper, Esq. Deputy Corp.  
Counsel

For the County Dept. of Planning: Kurt Wallenhoff,  
Planner

## I N D E X

PUBLIC TESTIMONY

PAGE

Lucienné DeNai

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1 CHAIR McDONALD: (gavel) 'Morning. I'd  
2 like to call the state of Hawai'i Land Use Commission  
3 meeting to order. First order of business is the  
4 adoption of our March 25th, 2015 meeting minutes.  
5 Commissioners, any revisions? Hearing none, do I have  
6 a motion to approve? Moved by Commissioner Aczon,  
7 second by Commissioner Mahi. All those in favor say  
8 aye. "Aye" Any opposed? Minutes are adopted.

9 Mr. Orodenger, would you please review  
10 with the Commission the tentative meeting schedule.

11 MR. ORODENER: Thank you, Mr. Chair. The  
12 tentative meeting schedule is May 6th is our next  
13 scheduled meeting but that agenda is to be determined.  
14 May 29 we have tentatively McClean Honokohau Petition,  
15 Motion to Amend actually in Kona.

16 On June 9 we have, once again tentatively,  
17 but we have tentatively scheduled the Kalaeloa Solar  
18 Project at the Honolulu Airport Conference Room.  
19 Wednesday June 10th Island Schools on Kaua'i. That  
20 leads us up to the end of the potential agenda at this  
21 point in time.

22 CHAIR McDONALD: Thank you, Mr. Orodenger.  
23 At this time I'm going to take the agenda items out of  
24 order for the purpose of, actually for the sake of our  
25 State Office of Planning. I'm now going to entertain

1 a motion to enter into executive session agenda item  
2 No. 6.

3 COMMISSIONER WONG: So moved.

4 COMMISSIONER ACZON: Second.

5 CHAIR McDONALD: All in favor of executive  
6 session say aye.

7 COMMISSIONERS: "Aye."

8 CHAIR McDONALD: Any opposed? The  
9 Commission will now go into executive session.  
10 Mr. Hakoda will come get you folks once our executive  
11 session is over.

12 (Executive Session)

13 CHAIR McDONALD: We're back on the record.  
14 At this time we're going to take up agenda item IV  
15 A15-798 Waikapu Properties, LLC. This is an action  
16 meeting on Docket No. A15-798 to consider Petitioner's  
17 motion to designate the Land Use Commission as  
18 approving agency for an Environmental Statement under  
19 HRS Chapter 343 and for authority to prepare an  
20 Environmental Impact Statement.

21 On April 16, 2015 the Commission received  
22 a petition for land use district boundary amendment to  
23 Amend the Agricultural Land Use District Boundaries  
24 into the Rural Land Use District for certain lands  
25 situated at Waikapu, District of Wailuku, Island and

1 County of Maui, State of Hawai'i, consisting of 92.394  
2 acres and 57.454 acres, bearing Tax Map Key Nos. (2)  
3 3-6-004:003 portion of parcel 3 and to amend the  
4 Agricultural Land Use District Boundaries into the  
5 Urban Land Use District for certain lands situated at  
6 Waikapu, District of Wailuku, Island and County of  
7 Maui, State of Hawai'i, consisting of 236.326 acres,  
8 and 53.775 acres, and 45.054 acres bearing Tax Map Key  
9 Nos. (2) 3-6-002 portion of parcel 3; 3-6-004 parcel 6  
10 and 3-6-5 portion of parcel 7 together with Exhibits 1  
11 through 18 from the Petitioner Waikapu Properties,  
12 LLC, et al, and Petitioner's Motion to Designate the  
13 Land Use Commission as approving agency for the  
14 Environmental Statement under HRS Chapter 343 and for  
15 authority to prepare Environment Impact Statement.

16 On April 21st, 2015 the Commission mailed  
17 the April 29th meeting notice of agenda to the parties  
18 and the statewide and Maui mailing lists.

19 On April 23rd, 2015 the Commission  
20 received Petitioner's Affidavit of Notice of Filing  
21 Petition and Exhibits 1 through 3.

22 On April 27, 2015 the Commission received  
23 County of Maui Department of Planning Statement of No  
24 Opposition to the Petitioner's Motion. Also on this  
25 date the State Office of Planning advised the

1 Commission that it would provide any comments it had  
2 at the meeting today. Also like to make note on  
3 April 28 there was a duplicate filing from the County  
4 of Maui which was received from the corporation  
5 counsel.

6 Let me briefly describe our procedures for  
7 today on this docket. First, we'll have the parties  
8 identify themselves for the record. I will then give  
9 opportunity for the Petitioner to comment on the  
10 Commission's policy governing reimbursement of hearing  
11 expenses. I will then call for those individuals  
12 desiring to provide public testimony to identify  
13 themselves. All such individuals will be called in  
14 turn or to be sworn in prior to their testimony.

15 After completion of the public testimony  
16 the proceeding -- other proceedings, the Petitioner  
17 will make its presentation. After completion of the  
18 Petitioner's presentation we will receive any comments  
19 from the County of Maui Planning Department as well as  
20 the State Office of Planning.

21 The Commission will then conduct its  
22 deliberations. The Chair will also note from time to  
23 time we will call for short breaks. Are there any  
24 questions for our procedures today?

25 MR. GEIGER: This is James Geiger on

1   behalf of the Petitioners. With me is Michael  
2   Atherton who is the representative of the Petitioners.  
3   And we have no comments on your outline.

4               CHAIR McDONALD: Thank you.

5               MR. HOPPER: Michael Hopper, Deputy  
6   Corporation Counsel with the Maui County Corporation  
7   Counsel's office. With me is Kurt Wallenhoff, staff  
8   planner. We represent the County of Maui Department  
9   of Planning. We have no questions at this time.

10              MR. YEE: If we're doing introductions,  
11   Deputy Attorney General Bryan Yee on behalf of the  
12   Office of Planning. With me is Rodney Funakoshi from  
13   the Office of Planning. We have no comments.

14              CHAIR McDONALD: Thank you. Seeing that  
15   we've moved on to introductions, Mr. Geiger, has our  
16   staff informed you of the Commission's policy  
17   regarding reimbursement of hearing expenses?

18              MR. GEIGER: It has.

19              CHAIR McDONALD: Could you please state  
20   your client's position with respect to this policy.

21              MR. GEIGER: We understand that we will  
22   have to pay the expenses.

23              CHAIR McDONALD: Thank you, Mr. Geiger.  
24   Mr. Orodenger, anybody signed up for public testimony?

25              MR. ORODENKER: No, Mr. Chair. We have no



1 one signed up.

2 CHAIR McDONALD: Is there anybody in the  
3 audience wishing to provide public testimony at this  
4 time? Please come forward. Before we proceed with  
5 public testimony I'd like to ask any of the  
6 Commissioners for any disclosure at this time.  
7 Commissioner Scheuer?

8 COMMISSIONER SCHEUER: Mr. Chair, just in  
9 the interest of being extremely cautious on  
10 disclosures, from 2004 to 2010 I worked for the Office  
11 of Hawaiian Affairs as a policy analyst. And I was  
12 very involved in water-related issues in this area  
13 including matters that the Petition might have.

14 I have no financial interest or any  
15 interest in any those now resolved matters. I do not  
16 believe that I will have any problem making a fair and  
17 impartial decision on these matters.

18 CHAIR McDONALD: Thank you, Commissioner  
19 Scheuer. Petitioner, any objection to Commissioner  
20 Scheuer's participation in this hearing?

21 MR. GEIGER: No objection.

22 CHAIR McDONALD: County?

23 MR. HOPPER: No objection.

24 CHAIR McDONALD: State?

25 MR. YEE: No objection.

1 CHAIR McDONALD: Thank you, Commissioner  
2 Scheuer. Public testimony at this time. Let me  
3 quickly swear you in.

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

7 THE WITNESS: I do.

8 CHAIR McDONALD: Thank you. Please state  
9 your name and address for the record.

10 My name is Lucienne Denai. I live at 320  
11 Door of Faith Road in Haiku, Maui, Hawai'i.

12 CHAIR McDONALD: Thank you. Please  
13 proceed.

14 THE WITNESS: I'm here because, like a  
15 number of other folks in the community, the developers  
16 have reached out to present their Project. I first  
17 heard about this Project when I served on the General  
18 Plan Advisory Committee for Maui County update of the  
19 General Plan in 2007 to 2008. And I was impressed at  
20 that time. This was the only Project where it was  
21 commented on at one stage of the general plan review.

22 And by the time we took our final votes on  
23 the final map the Applicant had come back and actually  
24 addressed many of the comments that had been made by  
25 the G-Pack members and had changed their plan.

1 I think this was about the only plan we  
2 saw where that happened. This led me to meet over the  
3 subsequent years to hear the progress of the Project.  
4 And, of course, it's a formality kind of thing you're  
5 doing today, just accepting the Authority to review  
6 the EIS.

7 But I wanted it to go on the record that  
8 this is a Project that has tried to reach out to the  
9 various parts of the community and hear what they have  
10 to say. It does have, you know, impacts. But I think  
11 a good faith effort is being made to work with the  
12 community members on those impacts. Just wanted to  
13 give that for the record. Thank you.

14 CHAIR McDONALD: Thank you.  
15 Commissioners, any questions?

16 THE WITNESS: I'll sign up over there.

17 CHAIR McDONALD: Thank you, Ma'am. Thank  
18 you for your participation. Anybody else in the  
19 audience wishing to provide public testimony at this  
20 time? Hearing none, Mr. Geiger, would you please  
21 start with your presentation.

22 MR. GEIGER: Certainly. I hope you can  
23 hear me. And if you can't I'll just talk louder.  
24 Good morning, Chair, Commissioners. Thank you very  
25 much for this opportunity. This will be the first of

1 several appearances before you on this Project. What  
2 we're seeking today is to bypass a step in the  
3 process. The Legislature in 2012 recognized that  
4 certain projects were going to require an  
5 Environmental Impact Statement because of their  
6 significance criteria would be arisen as a result of  
7 the Project.

8           So they said instead of going through the  
9 step of having an Environmental Assessment first and  
10 then an EIS, we'll just go directly to the EIS  
11 process. But to do so the Commission needs to make  
12 certain findings. It needs to, based upon their  
13 experience, based upon their knowledge of other  
14 projects that were before them, say, "Yes, Petitioner,  
15 you're correct. This Project is gonna need an EIS so  
16 we'll just go to the EIS process. And we will save  
17 some time, save some money, especially for the  
18 Commission not have to review something twice."

19           So what do we need? Why are we here?  
20 Well, as you know there are triggering events for  
21 EA's, or Environmental Assessments, EIS's. We have  
22 two triggering events with this Project. One, it will  
23 involve the use of state or county lands. We have a  
24 highway that runs right through the middle of the  
25 project and connects it to the highway. It will

1 involve the use of state or county lands.

2 In addition, the second triggering event  
3 is that there will be an amendment of the Community  
4 Plan for the particular area. We will need to go in  
5 and change a designation from Agriculture to a  
6 different land use designation of the Community Plan,  
7 change what the Community Plan has in it. So these  
8 are the two triggering events that will require an  
9 EA/EIS.

10 Now, the significant criteria that you  
11 need to review in determining whether or not this  
12 thing should go directly to an EIS is found in HAR  
13 11-200-12. And there are a list of 13 different  
14 criteria that show that there's going to be a  
15 significant impact. We've highlighted in our motion a  
16 number of those that will have a significant impact.  
17 And significant criteria are involved.

18 The first significant criteria is the loss  
19 of agricultural land. The Project will move  
20 approximately 480+ acres from Agriculture to Urban and  
21 Rural. So that is a significant factor that needs to  
22 be considered.

23 The second is economic and social welfare  
24 will be impacted. There's going to be over 1400  
25 residential units that will be involved in this

1 Project. There's going to be roughly 150,000+  
2 commercial square footage added. This will be a  
3 significant impact on the rural area.

4 Third criteria that we believe has been  
5 impacted is the population changes or public  
6 facilities will be affected. It is expected that  
7 approximately 8,000 people will be moving into the  
8 Petition Area because of the residences that will be  
9 there. This is a significant impact that needs to be  
10 addressed. And everyone sitting around this table  
11 should recognize that.

12 The fourth criteria are scenic vistas and  
13 viewplanes that will be impacted. And in this  
14 particular case and the Petition Area right now has  
15 wonderful views of the West Maui Mountains, wonderful  
16 views of Haleakala. Those are going to be impacted by  
17 the development. So we need to address that and how  
18 we're going to mitigate those impacts.

19 The fifth criteria is the energy  
20 consumption will be increased again because we have an  
21 excess of 8,000 residents in a residential area.  
22 There's going to be energy consumption that's gonna  
23 change. So these things need to be addressed.

24 So we believe that the Commission, based  
25 upon all the other matters that come before it, can

1 recognize that this particular Project, given its  
2 size, given the number of acres involved, given the  
3 significance criteria that are clearly involved,  
4 should go directly to the EIS process.

5 And with those opening comments, if I  
6 could I'd like to have Michael Atherton give just a  
7 short presentation so the Commission can understand a  
8 little bit more about the Project. If that is okay  
9 with the Commission.

10 CHAIR McDONALD: We would appreciate that.  
11 Thank you.

12 MR. GEIGER: While I'm doing that I  
13 should have introduced, I apologize at the beginning.  
14 The planner on this Project, Mike Summers is present  
15 also. I should have done that. I apologize.

16 CHAIR McDONALD: Mr. Atherton, may I swear  
17 you in?

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

21 THE WITNESS: Yes.

22 CHAIR McDONALD: Please state your name  
23 and address for the record.

24 THE WITNESS: Chair and Commissioners, my  
25 name is Michael Atherton. I live at 1670

1 Honoapi'ilani Highway in Waikapu. It's called the  
2 Maui Tropical Plantation. I've been the owner there  
3 for about 12 years. Back quite a few years ago my  
4 good friend Chris Hart said to me that Maui is a  
5 island of small country towns. I had an opportunity  
6 of a life time to rebuild a small country town which  
7 was formerly a sugarcane plantation town.

8 We have come up with a Project that's  
9 before you today. And we have worked with the Waikapu  
10 Community Association for the last 10 years. It has  
11 1433 residential units, 900 plus single family homes  
12 and 400 plus multi-family units.

13 It's about 190,000 square feet of  
14 commercial retail place that we will build in the  
15 heart of the plantation as the idea to create a new  
16 center of Waikapu Town. We have a school. We also  
17 have an 800-acre agricultural component as part of the  
18 Project. We currently have 2 farmers: Maupaia and  
19 Kumu Farms. They're on Molokai, have been farming  
20 with me now about 5 years, a very successful farming  
21 operation.

22 We continue to promote agricultural park  
23 type of an environment where small farmers to have an  
24 opportunity here on Maui to grow and get involved in  
25 the agricultural community.



1           We have 6 miles of bike trails. Bike  
2 trails are proven to be very successful in the history  
3 of the projects that I've done. I've been in the real  
4 estate business for 45 years. I'm primarily a  
5 single-family affordable housing contractor. I feel  
6 very lucky to have this opportunity to address you  
7 today. I humbly ask you allow me to go forward to  
8 the EIS. If you have any questions I'll be glad to  
9 answer 'em.

10           CHAIR McDONALD: Commissioners, any  
11 questions for the witness at this point in time for  
12 Mr. Atherton? Hearing none, thank you.

13           THE WITNESS: Thank you very much. Here's  
14 the map of the Project. Sorry I didn't see it.  
15 (laughter) This is the Tropical Plantation. This is  
16 the core of the commercial area. We have Sugar Lane  
17 that comes down. So we have some live/work/loft types  
18 of proposals where we would have commercial on the  
19 first floor and condominiums on the second floor.

20           This is school, 28-acre park. Here's the  
21 residential component. This is primarily affordable  
22 housing. This is Honoapi'ilani Highway, Tropical  
23 Plantations, residential, rural, rural and rural.  
24 Here's the agricultural components on both sides of  
25 the highway. Currently we have a fruit stand pavilion

1 on the corner. And we also have one in the Maui  
2 Tropical Planation.

3 This was the future county regional park  
4 which will also have the county baseyard, future  
5 police, fire-type of facilities which will create  
6 employment for the Waikapu Town residents so there'd  
7 be able to walk and hike in the community.

8 CHAIR McDONALD: Can you roughly identify  
9 the Petition Area? Because you had mentioned  
10 800 acres on an agricultural component.

11 THE WITNESS: This is the 800 acres  
12 agricultural component here. This is the Project that  
13 we're talking about urbanizing. This is the rural  
14 component. These lands will be dedicated to  
15 agriculture and open space in perpetuity. This is all  
16 you'll ever see in this part of Maui. That was an  
17 agreement I made with the community and with the  
18 county to promote agriculture and to prevent urban  
19 sprawl.

20 MR. GEIGER: Chair, and Commissioners,  
21 just for clarification. The EIS will involve both the  
22 Petition Area and also the 800 acres that the  
23 remainder actually is around a thousand acres of the  
24 remainder of the property. But our Petition only  
25 involves the 488 acres that were identified for the

1 residential, the Maui Tropical Plantation and then the  
2 rural lots which are in purple.

3 CHAIR McDONALD: So that 800 acres is  
4 being considered for actual IAL designation?

5 MR. GEIGER: Conservation. It's going to  
6 be under a conservation trust.

7 CHAIR McDONALD: Thank you. County, any  
8 questions?

9 MR. HOPPER: No, Mr. Chair.

10 CHAIR McDONALD: Mr. Yee?

11 MR. YEE: No questions.

12 CHAIR McDONALD: Commissioner Wong?

13 COMMISSIONER WONG: I just have a  
14 question, sir. On the map itself, on the right side  
15 what is that?

16 THE WITNESS: This is the current Waikapu  
17 community.

18 COMMISSIONER WONG: Okay. And it goes all  
19 the way down.

20 THE WITNESS: It's here, here and here.  
21 This is currently now developed into Waikapu Gardens.  
22 This was under construction. Now it's an affordable  
23 housing project that was done about, oh, seven or  
24 eight years ago. It is currently Waikapu here and  
25 here. So this is the existing neighborhood, about a

1 thousand homes in Waikapu. This is the county.

2 MR. GEIGER: If you could, perhaps tell  
3 the Commissioners how does this Project relate in size  
4 to other projects in Central Maui?

5 THE WITNESS: It's the second largest  
6 project in Central Maui. There's only 3 projects in  
7 the Maui Island Plan: Wai'ale, Waikapu and Puamana.

8 MR. GEIGER: Thank you.

9 CHAIR McDONALD: Commissioner Scheuer.

10 COMMISSIONER SCHEUER: What is the blue  
11 dot on the lower right hand are of the Petition Area?

12 THE WITNESS: This is the 12-acre  
13 elementary school site, Department of Education. I'm  
14 working with them on putting together possibly a  
15 Hawaiian emersion component in the school. This is  
16 the park, 28 acres of open space right in the middle  
17 of the community.

18 COMMISSIONER SCHEUER: Thank you.

19 CHAIR McDONALD: Mr. Geiger, anything  
20 else?

21 MR. GEIGER: We don't have anything  
22 further. Again, if the Commissioners have any  
23 questions or Chair we'd be happy to answer them. We  
24 think that we've shown that this Project meets the  
25 EIS. It's a large project. There's going to be

1 significant impacts. They need to be assessed.

2 CHAIR McDONALD: Commissioner Mahi.

3 COMMISSIONER MAHI: Just a clarification  
4 on the Ag land area. What kind of agriculture do you  
5 have planned for seed?

6 THE WITNESS: Currently it's primarily in  
7 sugarcane. We have about a hundred acres that the  
8 local Hawaiians farm: Taro and bananas and quite a  
9 few other diversified crops. Then we have another 100  
10 acres at Kumu Farms I met in Molokai. Those organic  
11 just about all those crops. Kumu has a vegetable --  
12 we call it pavilion or fruit stand here right in the  
13 Maui Tropical Plantation. It's become quite popular  
14 in the community because it's all 100 percent organic.  
15 Also we have another one down on the corner that has  
16 coconuts and crops that we put over the Project.

17 COMMISSIONER MAHI: 800 acres. Olive  
18 green.

19 THE WITNESS: We propose to dedicate  
20 through conservation easement open space and for  
21 agricultural promotion. We were able to purchase  
22 groundwater rights from the seller 12 years ago. I  
23 drilled 5 wells and 2 large agricultural wells that  
24 will help supplement the agricultural requirement in  
25 the Project. That way we can provide inexpensive

1 land, inexpensive water to help promote agriculture.  
2 In the future I see more farmers like Kumu and Bobby.  
3 When the county builds their park that will cut the  
4 sugarcane fields off from the mill. Eventually this  
5 will become all different types of diversified  
6 agriculture. That's our goal.

7 COMMISSIONER MAHI: So farmers, what do  
8 they do? Do they plan for leases?

9 THE WITNESS: Right. They would come and  
10 apply to us for a lease. We will have a park. And it  
11 would be, it would have rules and regulations. We  
12 would manage it. We either do it in conjunction with  
13 the county or do it privately. There's language in  
14 our Maui Island Plan that promotes that.

15 COMMISSIONER MAHI: Mahalo. The area  
16 above that, that's outside?

17 THE WITNESS: Here?

18 COMMISSIONER MAHI: Yes.

19 THE WITNESS: This is the old Waikapu  
20 Country Club, the Kamehameha Clubhouse. They call it  
21 the Marilyn Monroe house, right here. Currently it's  
22 in great shape. About 12 years ago brought it back.  
23 They're nice neighbors.

24 COMMISSIONER MAHI: The area was a club  
25 house, whatever.

1 THE WITNESS: Here's the club house. This  
2 was several years old. This was when the golf course  
3 was under construction. It was built. Then they lost  
4 it, then they brought it back. It currently now is  
5 all under green. This is the watershed. We have 2  
6 zip lines on the Project. We have a small one --

7 CHAIR McDONALD: Mr. Atherton, can you  
8 speak into the microphone, please.

9 THE WITNESS: I'm sorry. We currently do  
10 a lot of agritourism on the Tropical Plantation. Over  
11 the last 10 years we kinda brought it back. Do a lot  
12 of fund raisers.

13 CHAIR McDONALD: Commissioner Scheuer?  
14 Oh, I'm sorry. Commissioner Mahi, do you have any  
15 more questions?

16 COMMISSIONER MAHI: No. Thank you.  
17 Mahalo.

18 COMMISSIONER SCHEUER: Could you briefly  
19 describe how you're going to approach some of that  
20 cultural impact and archaeological assessment work in  
21 the course of this EIS if you proceed? Given what I'm  
22 interested in, just to say a little more, this having  
23 been historically a very heavily settled area the  
24 potential for burials is high. And the layout is  
25 heavily close to Waikapu Stream where it would be the

1 heaviest. I'm just curious how you're approaching  
2 that in this process, the EIS process.

3 MR. GEIGER: Perhaps, if I may. That,  
4 again, will be done through the EIS process. There  
5 will be a cultural study. There will be  
6 archaeological studies. And it's a little early to  
7 tell exactly what we're going to find out there. We  
8 expect there will be something out there. We also  
9 will be providing a history of Waikapu to provide some  
10 information there. So we will be addressing all those  
11 things, and whatever impacts we will meet.

12 COMMISSIONER SCHEUER: Just a comment. Is  
13 there a conceptual flexibility at this point to say if  
14 you discover a heavy concentration of burials or other  
15 significant cultural resources belonging to the north  
16 side of the property, the right side of the property  
17 on this map that you'd be able shift things around if  
18 necessary?

19 MR. GEIGER: I don't think we've made any  
20 determination one way or another because we just don't  
21 have the information yet. So that will be something  
22 that will be driven by the reports, consultants'  
23 reports.

24 COMMISSIONER SCHEUER: Excellent. Thank  
25 you.



1 THE WITNESS: To add to that, we're very  
2 conscious about the history of the area. And we kind  
3 of resurrected the Wailuku Sugar Mill on the  
4 plantation site there. If you've been out there in  
5 the last couple years you'll see it. We display the  
6 old first railroad steam engine that came to Maui and  
7 the old Clause Spreckels. We've been pretty history  
8 conscious recreating the beginning of downtown  
9 Waikapu.

10 I'm in the coffee business. I have  
11 Coffees of Hawai'i on Molokai. So we have coffee  
12 shops and a coffee roastery. We do our very best to  
13 carry on the history and tell the story.

14 CHAIR McDONALD: Thank you, Mr. Atherton.  
15 I'm sure if this Project does moves forward we'll  
16 definitely get into the details. Thank you for your  
17 testimony.

18 THE WITNESS: Thank you.

19 MR. GEIGER: We have nothing further  
20 unless the Commissioners or the Chair has a question.

21 CHAIR McDONALD: Seeing none, thank you,  
22 Mr. Geiger.

23 MR. GEIGER: Thank you.

24 CHAIR McDONALD: Mr. Hopper.

25 MR. HOPPER: Thank you, Mr. Chair and

1 Members of the Commission. Seeing as the request at  
2 this point in the motion is to have the Land Use  
3 Commission be the accepting agency for the  
4 environmental document and to proceed directly to the  
5 EIS, the County has no objections to that motion.

6 The County's filed a statement of No  
7 Opposition yesterday. And I don't believe the  
8 Commissioners have this. But the Department of  
9 Planning also filed some supplementary comments to  
10 also clarify its reasons for no opposition. The  
11 Department's available for questioning.

12 Kurt Wallenhoff is here, staff planner, if  
13 you have any questions on the county's positions.  
14 Basically we are in agreement that there may be  
15 environmental impacts such that preparation of an EIS  
16 is warranted at this time. Thank you.

17 CHAIR McDONALD: Thank you, Mr. Hopper.  
18 Commissioners, any questions for the County of Maui?  
19 Seeing none, Mr. Yee, good morning. Any comments?

20 MR. YEE: Good morning. First of all,  
21 thank you for moving this to the end of the agenda. I  
22 apologize for being late. I think Mr. Geiger gave a  
23 very good explanation of all of the facts in this case  
24 and why the motion should be granted. I just wanted  
25 to comment just briefly. This is typically -- these

1 motions are typically the first time a landowner will  
2 appear in front of you. It's the beginning of the  
3 process from your perspective and, frankly, beginning  
4 of a relatively long -- of a relatively long process.

5 In almost all cases some environmental  
6 report is going to be required because in almost all  
7 cases it will trigger the requirements under Chapter  
8 343. So you'll typically find developers coming to you  
9 with these kinds of requests.

10 And the Land Use Commission is often the  
11 first approving agency. So you're often the one who's  
12 tasked with reviewing and approving or denying the  
13 Environmental Report. The one notable exception might  
14 be in the state or county projects where the state or  
15 county agency might have to get approval from the  
16 Mayor or Governor of their EIS before they get to you.

17 But in almost all cases you will see  
18 landowners come to you with this request to be the  
19 approving agency 'cause you'll be the first  
20 discretionary approval. It'll occur before zoning,  
21 occur before subdivision.

22 So you are typically the first one that  
23 gives its discretionary approval and the ones that it  
24 falls to review the Environmental Report.

25 In also a clear majority of cases

1 landowners will realize that there's a significant  
2 impact to their project. It's just in the nature of  
3 District Boundary Amendment cases. They're relatively  
4 large. They almost all have significant impacts. So  
5 realizing that most landowners will understand. It  
6 makes no sense to prepare an assessment to determine  
7 if there's an impact.

8           It may as well go straight to the  
9 Environmental Impact Statement and look and assess,  
10 evaluate those impacts and determine what the  
11 mitigations are.

12           So you will often find these motions come  
13 before you as the beginning of the process, and are  
14 typically approved at least historically. I will make  
15 one other comment. That is that although a Petition  
16 has been filed in this case, it is also possible and  
17 not uncommon for Petitioners to amend their Petition.  
18 So although I can't comment in any particular case as  
19 to whether flexibility exists, the process allows for  
20 a landowner to have a Petition before you, submit a  
21 prepared Environmental Impact Statement.

22           They might discover something in that  
23 Environmental Impact Statement which causes them to  
24 amend or change their plans. And they can do that  
25 before they get to you on the substance of the case.

1 So while certainly it's very interesting to hear what  
2 their plans are, they do have the possibility of  
3 amending those plans. Whether that means they will  
4 use part of the Ag and put -- for residential -- and  
5 they put some of the existing residential as part of  
6 an archaeological historical complex. I mean these  
7 are the things that will be decided as part of this  
8 Environmental Impact Statement, analysis at the  
9 developer's discretion, obviously.

10 So the plans that they have today are  
11 certainly very informative. They're indicative of  
12 what's going to happen before you, but it's not set in  
13 stone. The process allows the developer to change  
14 their minds about what they want to present in its  
15 final form.

16 So I just wanted to note that for your  
17 information. With that the Office of Planning  
18 supports the granting of these motions. That's it.  
19 Thank you.

20 CHAIR McDONALD: Thank you, Mr. Yee.  
21 Commissioners, any questions for Mr. Yee? Seeing  
22 none, Commissioners what's your pleasure on this  
23 matter?

24 COMMISSIONER WONG: Chair, first want to  
25 see as the Petitioner stated there are triggers. So I

1 figure because there are triggers in both County and  
2 OP and Petitioner stated that there are triggers  
3 involved that they should go to it, straight into the  
4 EIS instead of going to an EA process.

5 CHAIR McDONALD: Thank you, Commissioner  
6 Wong. Commissioner Hiranaga.

7 COMMISSIONER HIRANAGA: Sorry,  
8 Mr. Chair. Are you -- is the floor open for a motion?

9 CHAIR McDONALD: Absolutely.

10 COMMISSIONER HIRANAGA: So I'll make a  
11 motion. You can correct me. I believe there's two  
12 proposed actions. One is to identify the Land Use  
13 Commission as the accepting Authority for the proposed  
14 actions by the Applicant. So make a motion to that  
15 effect.

16 Also the motion to waive the -- or to  
17 grant the Applicant the -- is it called the right to  
18 proceed directly to an Environmental Impact Statement?  
19 And I guess if the Attorney General's office wishes to  
20 correct my language they're welcome to do so.

21 CHAIR McDONALD: I guess for  
22 clarification, Commissioner Hiranaga, it's basically  
23 your motion, you have 2 motions on the table.

24 COMMISSIONER HIRANAGA: Yes.

25 CHAIR McDONALD: First is to approve the

1 motion for the Land Use Commission as approving agency  
2 for the Environmental Statement under Chapter 343 HRS.  
3 First motion.

4 COMMISSIONER HIRANAGA: Is it approving  
5 agency or accepting Authority?

6 CHAIR McDONALD: Excuse me. It's  
7 accepting Authority.

8 COMMISSIONER HIRANAGA: Yes, that's  
9 correct.

10 CHAIR McDONALD: And the second motion on  
11 the table is the Motion to Approve Petitioner to  
12 Authorize and Prepare an Environmental Impact  
13 Statement and do an Environmental Assessment.

14 COMMISSIONER HIRANAGA: Correct.

15 CHAIR McDONALD: Does that sound about  
16 right?

17 COMMISSIONER ACZON: I second the motion.

18 CHAIR McDONALD: Okay. We have a motion  
19 by Commissioner Hiranaga, second by Commissioner  
20 Aczon. Any discussion?

21 COMMISSIONER SCHEUER: Chair?

22 CHAIR McDONALD: Commissioner Scheuer.

23 COMMISSIONER SCHEUER: I just want to make  
24 sure, at least I go on the record, the Commission in  
25 the context of voting for this. Then we're very

1 specific about the findings that we're making that we  
2 believe under what's been presented on the Project and  
3 our understanding of the Administrative Rules, that  
4 there's going to be a significant impact on the  
5 environment involving irrevocable commitment of loss  
6 of destruction of natural resources. Substantially  
7 it's going to substantially impact the economic or  
8 social welfare in the community or the state.

9 It involves substantial secondary impacts.  
10 It will substantially effect scenic vistas and  
11 viewplanes and will require substantial energy  
12 consumption. For those reasons I'm going to vote in  
13 favor of the motions.

14 CHAIR McDONALD: Thank you, Commissioner  
15 Scheuer. I'd also like to recognize the fact that the  
16 Petitioner has recognized the fact that there is  
17 potential for environmental impacts for this Project.  
18 And you folks are also acknowledging the fact that you  
19 guys are entering into the preparation of an  
20 Environmental Assessment based on the potential  
21 identifying those impacts and forms of mitigation.

22 MR. GEIGER: Correct. We are seeking an  
23 Environmental Impact Statement because of potential  
24 impacts.

25 CHAIR McDONALD: Thank you. Any further



1 discussion, Commissioners? Hearing none, Commissioner  
2 Orodanker (sic) please poll the Commission.

3 COMMISSIONER SCHEUER: (Laughter)

4 CHAIR McDONALD: Excuse me. "Executive  
5 Officer Orodanker".

6 COMMISSIONER SCHEUER: Actually a  
7 *demotion*. (General laughter)

8 MR. ORODENKER: Thank you, Mr. Chair. The  
9 motion is to approve the request to, under Chapter 343  
10 that the LUC be the accepting Authority of the  
11 Environmental Impact Statement and a request to go  
12 directly to an Environmental Impact Statement in lieu  
13 of an EA. Commissioner Hiranaga?

14 COMMISSIONER HIRANAGA: Aye.

15 MR. ORODENKER: Commissioner Aczon?

16 COMMISSIONER ACZON: Aye.

17 MR. ORODENKER: Commissioner Scheuer?

18 COMMISSIONER SCHEUER: Aye.

19 MR. ORODENKER: Commissioner Wong?

20 COMMISSIONER WONG: Aye.

21 MR. ORODENKER: Commissioner Mahi?

22 COMMISSIONER MAHI: Aye.

23 MR. ORODENKER: Commissioners Song, Estes  
24 and Ahakuelo are absent. Chair McDonald?

25 CHAIR McDONALD: Aye.

1 MR. ORODENKER: Thank you, Mr. Chair. The  
2 motion passes with 6 aye votes.

3 MR. GEIGER: Okay. We want to thank you  
4 very much. I'm sure we'll see you again on the  
5 process. Thank you.

6 CHAIR McDONALD: Thank you, Mr. Geiger.  
7 Thank you, County as well as State Office of Planning.

8 ---

9 Next item on the agenda is any discussion regarding  
10 the Legislative Action Reports at this time.

11 Mr. Orodenker.

12 MR. ORODENKER: Thank you, Mr. Chair.  
13 There has been no action with regard to any of the  
14 legislative ventures that we *have* been tracking.  
15 There was a legislative matter that did come into play  
16 where we joined with the other boards and commissions  
17 testifying on.

18 There was a last minute amendment to  
19 SP-475 which concerned public meetings which would  
20 have required that a board packet be mailed out to  
21 everybody on the Commission's mailing list if one was  
22 provided to the Commission's Board Hearings. That is  
23 in conference committee. We have communicated with  
24 the senate conference Chairs and the House conference  
25 Chairs that that would be us mailing out 300 packets

1 before every meeting.

2 Other boards and commissions have the same  
3 concern. I believe that the conference committees are  
4 aware of that and will make appropriate amendments.

5 CHAIR McDONALD: Any questions from the  
6 Commissioners? Thank you, Mr. Orodener. Okay. The  
7 final item on the agenda is actually Election of  
8 Officers. I'm gonna defer this matter. I think it's  
9 a little premature. We have a couple months left, but  
10 just to give some insight from my perspective on the  
11 election of officers.

12 We do recognize that essentially we have a  
13 relatively new Commission, new Commissioners. Some of  
14 you have been with us, with the body for maybe a year  
15 or so, some of the others less. Also want to  
16 congratulate Commissioner Scheuer, Commissioner Wong  
17 and Commissioner Hiranaga for getting through the  
18 confirmation process which I actually sat through and  
19 sat in and witnessed. But congratulations to you  
20 folks.

21 But as far as election of officers I agree  
22 with the Commission. This is my fourth year. How I  
23 see things with regards to election of officers, it's  
24 essentially based on seniority as well as those  
25 Commissioners who are willing to take on the

1 responsibility. So there's no action at this time but  
2 I just wanted to give you my perspective on the  
3 officers that we are soon to select in the next couple  
4 of months. Give it some thought. If you folks have  
5 any questions or concerns regarding this matter,  
6 please feel free to contact me any time.

7 MR. ORODENKER: Diane, could you just  
8 repeat to the Commissioners what the Sunshine Law says  
9 with regard to communications on this.

10 MS. ERICKSON: Give me two seconds. I  
11 should be able to find it. The Sunshine Law does allow  
12 if you're less informed to discuss matters relating to  
13 election of officers. I think that's it in a  
14 nutshell.

15 CHAIR McDONALD: So I guess I'm going to  
16 defer any action of election of officers 'til another  
17 date. I'll coordinate this with Mr. Orodenker.

18 MS. ERICKSON: I should correct my  
19 statement. You probably shouldn't make commitments as  
20 to who you're voting for or anything like that but can  
21 discuss. Sorry.

22 CHAIR McDONALD: With that, any questions  
23 Commissioners? Thank you. We're adjourned.

24 (The proceedings were adjourned at 10:45 a.m.)  
25

## C E R T I F I C A T E

I, HOLLY HACKETT, CSR, RPR, in and for the State  
of Hawai'i, do hereby certify;

That I was acting as court reporter in the  
foregoing LUC matter on the 29th day of April 2015;

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 matters.

DATED: This 4th day of May 2015

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HOLLY M. HACKETT, HI CSR #130, RPR #5910  
Certified Shorthand Reporter

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