

LAND USE COMMISSION

STATE OF HAWAI'I

January 19, 2017

Commencing at 9:32 a.m.

COUNTY OF KAUA'I PIIKOI CONFERENCE MEETING ROOM

4444 Rice Street

Lihu'e, Kaua'i, Hawai'i 96766

HEARING AND ACTION

A17-802 County of Kaua'i Housing Agency (Kaua'i)

To consider Jean Nishida Souza's Petition to Intervene in County of Kaua'i Housing Agency's Petition for State Land Use District Boundary Amendment To Amend the Agricultural Land Use District Boundaries into the Urban Land Use District for certain lands situated at 'Ele'ele, Kaua'i, Hawaii; consisting of approximately 75 acres, Tax Map Key No. (4)2-1-001:054

BEFORE: Cynthia L. Murphy, RPR, CSR 167

1 APPEARANCES:

2 ARNOLD WONG, Chairperson
3 JONATHAN SCHEUER, Vice Chair

4 COMMISSIONERS:

5 AARON MAHI
6 LINDA ESTES
7 NANCY CABRAL
8 KENT HIRANAGA
9 GARY Y. OKUDA

10 KYLE CHANG, ESQ.
11 Deputy Attorney General

12 STAFF:

13 DAN ORODENKER, Executive Officer
14 RILEY K. HAKODA, Chief Officer/Planner
15 BERT K. SARUWATARI, Planner

16 DAWN TAKEUCHI-APUNA, ESQ.
17 RODNEY FUNAKOSHI, Planner
18 Office of Planning, State of Hawaii

19 JAMES K. MEE, ESQ.
20 KALANI FU, Housing Director
21 For Petitioner, County of Kaua'i Housing Agency

22 SINCLAIR SALAS-FERGUSON, ESQ.
23 Deputy County Attorney
24 Office of the County Attorney
25 MICHAEL DAHILIG, Deputy Director
County of Kaua'i Planning Department

JEAN NISHIDA SOUZA
Petitioner to Intervene

INDEX

WITNESSES:	PAGE
<u>Susan Remoaldo</u>	
Direct Examination.....	9
<u>Makaala Kaaumoana</u>	
Direct Examination.....	13
<u>Michael Dahilig</u>	
Direct Examination.....	18

9:32:19AM 1 CHAIRPERSON WONG: Good morning. Chair Aczon is
9:32:26AM 2 not here, so I'll be replacing him today as much as
9:32:32AM 3 possible. Yesterday, Vice Chair Scheuer was taking the
9:32:36AM 4 lead on Maui, and he did an excellent job, so the bar has
9:32:42AM 5 come that high, and I would be down here right below his
9:32:46AM 6 slippers. Anyway, let's start.

9:32:47AM 7 This is an action meeting on Docket No. A17-802,
9:32:50AM 8 County of Kaua'i Housing Agency (Kaua'i), to consider Jean
9:32:58AM 9 Nishida Souza's Petition to Intervene in County of Kaua'i
9:33:01AM 10 Housing Agency's Petition for State Land Use District
9:33:05AM 11 Boundary Amendment to Amend the Agricultural Land Use
9:33:07AM 12 District Boundaries into the Urban Land Use District for
9:33:11AM 13 certain lands situated at 'Ele'ele, Kaua'i, Hawaii,
9:33:14AM 14 consisting of approximately 75 acres, Tax Map Key
9:33:19AM 15 No. (4)2-1-001:054.

9:33:26AM 16 Will the Parties please identify themselves for
9:33:28AM 17 the record.

9:33:32AM 18 MR. MEE: James Mee, Attorney for the
9:33:34AM 19 Petitioner, County of Kaua'i Housing Agency. And I would
9:33:41AM 20 mention that Housing Director, Kanani Fu, is also with us
9:33:45AM 21 this morning.

9:33:46AM 22 MR. SALAS-FERGUSON: Deputy Attorney General
9:33:46AM 23 Sinclair Salas-Ferguson on behalf of the County of Kaua'i
9:33:48AM 24 Planning Department. I'm here with Michael Dahilig on my
9:33:53AM 25 right.

9:33:54AM 1 MS. TAKEUCHI-APUNA: Good morning. Deputy
9:33:54AM 2 Attorney General Dawn Apuna on behalf of the Office of
9:33:57AM 3 Planning. Here with me today is Rodney Funakoshi.

9:34:01AM 4 MS. SOUZA: Good morning. Intervenor Jean
9:34:05AM 5 Nishida Souza.

9:34:07AM 6 CHAIRPERSON WONG: Is there any disclosures that
9:34:09AM 7 the Commissioners would like to state?

9:34:13AM 8 VICE CHAIR SCHEUER: Chair, just for the record,
9:34:15AM 9 I have no conflict, but I've known Miss Souza for over 20
9:34:18AM 10 years when I worked for the Natural Area Reserves System
9:34:22AM 11 Commission, and Miss Souza represented the Office of State
9:34:25AM 12 Planning at the time on that Commission.

9:34:27AM 13 CHAIRPERSON WONG: Is there any problems with
9:34:28AM 14 any of the parties of that disclosure?

9:34:31AM 15 MR. MEE: No problem.

9:34:33AM 16 MR. SALAS-FERGUSON: None from the Planning
9:34:34AM 17 Department.

9:34:37AM 18 Miss Nishida, do you have a problem?

9:34:40AM 19 MS. SOUZA: No problem at all.

9:34:43AM 20 CHAIRPERSON WONG: Okay. Let me update the
9:34:46AM 21 record in this matter.

9:34:47AM 22 On December 7, 2016, the Commission received
9:34:51AM 23 County of Kaua'i Housing Agency's Notice of Intent to file
9:34:55AM 24 a Petition for Land Use District Boundary Amendment.

9:34:59AM 25 On December 22, 2016, the Commission received

Jean Nishida Souza's Petition to Intervene in the Petition of the County of Kaua'i Housing Agency's Petition to Amend the Agricultural Land Use District Boundary into Urban Land Use District and \$50 filing fee. An e-mailed copy was received on December 22, 2016.

On December 29, 2016, the Commission received County of Kaua'i Housing Agency's Opposition to the Petition to Intervene of Jean Nishida Souza filed December 22, 2016.

On January 5, 2017, the Commission mailed the prehearing conference notice to the Parties and potential Intervenor Nishida Souza.

On January 6, 2017, the Commission received County of Kaua'i Planning Department's Joinder to County of Kaua'i Housing Agency's Opposition to Jean Nishida Souza's filed December 22, 2016.

On January 10, 2017, the Commission mailed Notice of the January 18 and 19, 2017 Meeting Agenda to the Parties and the Statewide, Maui, and Kaua'i mailing lists.

On January 11, the Commission mailed amended Notice of the January 18 and 19, 2017 Meeting Agenda to the Parties and the Statewide, Maui, and Kaua'i mailing lists. And also received OP's Statement of No Objection to Jean Nishida Souza's Petition to Intervene.

On January 13, 2017, the Commission received comments from the Department of Health regarding the proposed project and an e-mail from Petitioner requesting that the hearing for the docket be moved to a later date.

Let me briefly describe our procedure for today on this docket. First, I will call for those individuals desiring to provide public testimony to identify themselves. All such individuals will be called in turn to your witness box, right over there, where they will be sworn in prior to their testimony.

After completion of the public testimony portion of the proceedings, Jean Nishida Souza will make her presentation.

After the completion of her presentation, we will receive any comments from County of Kaua'i Housing Agency, Kaua'i County Planning Department, and the State Office of Planning.

After we have received the comments of the Kaua'i Housing Agency, the Kaua'i County Planning Department, and the State Office of Planning, we will conduct our deliberations.

Are there any questions on our procedure for today?

Miss Nishida Souza, do you have any questions?

MS. SOUZA: No.

9:38:05AM 1 CHAIRPERSON WONG: Hearing none, will the
9:38:07AM 2 parties please -- I said that already. Okay. Thank you
9:38:13AM 3 and good morning. Excuse me. Let me take one second. We
9:38:16AM 4 will be taking a break recess from time to time for our
9:38:19AM 5 court reporter, so just for everyone's knowledge, we will
9:38:22AM 6 be doing that.

9:38:24AM 7 Thank you and good morning. Is there anyone in
9:38:27AM 8 the audience who desires to provide public testimony for
9:38:32AM 9 this matter? As a reminder, the issue before the
9:38:37AM 10 Commission is whether or not to allow Miss Nishida Souza
9:38:39AM 11 to intervene. The issue is not on the merits of the
9:38:43AM 12 Housing Agency's petition for a district boundary
9:38:48AM 13 amendment.

9:38:51AM 14 MR. ORODENKER: We have two public witnesses
9:38:55AM 15 signed up to testify. First is Susan Remoaldo and,
9:39:07AM 16 following her, Makaala Kaaumoana.

9:39:18AM 17 VICE CHAIR SCHEUER: Chair, for the record, I
9:39:19AM 18 tried.

9:39:22AM 19 CHAIRPERSON WONG: No problem.

9:39:32AM 20 MR. ORODENKER: People have a problem saying my
9:39:34AM 21 last name properly.

9:39:40AM 22 CHAIRPERSON WONG: Good morning. I'm going to
9:39:41AM 23 swear you in now, so if you don't mind. Do you swear or
9:39:45AM 24 affirm that the testimony that you are about to give is
9:39:48AM 25 the truth?

9:39:49AM 1 MS. REMOALDO: Yes.

2 SUSAN REMOALDO,
3 called as a witness, having been first duly sworn, was
4 examined and testified as follows:

5 DIRECT EXAMINATION

9:39:50AM 6 CHAIRPERSON WONG: Thank you. Can you please
9:39:52AM 7 state your name and address for the record? And you can
9:39:53AM 8 proceed with your testimony.

9:39:55AM 9 MS. REMOALDO: My name is Susan Remoaldo,
9:39:57AM 10 P. O. Box 885, 723 Akalei Street, Ele'ele, Kaua'i, 96705.

9:40:08AM 11 CHAIRPERSON WONG: Proceed. Thank you.

9:40:09AM 12 MS. REMOALDO: I am a 20-year resident of
9:40:11AM 13 Ele'ele Nani Phase 2, located across Kaumualii Highway
9:40:17AM 14 from the proposed Lima Ola Housing Project. My Ele'ele
9:40:21AM 15 roots go back at least 100 years as both parents and
9:40:27AM 16 grandparents were either born there, grew up there, and/or
9:40:30AM 17 resided there the remainder of their lives. Weekend
9:40:34AM 18 visits to my grandparents were a significant part of my
9:40:38AM 19 growing-up years.

9:40:39AM 20 I am here today in support of Jean Souza's
9:40:43AM 21 petition to intervene in the Land Use Commission's
9:40:47AM 22 consideration of the County of Kaua'i's Housing Agency's
9:40:47AM 23 petition for a State Land Use District Boundary Amendment
9:40:51AM 24 related to Lima Ola. As described in her responses to
9:40:56AM 25 Parties' positions on her petition to intervene, Jean's

9:40:57AM 1 education and work experience in planning, land use,
9:41:02AM 2 analyses, evaluations and reviews, her community
9:41:09AM 3 involvement, both formally and informally, and her
9:41:11AM 4 familiarity with the Hanapepe-Ele'ele area and how it
9:41:16AM 5 functions within Kaua'i as a whole, qualifies her to
9:41:20AM 6 better articulate the concerns expressed therein.

9:41:25AM 7 My involvement with the Hanapepe-Ele'ele
9:41:26AM 8 Community Association began in July 2015, after seeing a
9:41:32AM 9 newspaper article inviting interested community members to
9:41:37AM 10 attend. I've attended every meeting, activity, and
9:41:41AM 11 discussion except for two. This informal organization has
9:41:46AM 12 afforded me the opportunity to pursue an interest in
9:41:50AM 13 becoming a more informed and responsive Kaua'i resident, a
9:41:55AM 14 more informed and responsive Ele'ele resident.

9:41:59AM 15 Over the past 20 years, as a resident in an
9:42:02AM 16 affordable housing project area, I have observed,
9:42:06AM 17 experienced, and become more knowledgeable, about the
9:42:11AM 18 concerns within my own neighborhood. I feel there is a
9:42:15AM 19 necessity, even an urgency, to consider those same
9:42:19AM 20 concerns about the proposed Lima Ola Project before it is
9:42:23AM 21 built. We need someone in these LUC hearings who
9:42:31AM 22 understands the process, can ask questions to better
9:42:34AM 23 understand the proposal, its impacts, and what the County
9:42:39AM 24 will do to be proactive and address anticipated impacts
9:42:44AM 25 before it becomes a big problem for the community.

9:42:48AM 1 As an intervenor, Jean Souza is qualified to
9:42:51AM 2 help the LUC and the community understand the proposed
9:42:55AM 3 Lima Ola Project and how to make it better.

9:43:05AM 4 CHAIRPERSON WONG: Thank you.

9:43:06AM 5 Are there any questions for the witness?
9:43:09AM 6 County?

9:43:11AM 7 MR. MEE: No questions.

9:43:12AM 8 MR. SALAS-FERGUSON: No questions.

9:43:13AM 9 CHAIRPERSON WONG: OP?

9:43:13AM 10 MS. TAKEUCHI-APUNA: No questions.

9:43:17AM 11 CHAIRPERSON WONG: Commissioners?

9:43:20AM 12 VICE CHAIR SCHEUER: Aloha.

9:43:21AM 13 MS. REMOALDO: Aloha.

9:43:21AM 14 VICE CHAIR SCHEUER: So you are a member of the
9:43:22AM 15 community association that Miss Souza is affiliated with?

9:43:27AM 16 MS. REMOALDO: Yes.

9:43:29AM 17 VICE CHAIR SCHEUER: Have you taken an action or
9:43:33AM 18 discussion as a body to have your concerns represented by
9:43:38AM 19 Miss Souza in these proceedings?

9:43:42AM 20 MS. REMOALDO: We have, as a group, you know,
9:43:44AM 21 discussed our concerns. And as an individual, I have no
9:43:55AM 22 objection.

9:43:57AM 23 VICE CHAIR SCHEUER: Thank you.

9:44:01AM 24 CHAIRPERSON WONG: Any other questions?

9:44:02AM 25 Commissioner Cabral.

COMMISSIONER CABRAL: That leads me to question then, there's references here about the Hanapepe community group. So my question is, as that community association, when you had the discussions, did it ever come up for a vote to act, to take an official stand as a group, in favor, opposed to, or to have a representation or a list of concerns brought forward as an official group?

MS. REMOALDO: We are an informal group, you know. We're not, you know, a 501(3)(c), or anything like that, you know. And you know, we function, you know, by, you know, consensus. But I can only say that, as an individual, you know, I support, you know, her petition, you know, to intervene.

COMMISSIONER CABRAL: Okay. All right. Thank you.

CHAIRPERSON WONG: Any other questions?
Thank you.

(The witness was excused.)

CHAIRPERSON WONG: May I swear you in?

MS. KAAUMOANA: Yes.

CHAIRPERSON WONG: Do you swear or affirm that the testimony that you about to give is the truth?

MS. KAAUMOANA: I do.

25

MAKAALA KAAUMOANA,

1 called as a witness, having been first duly sworn, was
2 examined and testified as follows:

3 DIRECT EXAMINATION

9:45:30AM 4 CHAIRPERSON WONG: Thank you. Please state your
9:45:32AM 5 name and address for the record, and then you can proceed.

9:45:34AM 6 MS. KAAUMOANA: My name is Makaala Kaaumoana.
9:45:35AM 7 I'm a resident of Hanalei. The address is Post Office Box
9:45:42AM 8 1045, Hanalei.

9:45:44AM 9 CHAIRPERSON WONG: Please proceed.

9:45:45AM 10 MS. KAAUMOANA: Aloha, Commissioners, and mahalo
9:45:46AM 11 nui loa for coming to Kaua'i. It's a big deal when a gang
9:45:54AM 12 this size comes to see us instead of us always flying to
9:45:58AM 13 see you. So mahalo for that. It means a lot to us. We
9:46:01AM 14 know you have options, and this was the best one, too.

9:46:04AM 15 I am Makaala Kaaumoana. I'm the Executive
9:46:06AM 16 Director of the Hanalei Watershed Hui. And I'm also a
9:46:10AM 17 member of the Hawaii State Environmental Council. I'm
9:46:12AM 18 vice chair of the board of directors of Kua'aina Ulu
9:46:12AM 19 'Auamo. I cite those three hats out of several others
9:46:21AM 20 because they pertain to the action today; they pertain to
9:46:26AM 21 community process; they pertain to public access to this
9:46:29AM 22 kind of process.

9:46:31AM 23 The Hanalei Watershed Hui has been active since
9:46:35AM 24 1998. I was elected to that position by the community.
9:46:38AM 25 We also make our decisions by consensus. We do not take

9:46:43AM 1 formal positions on legislation generally, because that's
9:46:47AM 2 not community process for us. We have initiated and
9:46:50AM 3 implemented a watershed action plan, a watershed
9:46:54AM 4 management plan, and a disaster resilience plan. All of
9:46:58AM 5 these activities occur in our community on an informal,
9:47:01AM 6 but committed and engaged, way.

9:47:05AM 7 I was born in Kaneohe, and I had come to Hanalei
9:47:08AM 8 because I married a Hanalei boy. I've been involved in
9:47:13AM 9 the planning of the North Shore of Kaua'i specifically
9:47:18AM 10 since 1989. And we have a project, although much smaller
9:47:24AM 11 now, not unlike the one that's being proposed here. We
9:47:27AM 12 have an affordable housing project in Princeville that,
9:47:31AM 13 although is less than 50 percent of that which was
9:47:35AM 14 committed to and promised originally 35 years ago, is now
9:47:39AM 15 complete. And I represent some voices in the community --
9:47:43AM 16 certainly not all, and certainly not by vote -- that are
9:47:48AM 17 disappointed with the appearance, with the lack of fit
9:47:52AM 18 that this project has with our community. It doesn't look
9:47:56AM 19 like anything else in our community. It does not conform
9:48:00AM 20 to the North Shore Development Plan standards. It's not
9:48:03AM 21 even the right color.

9:48:04AM 22 So, for me to be here today and support Jean
9:48:09AM 23 Souza's petition to intervene was focused on my interest
9:48:15AM 24 in trying to make a better project. I think when the
9:48:18AM 25 community is involved and represented and those sentiments

9:48:22AM 1 are expressed in a process that only this LUC at this
9:48:26AM 2 point can offer, the project will be better. The
9:48:29AM 3 community will be better served, and it will look better.
9:48:32AM 4 It will be the right scale. It will be in the right
9:48:36AM 5 place. And it will look better.

9:48:38AM 6 This particular petition or this particular
9:48:40AM 7 action for affordable housing hasn't offered that many
9:48:46AM 8 ways to participate if you're just Joe Community Guy or
9:48:51AM 9 Jill Community Gal. And so this process in offering Jean
9:48:56AM 10 this opportunity to intervene will be positive. She's not
9:49:00AM 11 long-winded. She's an experienced, well-educated planner.
9:49:04AM 12 She knows how to proceed with efficiency and efficacy.
9:49:11AM 13 She will contribute much to this process. And I think it
9:49:15AM 14 is your kuleana to include the community voice when you
9:49:19AM 15 are able. And this is the process we have for that to
9:49:23AM 16 happen.

9:49:25AM 17 This is the Mayor's priority project, so we know
9:49:28AM 18 that he wants it to move. We understand that, but that
9:49:31AM 19 doesn't mean it doesn't get to be right. When we know
9:49:34AM 20 better, we do better. We learned something from the
9:49:38AM 21 Princeville project, and we would like to apply the better
9:49:40AM 22 process and better content to this project.

9:49:43AM 23 This Petitioner has very specific experience, if
9:49:46AM 24 you look at her petition. She's not the average community
9:49:52AM 25 member here. This is someone who has expertise and who

9:49:57AM 1 has the respect of her community. She and her husband
9:50:00AM 2 have in their -- in his retirement years and her
9:50:04AM 3 not-so-retirement years yet, have convened the community
9:50:08AM 4 on several conversations, not the least of which is
9:50:12AM 5 disaster planning. So she's fully, fully engaged, and I
9:50:16AM 6 think will represent her community well.

9:50:18AM 7 I'm not going to elaborate much on the other
9:50:22AM 8 hats that I wear, but I'm very involved in 55 different
9:50:25AM 9 communities around the state, and many of us are
9:50:29AM 10 addressing this problem, of course. Affordable housing is
9:50:32AM 11 key to all of us.

9:50:34AM 12 I would make one rather -- I regret to have to
9:50:38AM 13 make this note, but I'm going to make it here. The use of
9:50:40AM 14 the word "kibitzer" in the Housing Agency's filing is
9:50:46AM 15 offensive to me personally and professionally. This is
9:50:51AM 16 public work we are all doing. Process and vocabulary
9:50:54AM 17 should respect that.

9:50:55AM 18 Mahalo. I'll be happy to answer any questions.

9:50:59AM 19 CHAIRPERSON WONG: County, any questions?

9:51:01AM 20 MR. MEE: No questions. I apologize for the use
9:51:04AM 21 of "kibitzer."

9:51:06AM 22 MS. KAAUMOANA: It's a terrible word, if you
9:51:07AM 23 look it up.

9:51:07AM 24 MR. MEE: I apologize. I'm sorry.

9:51:11AM 25 MR. SALAS-FERGUSON: No questions.

9:51:12AM 1
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9:51:18AM 6
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9:51:34AM 10
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9:52:12AM 24
9:52:16AM 25

CHAIRPERSON WONG: OP?

MS. TAKEUCHI-APUNA: No questions.

CHAIRPERSON WONG: Commissioners, any questions?
Let's go with Commissioner Mahi first.

COMMISSIONER MAHI: Kala mai. Kamana'o
"kibitzer"? What does it mean?

MS. KAAUMOANA: It's somebody who is a little
bit more than "niele," but "niele" with an agenda, I
guess, they would say.

COMMISSIONER MAHI: "Niele" has agenda.

MS. KAAUMOANA: "Niele" has agenda, too. But
"niele" could be "I just like know." "Kibitzer" is not
just -- in my dictionary, not just someone who wants to
know, but someone who wants to change the course or stick
their nose in someone else's business.

COMMISSIONER MAHI: Mahalo.

CHAIRPERSON WONG: Commissioner Cabral.

COMMISSIONER CABRAL: In your housing project,
your references in Princeville, since I'm not familiar
with that, but I am familiar with assisted housing as I
manage eight HUD projects myself, so I understand that
project base.

The one in Princeville, was it -- was the
County, in that same format, the developer? And are they
the developer of that? Are they the ones who are the

9:52:20AM 1 management of it? And is it going to be the same format
9:52:23AM 2 as this one is under consideration now?

9:52:27AM 3 MS. KAAUMOANA: No. No. It was originally
9:52:29AM 4 intended as workforce housing for a development for the
9:52:34AM 5 Princeville Shopping Center expansion. And it was
9:52:37AM 6 originally 100 units. But through the years, it has been
9:52:41AM 7 diluted; it's now 40. We were able to complain to the
9:52:46AM 8 County about the appearance of the structure. But, no, it
9:52:48AM 9 was privately developed. However, affordable housing is
9:52:51AM 10 under the Housing Agency, and they should have -- there
9:52:53AM 11 should have been an opportunity for the design of it to be
9:52:56AM 12 a better fit for the community. It shouldn't stick out
9:53:00AM 13 like a sore thumb.

9:53:02AM 14 COMMISSIONER CABRAL: Thank you.

9:53:03AM 15 CHAIRPERSON WONG: Is there any other --
9:53:05AM 16 Commissioner Okuda.

9:53:08AM 17 COMMISSIONER OKUDA: Thank you.

9:53:09AM 18 Do you believe that the existing parties, such
9:53:12AM 19 as the Kaua'i Planning Office or the State Planning
9:53:16AM 20 Office, could adequately represent or convey or enunciate
9:53:23AM 21 the concerns that you might have or the community might
9:53:25AM 22 have regarding this development?

9:53:27AM 23 MS. KAAUMOANA: No. And that's why I drove an
9:53:30AM 24 hour to get here.

9:53:31AM 25 COMMISSIONER OKUDA: Can you tell me why you

9:53:32AM 1 believe they could not, would not, or why your view is
9:53:38AM 2 that the community's interest or your interest could not
9:53:43AM 3 be adequately represented by, for example, those parties?

9:53:47AM 4 MS. KAAUMOANA: You need to understand that I'm
9:53:48AM 5 not a member of the Ele'ele community, and I've not been
9:53:52AM 6 engaged down there, because we do not niele.

9:53:56AM 7 COMMISSIONER OKUDA: I'm sorry. I didn't --
9:53:58AM 8 that's a poorly-phrased question.

9:54:00AM 9 MS. KAAUMOANA: That's all right. I think I
9:54:01AM 10 have the gist. The gist is: Do I think that -- do I
9:54:05AM 11 think that the people who are producing this housing
9:54:08AM 12 opportunity and this development represent the concerns of
9:54:12AM 13 the community?

9:54:13AM 14 COMMISSIONER OKUDA: No, no. I'm sorry. That
9:54:14AM 15 wasn't my question.

9:54:15AM 16 MS. KAAUMOANA: Oh, good.

9:54:16AM 17 COMMISSIONER OKUDA: My question -- let me be
9:54:18AM 18 more narrow than about it. Would you believe, for
9:54:21AM 19 example, the State Office of Planning would adequately
9:54:26AM 20 represent the interests of the community?

9:54:29AM 21 MS. KAAUMOANA: What would be the process -- I'm
9:54:31AM 22 going to answer -- so I apologize -- I'll answer with a
9:54:35AM 23 question. What would be the process for the community
9:54:37AM 24 members who have concerns to participate in a discussion,
9:54:44AM 25 a meeting, a convening of those thoughts in Ele'ele

9:54:48AM 1 through OP?

9:54:52AM 2 COMMISSIONER OKUDA: Yeah, well, the Commission
9:54:54AM 3 takes in public testimony, and as you know, the Commission
9:54:57AM 4 has to make its decisions based on the evidence adduced,
9:55:02AM 5 which includes testimony given by the public or anyone
9:55:07AM 6 else who gives testimony. And generally, you know, that
9:55:13AM 7 testimony is freely allowed.

9:55:14AM 8 But my question is more specifically tailored to
9:55:19AM 9 the statutory and administrative rule requirements with
9:55:23AM 10 respect to intervention. And one of the factors, I
9:55:27AM 11 believe, is whether or not an existing party would
9:55:32AM 12 adequately represent or could adequately represent the
9:55:37AM 13 positions or interests being taken by the proposed
9:55:40AM 14 intervenor. So, in plain English, I'm just trying to find
9:55:47AM 15 out, for example, the Office of State Planning, which is
9:55:50AM 16 charged by law to take certain positions, whether, in your
9:55:55AM 17 view, given your experience, you know, in community
9:56:01AM 18 affairs generally speaking, whether you believe, in this
9:56:04AM 19 instance, the Office of State Planning would be capable of
9:56:09AM 20 presenting the concerns which might be presented by the
9:56:17AM 21 proposed intervenor?

9:56:19AM 22 MS. KAAUMOANA: No, I don't think so.

9:56:20AM 23 COMMISSIONER OKUDA: Okay. Can you tell me why?

9:56:22AM 24 MS. KAAUMOANA: Because I think that there is an
9:56:24AM 25 experience and a relationship that's historical in this

community. I think there are other tensions and stressors in this community. I think there are bigger visions than what might be on OP's radar. I think that -- for people in my community, for people in Hanalei to share their feelings and their thoughts and their concerns with the Office of State Planning, I can't count on one hand how many times that's ever happened in the 20 years that I've been in the community, providing that kind of leadership.

What they do is call me. What they do is call Jean. And the reason for that is that this is scary stuff. Just sitting here right now with the microphone and having been sworn in, this is not community friendly; this is tough stuff. And you have to do it for 20 years to not sit here and just shake.

So I really feel strongly about thanking you for coming to Kaua'i. That is a big deal. And there is no process that I know of from OP that would duplicate this, that they would all come here and they would participate with us. I see no avenue, and I see no protection for -- for the average citizen of Ele'ele to freely and easily participate in without accepting the petition of Jean Souza. And I see no problem with accepting it. It's not going to make your process worse. It's not going to make it longer. It's not going to make it bad. Then why wouldn't you err on the side of inclusiveness?

9:58:09AM 1 COMMISSIONER OKUDA: Thank you for answering the
9:58:10AM 2 question.

9:58:12AM 3 CHAIRPERSON WONG: Commissioner Estes.

9:58:14AM 4 COMMISSIONER ESTES: And I want to be friendly.
9:58:18AM 5 Basically, what you're asking for is sort of an
9:58:23AM 6 ombudsman-type person to make sure the project is done
9:58:27AM 7 right; is that fair?

9:58:28AM 8 MS. KAAUMOANA: Yes. And I think a petitioner
9:58:30AM 9 to intervene plays that role. I think there's sometimes a
9:58:34AM 10 connotation that it's a negative or that it's a challenge
9:58:37AM 11 or something like that. It doesn't have to be like that.
9:58:38AM 12 I've been an intervenor several times, in a positive way,
9:58:42AM 13 helping the picture get wider, helping the details be
9:58:45AM 14 included.

9:58:47AM 15 COMMISSIONER ESTES: And it doesn't have
9:58:47AM 16 anything to do with delaying the project?

9:58:50AM 17 MS. KAAUMOANA: No, no. That's not the
9:58:50AM 18 intention, and she's not a delayer. She talks a lot less
9:58:55AM 19 than I do.

9:58:56AM 20 COMMISSIONER ESTES: Thank you.

9:58:57AM 21 CHAIRPERSON WONG: Commission Scheuer?

9:58:58AM 22 VICE CHAIR SCHEUER: Just briefly,
9:59:00AM 23 Miss Kaaumoana. Since you stated that you've been an
9:59:04AM 24 intervenor before, and certainly I'm aware of your having
9:59:09AM 25 testified on matters before, would you care to distinguish

9:59:12AM 1 the kind of influence one can have on a project simply by
9:59:18AM 2 testifying versus by being an intervenor?

9:59:21AM 3 MS. KAAUMOANA: An intervenor allows you to
9:59:23AM 4 participate in the entire process. You develop a list of
9:59:27AM 5 concerns and interested people that can help you -- help
9:59:28AM 6 make the picture clearer. Testimony is narrow by
9:59:35AM 7 definition; it has to do with whatever was testified
9:59:38AM 8 before you, whatever position is before you. Testimony is
9:59:42AM 9 not a broad base. An intervenor is allowed to paint the
9:59:46AM 10 picture, to tell the story of the project in its whole and
9:59:50AM 11 how it relates to other things around it. Testimony is
9:59:55AM 12 seldom given that kind of range and allowed to be that
9:59:59AM 13 complete.

10:00:02AM 14 COMMISSIONER ESTES: Thank you.

10:00:09AM 15 CHAIRPERSON WONG: Commissioner Cabral.

10:00:11AM 16 COMMISSIONER CABRAL: Yes. I had a technical
10:00:12AM 17 question on the legal -- information about being an
10:00:16AM 18 intervenor. Doesn't that also allow then that you could
10:00:21AM 19 potentially sue and delay the project indefinitely by
10:00:25AM 20 taking it to court later on? Isn't that one of the
10:00:27AM 21 options for someone who's an intervenor, that they can
10:00:31AM 22 file a suit against it if it doesn't go their way, or
10:00:35AM 23 whatever reason they choose to, and then delaying it and
10:00:38AM 24 taking a long time to -- I'm just asking a technical
10:00:41AM 25 question. This -- maybe our attorney may need to answer

10:00:45AM 1 that.

10:00:49AM 2 MR. CHANG: Good morning, Commissioners. My
10:00:52AM 3 name is Kyle Chang, Deputy Attorney General. I'm standing
10:00:55AM 4 in for Diane Erickson. An intervenor does become
10:00:59AM 5 essentially a party to the action, you know, the case at
10:01:04AM 6 will. So, yes, your belief is correct --

10:01:11AM 7 COMMISSIONER HIRANAGA: Mr. Chair, I believe,
10:01:12AM 8 with public testimony, the questions should be directed to
10:01:15AM 9 the testifier. Clarification of the process can come
10:01:16AM 10 later.

10:01:19AM 11 COMMISSIONER CABRAL: My apologies.

10:01:22AM 12 CHAIRPERSON WONG: Is there any other questions
10:01:24AM 13 for the witness?

10:01:25AM 14 I just have one question. Just for the -- from
10:01:38AM 15 what I gathered from the documents that we received, this
10:01:41AM 16 process went through the County's Planning Committee and
10:01:46AM 17 also the County Council. So do you know -- and you can
10:01:54AM 18 say "yes" or "no" -- if there was any public testimony
10:01:56AM 19 during that period regarding this project?

10:01:59AM 20 MS. KAAUMOANA: I do not know.

10:02:01AM 21 CHAIRPERSON WONG: Okay. Thank you.

10:02:03AM 22 Any other questions?

10:02:04AM 23 Thank you.

10:02:06AM 24 Is there any other witnesses? Going once,
10:02:11AM 25 twice. Okay. No more.

10:02:13AM 1 Okay. Miss Nishida, are you ready to start your
10:02:20AM 2 portion?

10:02:22AM 3 MS. SOUZA: I am.

10:02:24AM 4 COMMISSIONER ESTES: Would you lean in closer to
10:02:26AM 5 the microphone, please.

10:02:34AM 6 COMMISSIONER HIRANAGA: Mr. Chairman?

10:02:34AM 7 CHAIRPERSON WONG: Yes.

10:02:35AM 8 COMMISSIONER HIRANAGA: Would this be an
10:02:36AM 9 appropriate time for the attorney to answer Commissioner
10:02:41AM 10 Cabral's question? Then we come back to --

10:02:44AM 11 CHAIRPERSON WONG: Let's go after Miss Nishida's
10:02:45AM 12 statement or statements.

10:02:52AM 13 MS. SOUZA: Thank you. Can you hear me? Please
10:03:04AM 14 call me "Jean Souza." "Nishida" is my middle name.

10:03:10AM 15 I'm happy to be here, and I'm happy to see all
10:03:13AM 16 of you. Like Makaala said, thank you very much for
10:03:16AM 17 coming.

10:03:20AM 18 I don't take my position to intervene lightly.
10:03:23AM 19 I have had extensive experience with you. I don't want to
10:03:28AM 20 go over my responses to the Parties' position that I filed
10:03:33AM 21 yesterday. I'm willing to if you haven't had a chance to
10:03:37AM 22 go over it yourself.

10:03:39AM 23 But you're right. I worked for the State. I
10:03:43AM 24 know how to delay these kind of processes. But that is
10:03:46AM 25 not my intent, and I don't seek -- I don't have any

10:03:51AM 1 intention of doing that. I think that, with my
10:03:56AM 2 experience, my background, that I can lead to a more
10:04:02AM 3 complete record for the Land Use Commission to consider
10:04:07AM 4 approving a project with appropriate mitigation measures.
10:04:11AM 5 In fact, some of the information that has been available
10:04:16AM 6 through the Environmental Assessment addresses some of the
10:04:20AM 7 impacts but not as complete as some of us would have
10:04:27AM 8 hoped.

10:04:27AM 9 So I'm hoping that, through this process, I can
10:04:33AM 10 be allowed to address at least those items listed on page
10:04:40AM 11 8 of my response. Those specific concerns are traffic
10:04:47AM 12 impacts and mitigation measures; impacts and mitigation
10:04:52AM 13 measures affecting Ele'ele elementary schools; drainage
10:04:56AM 14 and flooding impacts and mitigation measures; impacts and
10:04:59AM 15 mitigation measures opposite recreation facilities;
10:05:00AM 16 impacts and mitigation measures relating to emergency
10:05:00AM 17 shelters; the relationship of this project to development
10:05:07AM 18 of adjacent agricultural properties; and timely notice
10:05:16AM 19 opportunities to testify and comment on the proposed
10:05:18AM 20 project.

10:05:19AM 21 Yes, there have been processes within the County
10:05:24AM 22 thus far. However, in the community association's e-mail
10:05:32AM 23 to the Housing Director and their EA consultant on June 5,
10:05:39AM 24 2016, we did ask that we be informed in a timely matter on
10:05:45AM 25 any Land Use planning and project permits that are

10:05:49AM 1 submitted for this project or any other public reports
10:05:53AM 2 that are prepared for this project. We were not informed
10:05:56AM 3 by the Petitioner about the deliberations before the
10:06:03AM 4 County Council on the 201H process. We were not informed
10:06:08AM 5 about the availability of the Final EA. And we were not
10:06:13AM 6 informed by them about this Land Use Commission process.
10:06:17AM 7 So there is some lack of communication with the community
10:06:27AM 8 about processes that they're going through.

10:06:33AM 9 I think that the Land Use Commission process
10:06:37AM 10 affords a non-County forum to address this project. As
10:06:46AM 11 Makaala had indicated, this is a priority project for the
10:06:53AM 12 Mayor. And I've seen televised video of the County
10:07:02AM 13 Council hearing after the fact on the 201H process, and I
10:07:11AM 14 didn't hear any public testimony in opposition to the
10:07:15AM 15 project. So I think that, for the most part, community
10:07:20AM 16 members that have concerns have not been adequately
10:07:24AM 17 addressed or adequately informed about the processes. And
10:07:29AM 18 in fact, the County Housing Agency came to talk to the
10:07:34AM 19 Hanapepe-Ele'ele Community Association to update us on the
10:07:38AM 20 201H process after they had already gotten the County
10:07:43AM 21 Council approval.

10:07:52AM 22 Just to clarify the questions about the
10:07:54AM 23 association, I am representing myself. I am an active
10:07:58AM 24 member with the association. But I deliberately -- when I
10:08:05AM 25 thought about getting involved, I deliberately recommended

10:08:10AM 1 to them that the intervention be -- would be personally
10:08:15AM 2 and not as an representative of the organization. I know,
10:08:20AM 3 just through my work experience through the Office of
10:08:25AM 4 Planning, in many controversial projects and large
10:08:30AM 5 projects on Oahu, on the Big Island, I think even Kaua'i,
10:08:35AM 6 too, that some of these things can be nasty and can be
10:08:41AM 7 very stressful. And I felt that I was capable of handling
10:08:48AM 8 it, but I was -- not worries, but I wanted to shield them
10:08:54AM 9 from some of the adverse things that might happen with an
10:08:59AM 10 intervention.

10:09:00AM 1 We have talked about this project for about nine
10:09:03AM 2 months. I want to say maybe about a year. We have
10:09:08AM 3 devoted -- my guess -- I haven't gone through all of our
10:09:12AM 4 records, but my guess is we must have brought it up at
10:09:15AM 5 least for 10 meetings, on the agenda for 10 meetings. We
10:09:21AM 6 have -- once we looked at the Draft EA and submitted our
10:09:25AM 7 comments and reviewed the response back, it became clearer
10:09:31AM 8 that perhaps the intervention here at the LUC was a way to
10:09:37AM 9 get more information so that the project could be
10:09:44AM 10 understood, the impacts could be understood, and
10:09:48AM 11 therefore, the mitigation measures could be better
10:09:53AM 12 crafted.

10:09:53AM 13 I think that pretty much sums it up. I'll let
10:09:58AM 14 my written testimony statements stand. Except one typo.
10:10:06AM 15 I did create the community association's website, and it's

10:10:14AM 1 Hanapepe, dot -- not hyphen -- dot Ele'ele, dot, Kaua'i,
10:10:19AM 2 at Gmail, dot, com. Just one typo.

10:10:25AM 3 CHAIRPERSON WONG: Okay. I forgot to swear you
10:10:30AM 4 in. So do you affirm that everything was true -- what you
10:10:34AM 5 previously said today was the truth?

10:10:38AM 6 MS. SOUZA: Yes.

10:10:39AM 7 CHAIRPERSON WONG: Thank you.

10:10:39AM 8 By the way, you have her address for the record?
10:10:46AM 9 Can you also give your name and address for the
10:10:48AM 10 record.

10:10:49AM 11 MS. SOUZA: Jean Nishida Souza, P.O. Box 450,
10:10:52AM 12 Hanapepe, Hawaii, 96716.

10:10:59AM 13 CHAIRPERSON WONG: Thank you.

10:11:00AM 14 County, do you have any questions? You can pull
10:11:08AM 15 the other microphone.

10:11:16AM 16 MR. MEE: Chair, not so much questions. I
10:11:17AM 17 guess, at some point, we'd like to present our position on
10:11:21AM 18 the Intervenor's position.

10:11:24AM 19 CHAIRPERSON WONG: You will have the
10:11:24AM 20 opportunity.

10:11:26AM 21 MR. MEE: Thank you.

10:11:29AM 22 MR. SALAS-FERGUSON: I have no questions.

10:11:30AM 23 CHAIRPERSON WONG: OP? No.

10:11:32AM 24 Commissioners, any questions?

10:11:37AM 25 Commissioner Okuda.

10:11:41AM 1 COMMISSIONER OKUDA: Miss Souza, I know that, in
10:11:43AM 2 your written submittal, you gave a summary of your
10:11:48AM 3 education and experience. But can you just briefly tell
10:11:51AM 4 us your education and experience which you believe
10:11:55AM 5 qualifies you to act in an intervenor's capacity?

10:12:01AM 6 MS. SOUZA: Having worked with the Office of
10:12:02AM 7 Planning for many years, I have been through -- gosh, I
10:12:09AM 8 don't even know how many -- dozens of reclassification
10:12:17AM 9 petitions. My responsibilities included -- well, let me
10:12:23AM 10 back up. Lorene Maki, as you know, supersedes me in the
10:12:31AM 11 position that I held in the Land Use Division. So with my
10:12:34AM 12 background in geography and planning and experience with
10:12:39AM 13 other departments which I have identified in my statement,
10:12:44AM 14 I used to take those positions and developed the -- helped
10:12:52AM 15 develop the State's position on those petitions. We
10:12:55AM 16 worked on the witness list, briefing the witnesses,
10:13:03AM 17 working with the exhibit lists and preparing the exhibits.
10:13:07AM 18 I sat next to the then-Commission head in presenting the
10:13:14AM 19 case. We worked closely with the Deputy AG in developing
10:13:20AM 20 the case. And so I know what's involved in this process.
10:13:25AM 21 I know how to craft documents.

10:13:32AM 22 It's not my intention to be a delayer. It's not
10:13:38AM 23 my intention to dump the project. I just feel that there
10:13:47AM 24 have been mitigation measures that -- or conditions for
10:13:52AM 25 approval that the Commission has imposed on other

10:13:58AM 1 projects, and I'd like to see appropriate -- those
10:14:02AM 2 conditions might be appropriate here, and I'd like to make
10:14:07AM 3 a case for them.

10:14:09AM 4 COMMISSIONER OKUDA: My question isn't really
10:14:11AM 5 aimed at the merits of requests or ultimate requests by
10:14:17AM 6 the County or what might be done with respect to that.
10:14:19AM 7 It's simply on the narrow issue of intervention. So
10:14:23AM 8 getting back to your qualifications, how many total years,
10:14:26AM 9 can you tell us approximately, have you been with the
10:14:29AM 10 State in the area dealing with these types of planning
10:14:33AM 11 issues?

10:14:35AM 12 MS. SOUZA: I believe that was about seven years
10:14:37AM 13 I was with the Office of Planning, and I was only in the
10:14:40AM 14 Land Use Division. So my entire time with the then-known
10:14:44AM 15 as Office of State Planning was in doing Land Use
10:14:47AM 16 Commission work.

10:14:52AM 17 COMMISSIONER OKUDA: Can you tell me whether or
10:14:53AM 18 not you believe that, in this instance, the Office of
10:14:57AM 19 State Planning could adequately represent or communicate
10:15:03AM 20 or advocate, if necessary, the items that you would like
10:15:09AM 21 to -- or think you might communicate or advocate, if you
10:15:13AM 22 were granted intervenor status?

10:15:19AM 23 MS. SOUZA: As you know, the Petition hasn't
10:15:22AM 24 been submitted to us yet. And none of these Parties have
10:15:30AM 25 submitted anything related to the Petition. So it

10:15:34AM 1 normally would be difficult for me to answer that. But I
10:15:40AM 2 will -- I do have an answer.

10:15:44AM 3 Back in the days when I used to be with the
10:15:46AM 4 Office of State Planning, the office did conduct regional
10:15:53AM 5 plans in response to some economic conditions. For
10:15:59AM 6 example, with the demise of sugar on the Hamakua Coast,
10:16:06AM 7 the Office of Planning did a regional study of the Hamakua
10:16:10AM 8 area. In light of some of the activities in Maui, there
10:16:14AM 9 were a group of us that attempted to do some planning work
10:16:19AM 10 on Maui. So, in the former days, they used to -- I do --
10:16:25AM 11 and in addition, it must have been about 20-some years
10:16:30AM 12 ago, the Office of Planning did have a contract with
10:16:34AM 13 someone that I was -- I had just left the office by that
10:16:38AM 14 point, and I was on the study team, and we did do a
10:16:42AM 15 regional plan for the North Shore of Kaua'i.

10:16:46AM 16 But since then, I do not know of any regional or
10:16:51AM 17 island-wide kind of planning project that the Office of
10:16:56AM 18 Planning has been involved with that would have exposed
10:17:00AM 19 them to the issues and concerns and the resources and the
10:17:02AM 20 history and all of that in this area. I have not received
10:17:10AM 21 any calls or communication from them asking to better
10:17:15AM 22 understand our positions. They've not asked to meet with
10:17:21AM 23 me or the community association to better understand our
10:17:25AM 24 concerns. Certainly, I've had a short conversation with
10:17:29AM 25 Rodney, but not getting into some of the details. So I

10:17:34AM 1 would say no, there is no representation of our concerns
10:17:42AM 2 by Office of Planning that I can attest to.

10:17:48AM 3 COMMISSIONER OKUDA: How about the office -- or
10:17:49AM 4 the Kaua'i Planning Office, in other words, the County of
10:17:54AM 5 Kaua'i's Planning Office, wouldn't or couldn't they
10:18:00AM 6 represent or advocate the concerns that you testify to in
10:18:03AM 7 this hearing?

10:18:04AM 8 MS. SOUZA: Well, seeing that the Planning
10:18:06AM 9 Department joined with the Housing Department in their
10:18:10AM 10 opposition to my intervention, I don't anticipate them
10:18:17AM 11 understanding or caring to act on the concerns that we've
10:18:22AM 12 expressed. And the fact that the Housing Department's
10:18:28AM 13 response to my intervention position was personally
10:18:32AM 14 insulting, and the County Planning Department going along
10:18:39AM 15 with that statement in total, I find that they are not
10:18:46AM 16 likely to represent our concerns.

10:18:51AM 17 COMMISSIONER OKUDA: Thank you very much for
10:18:52AM 18 answering the question.

10:18:55AM 19 CHAIRPERSON WONG: Any other questions for Miss
10:18:56AM 20 Souza? Commissioners?

10:19:02AM 21 Commissioner Mahi.

10:19:03AM 22 COMMISSIONER MAHI: I guess what we're trying to
10:19:07AM 23 get here is -- and I'm just judging by the questions that
10:19:08AM 24 we've asked you, Mrs. Souza, and I'm just -- I want to get
10:19:16AM 25 clear what's happening here in terms of: Because of your

10:19:20AM 1 background and your knowledge and then also because of
10:19:25AM 2 your work and your previous work and experience, and then
10:19:28AM 3 the fact that you also are a member of the community,
10:19:31AM 4 serving on community boards, and so forth, you're
10:19:36AM 5 responding for the community; is that what's happening
10:19:39AM 6 here? I mean, you want to step forward to represent your
10:19:43AM 7 community because their voice isn't being heard, right?

10:19:50AM 8 MS. SOUZA: I'm representing myself.

10:19:51AM 9 COMMISSIONER MAHI: You're representing
10:19:53AM 10 yourself?

10:19:54AM 11 MS. SOUZA: I'm representing myself but with all
10:19:58AM 12 of --

10:19:59AM 13 COMMISSIONER MAHI: All of the?

10:20:00AM 14 MS. SOUZA: Concerns and the activities that we
10:20:05AM 15 have been involved with in the community, with other
10:20:10AM 16 commissions and --

10:20:12AM 17 COMMISSIONER MAHI: Right. Okay. Where are
10:20:15AM 18 their voices? That's what we want to know: Where are
10:20:18AM 19 their voices?

10:20:19AM 20 MS. SOUZA: I think their voices --

10:20:19AM 21 COMMISSIONER MAHI: I mean, we have two people
10:20:20AM 22 came. One of them -- I really appreciate the two that
10:20:25AM 23 took the time out to come and speak on behalf of your
10:20:29AM 24 efforts. What I need -- and I'm sure everyone else is
10:20:32AM 25 concerned about -- is where is the community?

10:20:35AM 1 MS. SOUZA: Well, keep in mind that the
10:20:38AM 2 testimony is only on my intervention petition.

10:20:43AM 3 COMMISSIONER MAHI: Okay.

10:20:44AM 4 MS. SOUZA: I suspect that there will be others
10:20:47AM 5 coming forward to testify as -- to give public testimony
10:20:53AM 6 during the regular petition hearing. But there are three
10:21:01AM 7 members of our association here. This is Ron Wilson.
10:21:08AM 8 He's a planner and architect. In the green shirt is my
10:21:14AM 9 husband, Wayne Souza, a retired State Parks superintendent
10:21:18AM 10 with the Department of Land and Natural Resources. And
10:21:19AM 11 you already met Susan Remoaldo of Ele'ele.

10:21:23AM 12 COMMISSIONER MAHI: So you're asking us to act
10:21:25AM 13 in the way of, like, we're doing a kind of prevention,
10:21:28AM 14 taking an action of prevention, as opposed to responding
10:21:32AM 15 to direct issues that's going to happen in this particular
10:21:38AM 16 project? Is that -- we're kind of preparing ourselves --
10:21:42AM 17 we're kind of putting safety belts in place or safety
10:21:47AM 18 measures in place, because you're saying that the
10:21:49AM 19 community is not going to come out until the petition
10:21:52AM 20 comes forward, right? Is that what you're saying?

10:21:54AM 21 I just want to cut to the chase already, you
10:21:58AM 22 know. What's happening?

10:22:03AM 23 MS. SOUZA: Well, I don't know the extent to
10:22:06AM 24 which folks know about the hearing.

10:22:13AM 25 COMMISSIONER MAHI: Because it's not a venue,

10:22:15AM 1 right, for them to express themselves? Or the hilahila?
10:22:18AM 2 The hilahila, the shame. Hawaiians, we don't come out,
10:22:22AM 3 except this Hawaiian, you know, okay.

10:22:28AM 4 MS. SOUZA: So let me --

10:22:29AM 5 COMMISSIONER MAHI: I mean, that's all. Let's
10:22:31AM 6 get to the thing.

10:22:32AM 7 MS. SOUZA: Are you --

10:22:32AM 8 COMMISSIONER MAHI: Let's get to the core
10:22:32AM 9 already.

10:22:33AM 10 MS. SOUZA: -- the community's support of my
10:22:36AM 11 intervention?

10:22:37AM 12 COMMISSIONER MAHI: Of course. We got to know
10:22:38AM 13 who's going back you up. That's all we're saying, right?
10:22:42AM 14 Okay. What we trying to do at this time -- because I see
10:22:44AM 15 we got to approve this and that. But who going back you
10:22:48AM 16 up, Sista? And if the community of Ele'ele-Hanapepe not
10:22:55AM 17 going worry about you, hey, what is this all about?

10:22:59AM 18 I'm not doubting, you know, your education. I'm
10:23:01AM 19 not doubting your expertise. And I love the fact that you
10:23:05AM 20 are concerned. I kakoo on that. I support that. But we
10:23:12AM 21 got to make sure that kaiaulu is behind you, lifting you
10:23:18AM 22 up. When come time for you to say -- if we grant this
10:23:18AM 23 thing, right, and you become the intervenor, you're going
10:23:23AM 24 to be saying things and bringing the communities or
10:23:27AM 25 whatever to a greater life of moving this project forward,

10:23:31AM 1 how we going know that the community going be behind you?

10:23:34AM 2 We not going know.

10:23:37AM 3 COMMISSIONER OKUDA: Chair, point of personal --

10:23:38AM 4 CHAIRPERSON WONG: Yes.

10:23:38AM 5 COMMISSIONER OKUDA: Commissioner Mahi --

10:23:39AM 6 COMMISSIONER MAHI: Yes.

10:23:40AM 7 COMMISSIONER OKUDA: -- my point of personal
10:23:42AM 8 privilege is basically just this: I don't think the
10:23:46AM 9 standard for intervention is determined by whether or not
10:23:51AM 10 the intervenor has support or not. I think one of the
10:23:55AM 11 standards -- well, it's, first of all, whether or not the
10:23:58AM 12 intervenor meets the standards that are spelled out in the
10:24:01AM 13 administrative rules and also how those rules are
10:24:06AM 14 interpreted in light of different court cases. So whether
10:24:09AM 15 or not she has a lot of community behind her or not, I
10:24:15AM 16 think, in my own view, the important thing is, number one,
10:24:20AM 17 whether or not the standards are met as set forth under
10:24:24AM 18 the rules; but also, secondly, if those standards are met,
10:24:29AM 19 our evaluation is based on whether or not she has and can
10:24:33AM 20 bring to the table the type of information -- whether or
10:24:37AM 21 not the community is behind it or not -- but whether or
10:24:40AM 22 not the intervenor can bring the type of information to
10:24:44AM 23 the table which helps us make a better decision.

10:24:47AM 24 And that's just a personal view. But I'd like
10:24:50AM 25 to state it as a point of personal privilege.

10:24:54AM 1 COMMISSIONER MAHI: And then let me continue.
10:24:55AM 2 Let me finish -- not finish -- let me continue. I'm
10:24:58AM 3 hearing the questions that we're asking and the reasons
10:25:01AM 4 why you've come forward, this inner feeling of why you
10:25:08AM 5 want to come forward and intervene to move this project
10:25:11AM 6 forward. I heard that the voice of the community is not
10:25:15AM 7 being heard. Okay. So that's what I'm saying, whether
10:25:18AM 8 it's the standard or not, that's your reason for coming
10:25:21AM 9 forward, I think, or I believe, or what I heard. That's
10:25:26AM 10 all I want to know, okay. Mahalo.

10:25:29AM 1 CHAIRPERSON WONG: Commissioner Cabral.

10:25:31AM 2 COMMISSIONER CABRAL: Thank you. I'm just
10:25:34AM 3 trying to, you know, get the history a little bit straight
10:25:37AM 4 here, too, who's who and what's what, and some of it's
10:25:40AM 5 with the community or not. You just stated that a letter
10:25:44AM 6 was written in June asking, I guess to the County at some
10:25:49AM 7 level, asking them to keep -- I don't know who wrote the
10:25:53AM 8 letter, if it was you individually or the community group
10:25:57AM 9 wrote the letter, and that you were offended that they
10:26:01AM 10 never got in touch with the group, you. And then Susan,
10:26:06AM 11 who testified earlier, when asked, said that it's an
10:26:11AM 12 unofficial group. They're not registered as a group or
10:26:14AM 13 filed, you know. So I kind of want to know, you know,
10:26:16AM 14 like you want to be a group and be recognized, but you
10:26:20AM 15 don't want to get organized to be recognized. I'm just

10:26:24AM 1 kind of confused, I think which is some of what
10:26:27AM 2 Commissioner Mahi is asking about, is: Who's who? Who's
10:26:31AM 3 representing who? Yes, you're officially representing
10:26:34AM 4 yourself, and I know we'll discuss criterias for that.

10:26:39AM 5 But, again, when you make references to a
10:26:41AM 6 letter, was that a letter you personally wrote asking to
10:26:44AM 7 be informed? Or was that a group that wrote the letter?
10:26:46AM 8 And if the group's official or not official? And then the
10:26:49AM 9 next question would be later, I guess, to the County or
10:26:52AM 10 Petitioner, if they're organized to be able to notify
10:26:56AM 11 people. Because I kind of feel like a lot of this is just
10:27:00AM 12 a lack of communication or inability to know that you're
10:27:03AM 13 going to be able to get communication in the future.

10:27:05AM 14 But who wrote the letter in June? From whom or
10:27:09AM 15 to whom should the County have gotten back to? And who
10:27:13AM 16 should the County go to talk to, if you're not official?

10:27:17AM 17 MS. SOUZA: That's probably not a good word,
10:27:19AM 18 "official." We are an informal organization versus a
10:27:24AM 19 formal organization. We're an informal organization that
10:27:28AM 20 was formed in the summer of June 2015. And the impetus
10:27:37AM 21 for forming the organization was the consensus among a
10:27:45AM 22 group of community folks that had gathered for a special
10:27:50AM 23 meeting with the Planning Department staff on the general
10:27:55AM 24 plans update.

10:27:56AM 25 And after hearing almost two hours of complaints

10:28:00AM 1 about why this wasn't done or why that wasn't done, a
10:28:05AM 2 comment was made that maybe it's because we,
10:28:07AM 3 Hanapepe-Ele'ele, did not have a community association, a
10:28:12AM 4 group of folks that would maintain interest and bring
10:28:16AM 5 resources to the community in terms of sharing information
10:28:20AM 6 and keeping people informed.

10:28:22AM 7 So the group of 20 or 25 people all agreed that
10:28:28AM 8 we should form a community association, and within a
10:28:31AM 9 couple of weeks, we did gather. We have been meeting
10:28:36AM 10 almost every week for a whole year since the summer of
10:28:41AM 11 2015. And then the last six months, we have met three to
10:28:45AM 12 four times a month to get ourselves smart about a whole
10:28:50AM 13 bunch of things, including inviting speakers, hosting
10:28:53AM 14 forums, and what not.

10:28:57AM 15 COMMISSIONER CABRAL: A lot of that you put in
10:28:59AM 16 your writing, yes.

10:29:00AM 17 MS. SOUZA: Now, we have looked at the founding
10:29:03AM 18 bylaws for many associations with the idea of what should
10:29:09AM 19 we be doing for our group, and we have not formalized
10:29:15AM 20 that. But we do have interim rules on how we operate in
10:29:20AM 21 terms of quorum and decision-making and things like that.
10:29:25AM 22 We had agreed that we would do an e-mail account. We
10:29:32AM 23 agreed that we would establish a website. So I created
10:29:38AM 24 the website for the group, and I am the main communicator
10:29:44AM 25 on the website. And that website, which is

10:29:48AM 1 Hanapepe.Ele'ele.Kaua'i@gmail.com, through that website,
10:29:55AM 2 we submitted our comments on the Draft EA. So the request
10:30:00AM 3 to be informed was on that website with myself as the
10:30:06AM 4 community volunteer. The signature block on that website
10:30:12AM 5 does identify us as the Hanapepe-Ele'ele Community
10:30:17AM 6 Association.

10:30:19AM 7 COMMISSIONER CABRAL: Okay. Thank you.

10:30:21AM 8 CHAIRPERSON WONG: Any other?

10:30:24AM 9 Commissioner Hiranaga.

10:30:26AM 10 COMMISSIONER HIRANAGA: Just a couple of
10:30:27AM 11 follow-up questions to the discussion that just occurred.
10:30:31AM 12 So what is the estimated population of Ele'ele?

10:30:39AM 13 UNIDENTIFIED MAN: About 2300.

10:30:42AM 14 CHAIRPERSON WONG: You're not sworn in.

10:30:45AM 15 MS. SOUZA: A community member said about 2300
10:30:48AM 16 people.

10:30:49AM 17 COMMISSIONER HIRANAGA: And this informal
10:30:51AM 18 organization that has been created, how many members
10:30:54AM 19 approximately?

10:30:57AM 20 MS. SOUZA: It started out with about as many as
10:31:01AM 21 25 people. Right now, there are eight active people. And
10:31:09AM 22 by the way, it's Hanapepe and Ele'ele combined, and I have
10:31:13AM 23 the geographic sketch of our interests in my statement.
10:31:18AM 24 There are over 50 people on our e-mail list for these
10:31:23AM 25 regular meetings, and we have approximately -- or more

10:31:27AM 1 than 120 people on our e-mail list for the hazards
10:31:32AM 2 awareness and disaster resiliency program that we are
10:31:38AM 3 involved in.

10:31:39AM 4 COMMISSIONER HIRANAGA: When you say 120 for the
10:31:41AM 5 hazardous awareness, is that inclusive of the 50 that are
10:31:45AM 6 on the e-mail list --

10:31:47AM 7 MS. SOUZA: Yes, inclusive.

10:31:50AM 8 COMMISSIONER HIRANAGA: And the 2300 population,
10:31:51AM 9 does that include Hanapepe, also, or --

10:31:55AM 10 UNIDENTIFIED MAN: It's Hanapepe so --

10:32:01AM 11 COMMISSIONER HIRANAGA: Protocol, you could
10:32:03AM 12 maybe whisper in her ears, and she can speak into the mic.

10:32:11AM 13 MS. SOUZA: Okay. Hanapepe-Ele'ele area has
10:32:16AM 14 approximately 5,000 residents.

10:32:23AM 15 COMMISSIONER HIRANAGA: One more question, and
10:32:25AM 16 then I'll yield the mic. So it's an informal
10:32:29AM 17 organization, so no elected officers, roster, dues?

10:32:37AM 18 MS. SOUZA: I can address that. We discussed
10:32:38AM 19 all of those things. And we decided that we were not
10:32:45AM 20 going to do dues, because then if somebody didn't pay,
10:32:49AM 21 then they couldn't participate. And we decided that we
10:32:53AM 22 were going to be an inclusive organization. So, for
10:32:58AM 23 supplies, we personally donate things. But we pay no
10:33:03AM 24 dues, say.

10:33:05AM 25 We thought about having officers and

10:33:07AM 1 representatives. But, as you know, in terms of
10:33:13AM 2 organizations, then the officers are allowed -- or
10:33:22AM 3 function as representatives of the larger, and we didn't
10:33:28AM 4 want folks to just think that the officers were going to
10:33:32AM 5 do all the work. We wanted to include everybody. So we
10:33:37AM 6 try to operate with consensus. We welcome anybody who
10:33:43AM 7 comes to our meetings, whether it's all the time or on an
10:33:46AM 8 irregular basis. So we deliberately decided not to have
10:33:51AM 9 officers, and whoever decided to participate would have a
10:33:56AM 10 role.

10:33:57AM 1 So not all of the folks here started with the
10:34:00AM 2 initial group. There have been other folks that -- some
10:34:03AM 3 of these folks that have come since then to be involved.
10:34:07AM 4 So we're very inclusive in that way, and we're very --
10:34:10AM 5 sharing an equal status. My role with the group has been
10:34:15AM 6 to facilitate the meetings, working with them to set the
10:34:19AM 7 agenda for each meeting, which we then notice everybody on
10:34:24AM 8 the e-mail list. And I am the co-coordinator for special
10:34:33AM 9 events.

10:34:34AM 10 COMMISSIONER HIRANAGA: Just one last comment.
10:34:35AM 11 At times, you say "I"; at times you say "we." I guess for
10:34:41AM 12 clarity, because you are here as an individual, you should
10:34:46AM 13 use the word "I," just for clarity, so that there's no
10:34:50AM 14 confusion as to who you are representing.

10:34:53AM 15 MS. SOUZA: Okay.

10:34:54AM 1
10:34:56AM 2
10:34:58AM 3
10:35:02AM 4
10:35:05AM 5
10:35:09AM 6
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10:36:18AM 25

COMMISSIONER HIRANAGA: Thank you.

CHAIRPERSON WONG: Commissioner Scheuer.

VICE CHAIR SCHEUER: Miss Souza, I have a few questions for you. You're not required to have an attorney represent you as an intervenor. But just to clarify, you intend to represent yourself without the help of counsel during these proceedings?

MS. SOUZA: With physical help of counsel, yes.

VICE CHAIR SCHEUER: Sorry. Can you clarify that response?

MS. SOUZA: Well, if given the opportunity to intervene, I think I might ask some attorneys for some advice. But it's not my intention to hire an attorney to be present at the meeting or meetings.

VICE CHAIR SCHEUER: Thank you. Are you opposed to this project?

MS. SOUZA: As I stated in my initial petition to intervene, I'm not opposed to this project. The Land Use Commission has allowed intervenors to participate in reclassification petitions who have not been opposed to the project.

VICE CHAIR SCHEUER: I know. But I'm trying to understand.

MS. SOUZA: Yeah.

VICE CHAIR SCHEUER: Can you give us a brief

10:36:20AM 1 description of some of the range of -- I know you're an
10:36:24AM 2 informal organization, so you don't have members in terms
10:36:29AM 3 of the formal sense. But who's participating in your
10:36:33AM 4 organization, numbers, various categorizations of
10:36:36AM 5 individuals?

10:36:39AM 6 MS. SOUZA: As I said, we have eight members
10:36:42AM 7 that have been steady for the last six months. At some of
10:36:48AM 8 the earlier meetings in which we had sessions to identify
10:36:58AM 9 what our interests were, what our values were, what our
10:37:02AM 10 concerns were, there were approximately 20 to 25 people
10:37:07AM 11 involved in that process. Who are --

10:37:18AM 12 VICE CHAIR SCHEUER: Do you think it represents
10:37:19AM 13 sort of a broad range or representative sense of the
10:37:23AM 14 communities that you're concerned with?

10:37:25AM 15 MS. SOUZA: Well, we always want more people to
10:37:28AM 16 be involved, but, you know, we -- I think they come out
10:37:33AM 17 for special events. So we have had panel discussions of
10:37:38AM 18 history, culture, archaeology. We've had lectures on
10:37:44AM 19 stream resources and all that kind of stuff. So those
10:37:48AM 20 special events tend to attract a larger crowd, about 55 to
10:37:54AM 21 60 people. And we do let them know about the association.
10:38:01AM 22 And we have sign-in sheets; we take their names and put
10:38:05AM 23 them on the list.

10:38:07AM 24 VICE CHAIR SCHEUER: Are any of the folks in
10:38:08AM 25 your association, if you're aware, that's come up in your

meetings, people who exercise what they would describe as traditional customary practices within this area?

MS. SOUZA: Within the general area? Or are you talking about the petition area?

VICE CHAIR SCHEUER: The petition area and surrounding -- area surrounding the petition area that might be affected by the actions presumably produced in this petition.

MS. SOUZA: As far as I know, there's nobody that practices traditional practices in the petition area. One of our active members is the head of the salt makers group at Salt Pond Beach Park in Hanapepe -- not Salt Pond Beach Park -- Salt Pond in Hanapepe.

VICE CHAIR SCHEUER: Which is makai of the petition area?

MS. SOUZA: Makai and west, maybe about a mile.

VICE CHAIR SCHEUER: When you -- a mile?

MS. SOUZA: Uh-huh.

VICE CHAIR SCHEUER: So when you describe your concerns in your filing from yesterday about flooding, is there a connection between the Salt Pond areas and the concerns that you have?

MS. SOUZA: There's concerns about Salt Pond Beach Park. So adjacent to the salt-making area is a County beach park. So the concern is about the increased

10:39:39AM 1 use at the County beach park as a result of more residents
10:39:46AM 2 living in the petition area.

10:39:48AM 3 VICE CHAIR SCHEUER: But not a concern about
10:39:50AM 4 impacts on the salt ponds per se?

10:39:54AM 5 MS. SOUZA: Not that I know of, no.

10:39:56AM 6 VICE CHAIR SCHEUER: I'm almost done.

10:39:57AM 7 MS. SOUZA: I wonder if I could explain a little
10:40:00AM 8 bit?

10:40:00AM 9 VICE CHAIR SCHEUER: Please.

10:40:01AM 10 MS. SOUZA: We have at least three people that
10:40:03AM 11 are active who having planning backgrounds -- excuse me --
10:40:07AM 12 four that have planning backgrounds. We have, I think,
10:40:11AM 13 really excellent geographic representation in different
10:40:16AM 14 parts of the Hanapepe-Ele'ele community, and we have folks
10:40:21AM 15 that are well-connected with others in the community, so
10:40:25AM 16 they serve as receivers of feedback and input from other
10:40:30AM 17 members of the community, even if those other people don't
10:40:34AM 18 attend our meetings.

10:40:35AM 19 VICE CHAIR SCHEUER: Was it your intent to keep
10:40:38AM 20 the members of your association informed of these
10:40:43AM 21 proceedings if granted an intervenor status?

10:40:47AM 22 MS. SOUZA: Yes. And I actually have kept them
10:40:49AM 23 informed all along the way in terms of my petition to
10:40:53AM 24 intervene. So, yes, keeping them so informed about the
10:40:57AM 25 LUC proceedings is part of our way we operate, yes.

10:41:03AM 1 VICE CHAIR SCHEUER: One final question. Do you
10:41:05AM 2 want to detail any -- if it exists -- particular or
10:41:09AM 3 specialized area of knowledge that you have of the
10:41:12AM 4 petition area or the immediate surrounding areas?

10:41:17AM 5 MS. SOUZA: I -- because of my planning
10:41:19AM 6 background and my work experience, I have general
10:41:28AM 7 information and -- about the roadways, the drainage, the
10:41:35AM 8 flooding, the impacts on the schools, all of that kind of
10:41:38AM 9 stuff, which I identified on -- in my response document.
10:41:47AM 10 I have perhaps more detailed information about some areas,
10:41:55AM 11 some things, such as flooding exposure, things like that,
10:41:59AM 12 but I'm not -- I'm not an engineer; I'm not a hydrologist.

10:42:04AM 13 VICE CHAIR SCHEUER: And that was my question.
10:42:05AM 14 So, for instance, are you suggesting that you have
10:42:09AM 15 knowledge of areas that flood that might not be on flood
10:42:13AM 16 maps?

10:42:14AM 17 MS. SOUZA: Yes.

10:42:14AM 18 VICE CHAIR SCHEUER: Okay. Are there other
10:42:15AM 19 examples of that kind of thing that you want to cite for
10:42:18AM 20 us? If they don't --

10:42:25AM 21 MS. SOUZA: Well, I have information that
10:42:27AM 22 relates to the sheltering capacity of the only designated
10:42:33AM 23 emergency shelter in the area, things like that.

10:42:39AM 24 VICE CHAIR SCHEUER: Thank you. I have nothing
10:42:41AM 25 further, Chair.

CHAIRPERSON WONG: Let's take a ten-minute recess for the court reporter, and then get back. Thank you.

(Recess taken from 10:42 a.m. to 10:52 a.m.)

CHAIRPERSON WONG: We're back on.

Any other Commissioners have questions?

Commissioner Estes.

COMMISSIONER ESTES: Yes. I was sort of looking at what you were proposing as having an extra pair of eyes on the project to represent certain people in the community with concerns about the project. Then I was intrigued when somebody asked you about seeing a lawyer or whatever, which would be your perfect right. But I'd be interested in what you consider legal issues regarding this project.

MS. SOUZA: I don't anticipate anything in terms of legal issues on the project. I was thinking about more procedural things. And there are some attorneys out there who have represented intervenors and know -- you know, could probably share with me some tips. But I think someone asked a question about suing and all of that kind of stuff. That's not my intention at all. And I think people could sue even if they were not allowed to be an intervenor. So I don't think whether you're an intervenor is the only way you can sue. I'm not looking at that.

10:53:34AM 1 I'm sorry you don't know me better. But I'm
10:53:39AM 2 very much not an obstructionist. I'm a facilitator. And
10:53:46AM 3 I'm interested in promoting communication, good
10:53:50AM 4 communication, with communities, and back and forth. And
10:53:54AM 5 I try to treat people with respect. I try to get as many
10:54:01AM 6 resources, resource people, to come to help build the
10:54:06AM 7 capacity, build the skill, build the knowledge for the
10:54:09AM 8 people in the community and encourage them to get more
10:54:12AM 9 involved in the processes. It was not my intention in the
10:54:18AM 10 beginning to show off, to make like I know more than any
10:54:23AM 11 other, to be disruptive to this process. That's not me.

10:54:27AM 12 But there were many concerns that were floating
10:54:32AM 13 in the community. And as a community member, I was
10:54:36AM 14 exposed to that. And so as a result of those concerns and
10:54:40AM 15 my own study of the EA and what was being said by the
10:54:44AM 16 agency to -- in forums that I attended, I felt that -- I
10:54:56AM 17 anticipated that they would present some information to
10:55:00AM 18 you that maybe wasn't complete. And so my hope is that,
10:55:06AM 19 through my participation, the information is more
10:55:09AM 20 complete.

10:55:09AM 21 And I'm especially interested in appropriate
10:55:16AM 22 mitigation measures. As I said, I'm not opposed to the
10:55:19AM 23 project. It's not my intent to derail the process. It's
10:55:23AM 24 not my intent to sue anybody about it. But I just want to
10:55:28AM 25 take advantage of this process with the State organization

10:55:32AM 1 to -- to suggest impact and mitigation measures.

10:55:39AM 2 COMMISSIONER ESTES: Okay. Thank you. I have
10:55:40AM 3 one more question. You were talking about mitigation
10:55:44AM 4 measures, and we've talked about Salt Pond Beach Park.
10:55:50AM 5 And I suspect that one of the things people are concerned
10:55:54AM 6 about is overcrowding of that park. How would you
10:55:58AM 7 mitigate that?

10:55:59AM 8 MS. SOUZA: So there are proposals from the
10:56:05AM 9 community that have been sent to various County programs,
10:56:11AM 10 County departments, that encourage the land banking of
10:56:16AM 11 lands mauka and westward of the existing Salt Pond Beach
10:56:23AM 12 Park. But from what I saw in the Draft EA, there was no
10:56:30AM 13 acknowledgment of the impact of more residents in the
10:56:35AM 14 petition area and the impact on this beach park, which is
10:56:38AM 15 the only beach park in quite a long stretch of shoreline.
10:56:46AM 16 So, you know, that -- the idea that the County commit to
10:56:50AM 17 land banking for expansion of the beach park could be a
10:56:57AM 18 condition of approval. So by mitigation measure, I'm
10:57:01AM 19 talking about condition of approval that the Land Use
10:57:04AM 20 Commission could consider imposing.

10:57:07AM 21 COMMISSIONER ESTES: Thank you.

10:57:10AM 22 CHAIRPERSON WONG: Commissioner Scheuer.

10:57:10AM 23 VICE CHAIR SCHEUER: I'm going to re-ask the
10:57:13AM 24 question that I asked you before because I think maybe, in
10:57:17AM 25 my asking the question, my fellow Commissioners may have

misunderstood where I was going. Not that there cannot be very long-winded attorneys; however, experience with this process and experience in representing clients and intervenors in front of the Commission can help expedite matters. This is a 201H petition with a tight time frame where the Legislature has directed us to act quickly because housing is such an important matter of statewide significance. Are you planning to seek any counsel or advice to help you represent, to make sure that you are representing and presenting your questions and concerns as efficiently as possible before us?

MS. SOUZA: Yes. I welcome any advice, so I will seek that. But if you're asking whether I am looking to engage to have somebody sitting next to me, I'm --

VICE CHAIR SCHEUER: You haven't done that at this time?

MS. SOUZA: I haven't done that at this time.

VICE CHAIR SCHEUER: Thank you.

CHAIRPERSON WONG: Is there any other questions? Commissioner Hiranaga.

COMMISSIONER HIRANAGA: Just following up regarding my previous questions about a formal organization in Hanapepe-Ele'ele. I'm the Maui Island Commissioner, so I can only use primarily Maui's -- my experience on Maui. But Hana, which has a population of

10:58:47AM 1 approximately 1200 people, they created the Hana Advisory
10:58:50AM 2 Board. They have elected members. They have actually --
10:58:59AM 3 within the County code must be engaged in any
10:59:06AM 4 decision-making by the Maui Planning Commission. If they
10:59:13AM 5 conduct public hearings in Hana, the Hana Advisory
10:59:16AM 6 Committee and the Planning officials go out there to
10:59:21AM 7 conduct the public hearing.

10:59:22AM 8 Lanai has 3100 population. They actually have a
10:59:29AM 9 Lanai Planning Commission, where, again, they have public
10:59:33AM 10 hearings. Those members are appointed by the Mayor.
10:59:36AM 11 Planning staff goes out there for their meetings.

10:59:40AM 12 Molokai 7300, they also have a Molokai Planning
10:59:47AM 13 Commission.

10:59:47AM 14 So I'm just kind of wondering, with a population
10:59:51AM 15 of 5,000, if this was such an important issue for
10:59:58AM 16 Hanapepe-Ele'ele -- and I understand that each island has
11:00:01AM 17 its own personality. Most of my experience is Maui, and
11:00:07AM 18 until I actually was appointed to the LUC and got to go to
11:00:11AM 19 Oahu and the Big Island and Kaua'i for hearings, I now
11:00:15AM 20 have kind of learned that each island has its own
11:00:17AM 21 personality. Acting like Maui people kind of --

11:00:22AM 22 So it's difficult for me to understand why, with
11:00:29AM 23 a population of 5,000, people are not energized enough to
11:00:33AM 24 create a formal community association and to organize and
11:00:40AM 25 elect officers and become a voice to represent the area,

11:00:45AM 1 versus an individual. Because my concern is that an
11:00:49AM 2 individual may not really represent the desires and wants
11:00:55AM 3 of that community. That's my concern regarding your
11:00:59AM 4 request to becoming, you know -- Hana has official
11:01:04AM 5 positions it generates Molokai and Lana'i in. We have the
11:01:09AM 6 Kihei Community Association, Waikapu Community. It's very
11:01:12AM 7 organized on Maui, because our population is about 150,000
11:01:17AM 8 total. That's how they felt they could get a voice in
11:01:21AM 9 County government.

11:01:24AM 10 I guess I question also why perhaps, if you
11:01:30AM 11 think there's environmental concerns, why you haven't had
11:01:34AM 12 discussions with the Sierra Club. The Sierra Club would
11:01:39AM 13 then become involved, provide official positions. There's
11:01:42AM 14 other organization on Maui that are environmentally
11:01:47AM 15 concerned. They have all created standing credibility
11:01:50AM 16 with the various government organizations. So I'm just
11:01:54AM 17 wondering why Hanapepe-Ele'ele hasn't taken that step to
11:02:00AM 18 organize.

11:02:02AM 19 MS. SOUZA: I think I want to address the
11:02:05AM 20 community organization first. So it seems to me -- and
11:02:08AM 21 sorry, I'm not more familiar with Maui and Molokai. But
11:02:13AM 22 it seems to me that those organizations are formal
11:02:16AM 23 organizations that have formed as a result of some
11:02:20AM 24 legislation that the County Council has passed, similar to
11:02:25AM 25 what Oahu has in terms of neighborhood boards. So these

are formally-elected people with a set way of doing things and, as you said, they have a role in terms of convening and having hearings, and all that kind of stuff.

The only thing that Kaua'i has is the Planning Commission. And I know you also have the Planning Commission. Here, there is not something like neighborhood boards, a formal structure within each geographic area that operates in a certain way, like how the Oahu neighborhood boards are -- and I'm a little bit more familiar with that -- in which agency representatives regularly come to the Waikiki or whatever meetings and provide updates and listen to concerns.

The organizations here on Kaua'i are not formed that way. Now, some of the organizations, Koloa, for example, and Kilauea, their neighborhood associations are very old, 40-plus years. This group, as I said, started forming in summer, or June, of 2015. So, in terms of our evolution, we're just neophytes right now. And perhaps, later, we might become -- take action to become a more formal organization. But where we are in terms of our life history is where we're taking baby steps at this point.

But, yet, if you look at pages 4 through 7, we have undertaken a lot of activities in Hanapepe-Ele'ele for the people, not only of Hanapepe-Ele'ele but for the

11:04:23AM 1 island as a whole. So we have that flexibility to do
11:04:27AM 2 that. And that's what I wanted to say about that.

11:04:33AM 3 In terms of environmental concerns and why
11:04:39AM 4 didn't I check with the Sierra Club, at this point, I have
11:04:47AM 5 been concentrating on my intervention issue. Certainly,
11:04:51AM 6 if the Sierra Club had concerns, they could have also
11:04:56AM 7 submitted comments on the Draft EA. I am not sure whether
11:05:02AM 8 they have done that or not. Some folks have contacted me
11:05:07AM 9 or one of the members about possibly following up on some
11:05:15AM 10 things with a Sierra Club member. So it could be that
11:05:21AM 11 they might be involved in deliberations with the
11:05:25AM 12 Commission. We're trying to build capacity within our
11:05:30AM 13 community and not rely on other people to speak for us.

11:05:35AM 14 But I shouldn't say "us" or "we." I should say
11:05:42AM 15 "I." I'm representing myself. But I am also cognizant of
11:05:49AM 16 the concerns of many. And that helps form my view on
11:05:55AM 17 things.

11:05:56AM 18 COMMISSIONER HIRANAGA: I guess final comment, I
11:05:59AM 19 just -- again, experience on Maui. I don't have -- I
11:06:03AM 20 don't sense urgency by the community. Because it's really
11:06:07AM 21 easy to organize with social media, if there was a major
11:06:12AM 22 concern, to organize an organization quite quickly and to
11:06:16AM 23 come to the various governmental agencies with unified
11:06:20AM 24 positions. So that's my concern. I don't see a lot of
11:06:25AM 25 people from your area here or organizing.

11:06:31AM 1 MS. SOUZA: Well, our community, as you can see,
11:06:34AM 2 is not single-issue focused. We are trying to build
11:06:41AM 3 knowledge on a lot of things. And one of the things is
11:06:43AM 4 being involved in the County's general planning process.
11:06:47AM 5 So I also have been involved on special interest kind of
11:06:55AM 6 activities. But, you know, I don't know if something like
11:07:00AM 7 that will come up in the -- farther down the LUC process.
11:07:05AM 8 But for this one, that hasn't been my intent to get Sierra
11:07:10AM 9 Club and those guys to come here, too.

11:07:15AM 10 COMMISSIONER HIRANAGA: Thank you.

11:07:18AM 11 MS. SOUZA: And if I could -- and I don't know
11:07:20AM 12 who asked this question, but there was a question about
11:07:22AM 13 representation, and I wanted to get into the experience of
11:07:29AM 14 folks that have been active in the group. So, in terms of
11:07:32AM 15 profession and degrees, we have -- design, architects. We
11:07:36AM 16 have a head of one of the Hawaiian studies programs at
11:07:40AM 17 U.H. Manoa. We have someone that has been dealing with
11:07:45AM 18 recreation resources for decades. We have a Ph.D. in
11:07:49AM 19 economics. We have an engineer. We have a
11:07:52AM 20 four-generation business owner. And we have people that
11:07:55AM 21 are active in their respective churches. So that's just
11:08:01AM 22 some of the qualifications from those folks. I just
11:08:05AM 23 wanted to let you know about that.

11:08:08AM 24 CHAIRPERSON WONG: Commissioner Cabral.

11:08:11AM 25 COMMISSIONER CABRAL: Yes. Thank you.

11:08:11AM 1 I'm somewhat -- I'm from the Big Island, from
11:08:15AM 2 Hilo, and so I do apologize if we sound redundant where
11:08:20AM 3 our concerns are. Because, again, we're not here, so it's
11:08:22AM 4 really hard, when you're statewide, to think you're trying
11:08:25AM 5 to make a determination for a community. I guess there's
11:08:28AM 6 a reason we're all from different places. And that's also
11:08:32AM 7 why you have folks on your own island with the idea that
11:08:36AM 8 they better know some of those details.

11:08:37AM 9 So that's some of my concern, too, is that, at
11:08:41AM 10 what point does the LUC either -- govern what should be
11:08:45AM 11 done versus your local County Planning Commission with
11:08:48AM 12 citizens on it and then your County Planning Committee?
11:08:50AM 13 Is that your full Council -- or someone and then you have
11:08:54AM 14 your full Council? So you've got a lot of levels of
11:08:58AM 15 potential representation instead of all of us coming from
11:09:02AM 16 outside with different perspectives.

11:09:05AM 17 But when I look at it -- and you say there's a
11:09:07AM 18 population of about 5,000 in this general area, and then
11:09:11AM 19 you're going to build potentially 500 new units. That's a
11:09:17AM 20 huge -- potentially a huge impact. So that, even more so,
11:09:23AM 21 brings to me the question is, wow, and then so it's a huge
11:09:27AM 22 impact just to have that many units and that many more
11:09:32AM 23 people, because units bring people. And then when it's
11:09:38AM 24 dubbed "affordable housing" in some way, you know we all
11:09:42AM 25 have our connotations. And, again, I manage that project

11:09:47AM 1 so -- and I manage 33 condominiums and subdivisions,
11:09:50AM 2 homeowners associations, so I do do some group
11:09:56AM 3 organizations there.

11:09:57AM 4 So the question is: In terms of, I guess, speak
11:10:00AM 5 for yourself, do you think that this is going to
11:10:05AM 6 potentially improve -- and it's workforce, so it's going
11:10:11AM 7 to bring workers to the community. I understand it's for
11:10:14AM 8 that general community as well as the ability for the
11:10:17AM 9 workers to commute to other locations because it's not
11:10:20AM 10 that long of a drive. But do you think that that's going
11:10:23AM 11 to increase or decrease property values in that community
11:10:27AM 12 with that large housing project coming into the community?

11:10:31AM 13 MS. SOUZA: I don't have an opinion on that at
11:10:33AM 14 this time.

11:10:36AM 15 COMMISSIONER CABRAL: Thank you. But you own
11:10:40AM 16 property there?

11:10:40AM 17 MS. SOUZA: Yes.

11:10:42AM 18 COMMISSIONER CABRAL: I guess because I'm a
11:10:43AM 19 Realtor, so I think of those things. Okay. Thank you.

11:10:49AM 20 MS. SOUZA: But there's some other things
11:10:51AM 21 that might affect property values that are swirling in --
11:11:01AM 22 on the island, but I haven't looked at that in terms of
11:11:06AM 23 this project. So I don't have an opinion on that.

11:11:13AM 24 COMMISSIONER CABRAL: Okay. Thank you.

11:11:16AM 25 CHAIRPERSON WONG: Is there any other questions,

Commissioners?

Okay. I wanted to go back to Commissioner Cabral's question. But because I think it's a legal issue, I would like to move to executive session. I'll entertain a motion for executive session, so can I --

Moved by Commissioner Mahi.

Is there a second?

COMMISSIONER CABRAL: I'll second.

CHAIRPERSON WONG: Commissioner Cabral seconded it. This is to -- going back to Commissioner Cabral's question about the legal issues actually raised previously. So a motion was made and seconded.

Discussion?

VICE CHAIR SCHEUER: Chair, I see the need for executive session, but I'm just thinking about the timing and whether we wouldn't perhaps need to go back into executive session after hearing the County's arguments anyway. So my personal thoughts are to go into executive session after hearing the County's presentation.

CHAIRPERSON WONG: Commissioner Cabral?

COMMISSIONER CABRAL: I'm fine with that.

CHAIRPERSON WONG: Commissioner Mahi?

COMMISSIONER MAHI: I agree. I withdraw my motion.

COMMISSIONER CABRAL: I withdraw my second.

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CHAIRPERSON WONG: No motion on the floor.

So, County, are you ready?

MR. MEE: Yes, Chair. James Mee appearing on behalf of County of Kaua'i Housing Agency.

I'm going to keep my presentation fairly brief.

First of all, you know, I want to apologize to Miss Souza as well for the use of my term -- that term in my response.

COMMISSIONER ESTES: Is your mic on?

MR. MEE: Is this better?

COMMISSIONER ESTES: Yeah.

MR. MEE: Okay. Let me start again. Jim Mee on behalf of the County of Kaua'i Housing Agency. And I'm going to stay relatively brief.

And, again, I guess, first, I, again, want to apologize if I used an inappropriate word in my response.

I think the other thing the County wants to do is they want to acknowledge the fact that Miss Souza does have a genuine interest in this project, and she has been involved in it, you know, in terms of her interest and things like that. So I think we want to acknowledge that.

The County wants to do a good project for everybody. So we're kind of in a different position here before the Land Use Commission than, let's say, a private developer, where their motive is more towards, you know,

11:13:58AM 1 "Can I get the entitlements? Can I then make money on the
11:14:02AM 2 project?"

11:14:02AM 3 This really isn't about money for the County.
11:14:05AM 4 It's about providing housing, which has been a challenge
11:14:10AM 5 on this island, like other islands. So we're kind of
11:14:14AM 6 coming from it -- at this proceeding from a different
11:14:18AM 7 perspective than maybe some of the other petitioners you
11:14:21AM 8 have.

11:14:21AM 9 I think the big question here is to -- and I'm
11:14:25AM 10 kind of hearing that from some of the Commissioners -- is:
11:14:29AM 11 Where is the community coming from in all of this? I just
11:14:33AM 12 want to acknowledge that. And I'm going to treat Miss
11:14:36AM 13 Souza as acting for herself individually. She's kind of
11:14:41AM 14 said that repeatedly. There's been references to this
11:14:44AM 15 community association, but there's no formal association,
11:14:47AM 16 there's no membership, whatever. So I think because she's
11:14:51AM 17 saying here today and in her petition that she's acting
11:14:55AM 18 individually and not on behalf of any community group, I
11:14:59AM 19 think the Commission has to look at her intervention
11:15:02AM 20 petition in that manner.

11:15:04AM 21 The other question is, you know, if there are
11:15:09AM 22 these concerns, where are the other people with their
11:15:11AM 23 concerns? And I understand that, you know, some people --
11:15:15AM 24 a lot of people are busy; they got to go to work; maybe
11:15:20AM 25 people don't feel comfortable coming to a proceeding like

11:15:24AM 1 this. But this is not a project that has just happened
11:15:27AM 2 recently. I think my understanding is that the
11:15:31AM 3 proceedings talking about this and the planning goes back
11:15:34AM 4 at least to the 2008 period. And of course, there was the
11:15:39AM 5 acquisition of this land. And the land was specifically
11:15:44AM 6 acquired for affordable housing, and that's what the deed
11:15:49AM 7 states.

11:15:49AM 8 So the point is, is there's been a long, long
11:15:53AM 9 time of looking at this land and the County planning for
11:15:58AM 10 this land to be affordable housing. As I understood,
11:16:03AM 11 there have been at least 25 -- at least 25 community
11:16:09AM 12 meetings where this has been the topic of the meeting.
11:16:13AM 13 It's also gone through not only the Planning Commission,
11:16:18AM 14 Planning Department, but there was a 201H exemption
11:16:21AM 15 process that has already gone through the County. It was
11:16:28AM 16 approved by the County Council.

11:16:30AM 17 And my point is that, all along this process,
11:16:35AM 18 there have been opportunities for people, if they have
11:16:39AM 19 concerns about the project, to raise the concerns. So I'm
11:16:44AM 20 really not working on a blank slate here in terms of -- I
11:16:48AM 21 know Miss Souza has raised some of these questions. But
11:16:50AM 22 it's not like these things -- there haven't been many
11:16:54AM 23 opportunities to bring them out in the public. And there
11:16:58AM 24 has not been -- as I understand, there has not been any
11:17:03AM 25 public opposition to this project. And I'm not -- I think

11:17:08AM 1 I'm hearing this correctly. I don't even think Miss Souza
11:17:10AM 2 is necessarily opposed to the project. I think her
11:17:15AM 3 concern is she just wants the process to operate the right
11:17:19AM 4 way before this Commission.

11:17:21AM 5 So, you know, we share Miss Souza's concerns.
11:17:25AM 6 We want to make a good presentation on our
11:17:27AM 7 reclassification petition. We want to do all of the
11:17:30AM 8 things that are required that we have to show, by the Land
11:17:34AM 9 Use Commission rules, in terms of our petition, and that's
11:17:38AM 10 what we're planning to do.

11:17:39AM 11 So, I guess, you know, ultimately, the decision
11:17:45AM 12 is one for this Commission to make as to whether to allow
11:17:48AM 13 her to intervene. But at least at this point, we're a
11:17:52AM 14 little frustrated because, you know, we hear that she has
11:17:56AM 15 these various things she wants to address, but then,
11:17:59AM 16 again, she's not really opposed to the project; she's here
11:18:02AM 17 for herself individually, but then she refers to other,
11:18:07AM 18 quote, "community concerns," but none of those other
11:18:10AM 19 people have voiced those concerns, at least in the terms
11:18:15AM 20 of taking a specific position.

11:18:16AM 21 So I guess our feeling would be that, really,
11:18:19AM 22 she's not really come forward with the standards that you
11:18:23AM 23 would need for her to be an intervenor. I mean, I think
11:18:27AM 24 starting with this: Are you opposed to the project? And,
11:18:31AM 25 two, why are you opposed to the project? I mean, I think

11:18:34AM 1 that's really what an intervenor is supposed to be here
11:18:39AM 2 for.

11:18:39AM 3 We are concerned, because this is going to be a
11:18:42AM 4 very compressed schedule in terms of presentations, that
11:18:46AM 5 we want to do it in a way that's efficient. And so I do
11:18:51AM 6 hear Miss Souza saying that she's not going to slow down
11:18:55AM 7 the process, and I acknowledge that, and I thank her for
11:18:59AM 8 that. But we don't really know that yet until we get
11:19:03AM 9 there. So I think that has got to be a concern of the
11:19:08AM 10 Land Use Commission as well.

11:19:10AM 11 And I think just a final comment that I would
11:19:13AM 12 make is that, if for some reason the Commission does allow
11:19:17AM 13 her to intervene, I specifically heard Miss Souza say that
11:19:21AM 14 her concerns, the ones that she personally is concerned
11:19:25AM 15 about, are the ones at the bottom of page 8 of her most
11:19:29AM 16 recent response. So if the Commission is inclined to
11:19:34AM 17 allow her to intervene, you know, I would ask that she be
11:19:39AM 18 limited in terms of her petition -- her participation to
11:19:44AM 19 the specific issues that are at the bottom of page 8.

11:19:49AM 20 So I guess, in summary, you know, again, the
11:19:52AM 21 County is different from other petitioners that are coming
11:19:56AM 22 before you. We're really here trying to advance the
11:20:00AM 23 public interests, and we believe that we've been doing
11:20:03AM 24 that through the whole process for the Lima Ola project
11:20:08AM 25 going back to 2008. So, frankly, our feeling is we don't

11:20:16AM 1 think that intervention is warranted based on what she
11:20:20AM 2 submitted and what we've heard today.

11:20:24AM 3 CHAIRPERSON WONG: Thank you.

11:20:24AM 4 Mr. Ferguson, questions?

11:20:30AM 5 MR. SALAS-FERGUSON: Chair, Commissioners --

11:20:32AM 6 CHAIRPERSON WONG: No. Questions to --

11:20:34AM 7 MR. SALAS-FERGUSON: Sorry. No questions.

11:20:35AM 8 CHAIRPERSON WONG: OP?

11:20:35AM 9 MS. TAKEUCHI-APUNA: No questions.

11:20:38AM 10 MS. SOUZA: No questions.

11:20:42AM 11 CHAIRPERSON WONG: Commissioners, any questions?

11:20:43AM 12 Commissioner Hiranaga. Then Commissioner
11:20:47AM 13 Cabral.

11:20:49AM 14 COMMISSIONER HIRANAGA: Just some questions
11:20:50AM 15 about the process, because I'm not that familiar with
11:20:53AM 16 201H. So a Draft EA, who was the accepting authority?

11:20:59AM 17 MR. MEE: That was the County Housing Agency.

11:21:07AM 18 COMMISSIONER HIRANAGA: Housing Agency?

11:21:08AM 19 MR. MEE: Yes.

11:21:09AM 20 COMMISSIONER HIRANAGA: So the Final EA has not
11:21:11AM 21 been published?

11:21:12AM 22 MR. MEE: The Final EA has been published, and
11:21:16AM 23 the periods have run in terms of there being a challenge
11:21:18AM 24 to the EA. So that's a final document at this point.

11:21:22AM 25 COMMISSIONER HIRANAGA: So the Final EA, I

11:21:24AM 1 guess, will be provided to us prior to the actual hearing?

11:21:27AM 2 MR. MEE: Yes, that would be one of the primary
11:21:31AM 3 exhibits.

11:21:31AM 4 COMMISSIONER HIRANAGA: And so you've had public
11:21:33AM 5 hearings at the -- you represent the Housing Authority or
11:21:39AM 6 the Planning --

11:21:40AM 7 MR. MEE: The Housing Agency, which is the
11:21:43AM 8 actual petitioner on the 201H.

11:21:46AM 9 COMMISSIONER HIRANAGA: And who was the
11:21:47AM 10 accepting authority? Was it Housing or Planning?

11:21:50AM 11 MR. MEE: Housing Agency.

11:21:51AM 12 COMMISSIONER HIRANAGA: So you've conducted
11:21:53AM 13 public hearings with regards to the Draft EA or trying
11:21:58AM 14 to --

11:21:58AM 15 MR. MEE: That was before we got involved, but
11:22:01AM 16 that whole process would have been followed under 343 in
11:22:06AM 17 terms of doing a preliminary EA and the solicitation of
11:22:08AM 18 comments and all that kind of stuff. So, you know, many,
11:22:13AM 19 many letters go out as part of the initial EA draft to
11:22:17AM 20 interested parties, you know, soliciting comments to the
11:22:21AM 21 EA.

11:22:24AM 22 COMMISSIONER HIRANAGA: So the County Council
11:22:28AM 23 action has not been taken then after the determination by
11:22:33AM 24 the County?

11:22:33AM 25 MR. MEE: No. In this case, the County has

11:22:38AM 1 actually taken action first. There was a specific list of
11:22:41AM 2 201H exemptions that was considered by the County and was
11:22:46AM 3 granted by -- came through a resolution to the County
11:22:49AM 4 Council. And after going through the hearing process,
11:22:52AM 5 etc., they passed the resolution in, you know, law.

11:22:58AM 6 COMMISSIONER HIRANAGA: So I guess the LUC is
11:22:59AM 7 the final step?

11:23:01AM 8 MR. MEE: Yes. Well, final step in terms of the
11:23:04AM 9 start of the process. I think, as the project moves
11:23:07AM 10 forward, they're still going to have to comply with --
11:23:11AM 11 when all the other permitting processes go on.

11:23:13AM 12 COMMISSIONER HIRANAGA: Sure.

11:23:13AM 13 MR. MEE: I think the reason the 201H petition
11:23:16AM 14 is here is mainly because of the time frame. You know,
11:23:19AM 15 you have an expedited time frame when you consider 201H.

11:23:25AM 16 COMMISSIONER HIRANAGA: Thank you.

11:23:25AM 17 CHAIRPERSON WONG: Commissioner Cabral.

11:23:28AM 18 COMMISSIONER CABRAL: Yes. I have a couple of
11:23:29AM 19 questions. Well, first off, if you're a Housing Agency, I
11:23:33AM 20 was here in September with your planning convention that
11:23:37AM 21 was here being held, and I went to the ones on housing
11:23:41AM 22 since I'm into housing. And I was duly impressed with the
11:23:47AM 23 number of housing projects or units you folks have managed
11:23:48AM 24 to get on Kaua'i. I'm a little jealous. So you brought a
11:23:55AM 25 lot of federal money in to help develop that. So

11:23:57AM 1 congratulations on that level, wherever they're at. I
11:24:01AM 2 don't know the island. But this particular project with
11:24:03AM 3 500 units as workforce, what communities are you
11:24:06AM 4 anticipating that those housing units are going to serve
11:24:10AM 5 for workforce? Where do you think those people are going
11:24:12AM 6 to go to work? All of them in Hanapepe and Ele'ele? Or
11:24:15AM 7 where is everybody going to go to work at; do you think?

11:24:19AM 8 MR. MEE: I may get kicked behind me if I answer
11:24:23AM 9 this wrong. But my understanding is that, yes, those are
11:24:26AM 10 communities that they would attract. But because of the
11:24:31AM 11 commute distances on Kaua'i, it's going to cover a wider
11:24:36AM 12 area, Lihue and other parts of the island. So I think
11:24:40AM 13 it's not just going to be concentrated in the
11:24:42AM 14 Hanapepe-Ele'ele area.

11:24:44AM 15 COMMISSIONER CABRAL: And then you just a minute
11:24:46AM 16 ago referenced that you have many other steps to go
11:24:46AM 17 through. So your Environmental Assessment was put
11:24:52AM 18 through, and then you notified people of that. I noticed
11:24:54AM 19 that, in my paperwork here, that you publish it. So how
11:24:58AM 20 could -- how could Miss Souza learn about this if you're
11:25:02AM 21 not communicating it directly to her? I mean, she gets to
11:25:06AM 22 know it through, like, the environmental notice? How does
11:25:10AM 23 John Q. Public find out this is going on if they're not an
11:25:14AM 24 intervenor?

11:25:14AM 25 MR. MEE: I understand there have been

11:25:18AM 1 differences. Again, I'm kind of speaking for what I just
11:25:21AM 2 heard from the Housing Director. But I understand at
11:25:26AM 3 certain times there was actually going door to door with
11:25:29AM 4 flyers, telling people about meetings on the project.
11:25:32AM 5 That's one thing that's occurred.

11:25:34AM 6 On this specific part of it is part of --
11:25:39AM 7 governed by what the statutes say to do. The statutes
11:25:43AM 8 talk about filing a Notice of Intent that he will file a
11:25:47AM 9 petition. So it's kind of interesting. There's not a
11:25:52AM 10 petition yet but he can file the Notice of Intent 60 days
11:25:55AM 11 prior.

11:25:57AM 12 COMMISSIONER CABRAL: Does your local paper
11:25:59AM 13 cover information like this to notify the people? Or is
11:26:03AM 14 that not something they do without charging a fortune for
11:26:06AM 15 all the --

11:26:15AM 16 MR. MEE: So, yes, the Garden Isle did publish
11:26:18AM 17 on this.

11:26:19AM 18 COMMISSIONER CABRAL: Okay.

11:26:20AM 19 MR. MEE: Okay.

11:26:20AM 20 COMMISSIONER CABRAL: Okay. I just wanted to
11:26:22AM 21 know how do people find out what's going on. Thank you.

11:26:27AM 22 CHAIRPERSON WONG: Commissioner Estes, did you
11:26:29AM 23 have a question? Any other questions?

11:26:31AM 24 Commissioner Scheuer.

11:26:35AM 25 VICE CHAIR SCHEUER: Mr. Mee, I understood you

11:26:39AM 1 to state the position of the Housing Agency was that you
11:26:43AM 2 do not believe Miss Souza has met the standards for
11:26:50AM 3 intervention; however, if she was granted intervention,
11:26:53AM 4 you wanted to limit it to the subjects she listed on page
11:26:58AM 5 8 of her latest submittal; is that correct?

11:27:01AM 6 MR. MEE: Yes. I mean, at least that's what I
11:27:05AM 7 heard, was that she said, if she was granted intervention,
11:27:07AM 8 that's what she was going to --

11:27:09AM 9 VICE CHAIR SCHEUER: So, in that regard, when I
11:27:10AM 10 looked at the bulleted list at the bottom of Miss Souza's
11:27:15AM 11 page 8, most of them are fairly narrow issues, with the
11:27:19AM 12 exception of the relationship of the Lima Ola development
11:27:22AM 13 project to project plans for adjacent properties, which
11:27:25AM 14 could -- and I'm not suggesting Miss Souza would do so --
11:27:28AM 15 but it could be very, very expansive. Would you have any
11:27:33AM 16 further clarification of how the Housing Agency, should
11:27:37AM 17 the Commission -- which I'm not saying I or any of the
11:27:41AM 18 Commissioners are intending to grant intervention -- but
11:27:44AM 19 should the Commission grant intervention, do you see a way
11:27:49AM 20 of clarifying or narrowing that bullet point?

11:27:53AM 21 MR. MEE: Well, I guess, you know, this is sort
11:27:53AM 22 of one of the items that has to be shown during the
11:27:57AM 23 petition process so the relationship to adjacent
11:27:59AM 24 properties -- I mean, I would limit that one to what the
11:28:03AM 25 rules require the LUC -- I'm not sure if that's a good

11:28:08AM 1 answer to your question. But the LUC can limit the scope
11:28:13AM 2 of it.

11:28:17AM 3 CHAIRPERSON WONG: Commissioner Okuda.

11:28:20AM 4 COMMISSIONER OKUDA: Thank you, Mr. Chair.

11:28:21AM 5 Mr. Mee, does the County dispute the
11:28:26AM 6 professional qualifications of Miss Souza?

11:28:30AM 7 MR. MEE: No, it does not.

11:28:31AM 8 COMMISSIONER OKUDA: Would you agree or disagree
11:28:34AM 9 that, if she was presented as an expert, let's say in a
11:28:40AM 10 court of law, there's a reasonable likelihood she would be
11:28:43AM 11 qualified as an expert in the area of land use planning?

11:28:47AM 12 MR. MEE: I think that's probably correct, given
11:28:51AM 13 the outline that she's put forward in her response.

11:28:55AM 14 COMMISSIONER OKUDA: You do agree that it's the
11:28:57AM 15 Land Use Commission's responsibility and kuleana to be
11:29:03AM 16 sure that hearings are conducted in an efficient and
11:29:07AM 17 timely manner, right? That's our job, not anyone else's
11:29:11AM 18 job; would you agree with that?

11:29:13AM 19 MR. MEE: Yes, that's correct.

11:29:16AM 20 COMMISSIONER OKUDA: So if we did our job as far
11:29:18AM 21 as making sure that the hearing is conducted in an
11:29:22AM 22 efficient, timely manner, without unreasonable delays, you
11:29:27AM 23 know, to meet the statutory and administrative rule
11:29:31AM 24 framework and deadlines, what harm would there be to allow
11:29:37AM 25 the intervention of Miss Souza?

11:29:40AM 1 MR. MEE: I guess the only concern I might have
11:29:43AM 2 is that, on the technical part of it, I can see that she
11:29:52AM 3 can see, okay, this is what needs to be shown, that's what
11:29:57AM 4 needs to be shown. I guess the part that I'm grappling
11:29:59AM 5 with is, is she really reflective of the community when
11:30:03AM 6 she's taking these positions. I don't know if that makes
11:30:07AM 7 sense. But that's kind of like two different issues.

11:30:10AM 8 She's saying that "I have the technical
11:30:12AM 9 expertise to analyze what's being presented to the
11:30:15AM 10 Commission and that I can, you know, analyze that." I
11:30:18AM 11 don't want it to be confused with necessarily that there's
11:30:21AM 12 these people out there in the community that are saying
11:30:24AM 13 this is a bad project or whatever, because that's not
11:30:27AM 14 something we're hearing so.

11:30:29AM 15 COMMISSIONER OKUDA: Yeah. And at least for me,
11:30:31AM 16 I understand that even where a person says you represent
11:30:37AM 17 the community, that might not be true, and sometimes you
11:30:41AM 18 need to cross-examine the witness to really determine, you
11:30:45AM 19 know, how accurate what they're stating. But if an
11:30:50AM 20 intervenor has certain professional qualifications which
11:30:56AM 21 would help in the decision-making, do you believe that
11:30:59AM 22 that's something that the Land Use Commission should take
11:31:03AM 23 advantage of?

11:31:11AM 24 MR. MEE: I have to say that, you know, it's
11:31:14AM 25 partly in your discretion what you listen to and what you

11:31:18AM 1 don't listen to. I'm not -- so, ultimately, it's your
11:31:22AM 2 call on whether the burden's been met, for example. I
11:31:26AM 3 don't see that she would necessarily harm that process.

11:31:30AM 4 COMMISSIONER OKUDA: And then final question,
11:31:31AM 5 which is somewhat a legal question -- but since I know
11:31:35AM 6 you're one of the preeminent attorneys in a lot of these
11:31:38AM 7 areas in the state, let me ask you this: In determining
11:31:43AM 8 intervention issues, do we also look at the legal standard
11:31:48AM 9 for standing? In other words, you evaluate whether or not
11:31:54AM 10 you allow someone to intervene by also looking at whether
11:31:59AM 11 they meet the criteria for standing.

11:32:02AM 12 MR. MEE: Ultimately, it's a standing question.
11:32:05AM 13 In other words, that the person has been so, you know,
11:32:08AM 14 individually affected. There's different tests that are
11:32:12AM 15 out there, and I do have to say -- and I'm sure you know
11:32:15AM 16 this -- that our Appellate Court's been pretty broad on
11:32:21AM 17 what they consider standing.

11:32:22AM 18 COMMISSIONER OKUDA: Yeah. So intervention
11:32:24AM 19 really is a standing issue. And then my final question
11:32:29AM 20 is: Would you agree that the Supreme Court, in a number
11:32:33AM 21 of decisions, whether it's PASH or -- in fact, even the
11:32:40AM 22 last case, where McDermott versus Ige, which, you know,
11:32:45AM 23 the Supreme Court struck down McDermott's attempt to
11:32:50AM 24 intervene, but the Supreme Court has said standing in
11:32:54AM 25 environmental cases is to be construed broadly because of

11:32:57AM 1 the constitutional protections given the environment and
11:33:02AM 2 parties with respect to the rights of a clean environment?

11:33:08AM 3 MR. MEE: Yes, that's correct. The Court has
11:33:10AM 4 been very broad, you know, when standing should be
11:33:14AM 5 granted.

11:33:14AM 6 COMMISSIONER OKUDA: Okay. Thank you. I have
11:33:15AM 7 no further questions.

11:33:17AM 8 CHAIRPERSON WONG: Any other questions?
11:33:18AM 9 Thank you.

11:33:21AM 10 Mr. Ferguson, are you ready?

11:33:25AM 11 MR. SALAS-FERGUSON: Yes.

11:33:25AM 12 CHAIRPERSON WONG: Please proceed.

11:33:28AM 13 MR. SALAS-FERGUSON: Thank you, Chair,
11:33:28AM 14 Commissioners, Deputy County Attorney Sinclair
11:33:30AM 15 Salas-Ferguson --

11:33:30AM 16 COMMISSIONER ESTES: Can you speak into the
11:33:30AM 17 microphone.

11:33:30AM 18 MR. SALAS-FERGUSON: Thank you, Chair, fellow
11:33:35AM 19 Commissioners, Deputy County Attorney Sinclair
11:33:36AM 20 Salas-Ferguson on behalf of the Planning Department. We
11:33:41AM 21 join in everything that Mr. Mee has just said.

11:33:44AM 22 I have a few comments on behalf of the Planning
11:33:46AM 23 Department. First of all, correction to the record. 2010
11:33:50AM 24 census had the Hanapepe-Ele'ele population at
11:33:53AM 25 approximately 6,100.

11:33:55AM 1 And the comments: The Department of Planning
11:34:01AM 2 maintains that it can adequately represent all citizens of
11:34:04AM 3 Kaua'i regarding this matter. The Department does
11:34:08AM 4 appreciate Ms. Souza's concerns and commends her for
11:34:12AM 5 speaking today and everybody else that came with her.

11:34:14AM 6 But the Department believes that the public
11:34:18AM 7 notice requirements have been met to the fullest extent of
11:34:23AM 8 the law, including all of the County Council meetings that
11:34:27AM 9 we've had in the past. The Department has participated in
11:34:31AM 10 public meetings held by the Housing Agency in an effort to
11:34:34AM 11 get the word out, which has been above and beyond what is
11:34:38AM 12 required by the law on the EIS.

11:34:41AM 13 Finally, the Planning Department does not
11:34:45AM 14 believe that Miss Souza has met the test that her
11:34:49AM 15 individual concerns are distinguishable from the general
11:34:53AM 16 public, which the Department -- the State Office of
11:34:56AM 17 Planning are charged by law in this court to represent.
11:35:00AM 18 That's all.

11:35:02AM 19 CHAIRPERSON WONG: Mr. Mee, any questions?

11:35:04AM 20 MR. MEE: No questions.

11:35:06AM 21 CHAIRPERSON WONG: OP?

11:35:08AM 22 MS. TAKEUCHI-APUNA: No.

11:35:09AM 23 CHAIRPERSON WONG: Miss Souza, any questions?

11:35:14AM 24 MS. SOUZA: Yes.

11:35:15AM 25 CHAIRPERSON WONG: You got to pull the mic

again.

MS. SOUZA: You said that the Planning Department can represent all citizens in the County. And how can the Planning Department do that without having had a conversation with us specifically about this petition? Would you care to answer that? Or shall I ask more questions you want to answer all together?

MR. SALAS-FERGUSON: So let me just clarify your question, Miss Souza. Is your question based on the premise -- so can you restate your question one more time? Sorry.

MS. SOUZA: Okay. Let me restate. How is the Planning Department qualified to represent all citizens in the county on this project when they have not specifically met with the community about this project to craft the position that you're advocating or that you will be advocating before the LUC?

MR. SALAS-FERGUSON: Chair, is it okay if I direct that question to the Planning Department Director Michael Dahilig?

CHAIRPERSON WONG: Sure.

Mr. Dahilig, if I can swear you in, please.

Do you attest and swear that everything you say will be the truth?

MR. DAHILIG: I do.

11:36:59AM 1 CHAIRPERSON WONG: Proceed.

2 MICHAEL DAHILIG,

3 called as a witness by the County of Kaua'i Planning

4 Department, having been first duly sworn, was examined and

5 testified as follows:

6 DIRECT EXAMINATION

11:36:59AM 7 MR. DAHILIG: Just to respond to Miss Souza's

11:37:04AM 8 question. When we sit in as a party to the quorum that

11:37:08AM 9 LUC holds on matters like this, our job is to represent

11:37:12AM 10 the public's best interests as it sees fit with respect to

11:37:17AM 11 how the County provides input into decisions of the Land

11:37:22AM 12 Use Commission. And that in and of itself is the

11:37:26AM 13 representative capacity that we are charged to undertake

11:37:30AM 14 when you're -- when we're here sitting at this table, and

11:37:35AM 15 are our qualifications with respect to evaluating whether

11:37:39AM 16 or not something is or is not compatible, look into --

11:37:42AM 17 look at the policy of the State as enumerated by the

11:37:46AM 18 Hawaii Revised Statutes; also look at our general plans;

11:37:49AM 19 to look at our community plans; as well as we do receive

11:37:53AM 20 input indirectly, but also, in this particular case,

11:37:56AM 21 directly, because the Department was a direct participant

11:37:58AM 22 in many of the community meetings held by the Housing

11:38:02AM 23 Agency on this matter.

11:38:03AM 24 So we did hear, we feel, a broad array of

11:38:08AM 25 community input, as well as we are, again, charged by

11:38:11AM 1 qualification to, by law, to review consistency with our
11:38:17AM 2 policy plans as passed by the County Council, as well as
11:38:21AM 3 taking a look at the particular policy items, particularly
11:38:26AM 4 because this is a 201H application, that the policy of the
11:38:29AM 5 State, as it relates to affordable housing, is to provide
11:38:35AM 6 an avenue for an expedient disposition of any type of
11:38:41AM 7 petitions on that matter. So we take a look at the broad
11:38:43AM 8 area of the applicable statutes and policies.

11:38:49AM 9 COMMISSIONER ESTES: I just have one question I
11:38:52AM 10 want to ask you.

11:38:52AM 11 CHAIRPERSON WONG: Commissioner Estes, we'll let
11:38:52AM 12 Miss Souza continue her questioning.

11:38:57AM 13 COMMISSIONER ESTES: Oh, I'm sorry.

11:38:57AM 14 CHAIRPERSON WONG: Please continue, Miss Souza.

11:38:59AM 15 MS. SOUZA: I don't want to get into an argument
11:39:02AM 16 and challenge that, so I just accept that. Thank you.

11:39:05AM 17 CHAIRPERSON WONG: Any other questions?

11:39:08AM 18 MS. SOUZA: Not at this time.

11:39:09AM 19 CHAIRPERSON WONG: Okay. Commissioner Estes.

11:39:10AM 20 COMMISSIONER ESTES: I guess I can ask this of
11:39:13AM 21 Miss Souza.

11:39:13AM 22 Is there a planning commissioner from that part
11:39:17AM 23 of the island?

11:39:19AM 24 CHAIRPERSON WONG: Well, you can go back to her
11:39:20AM 25 after we have everyone --

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COMMISSIONER ESTES: Okay. The Planning Director, can I ask the Planning Director?

Is there a planning commissioner from that part of the island?

MR. DAHILIG: The County of Kaua'i regulations do not provide for a geographic representation on --

COMMISSIONER ESTES: I'm aware of that, yes.

MR. DAHILIG: Currently, as we -- my problem is we just met up with five new commissioners in the past six months, so I'm trying -- I forget where they all live. The closest person that we have -- that we do have is from the Kalaheo area, to my recollection.

COMMISSIONER ESTES: Thank you.

CHAIRPERSON WONG: Commissioners, any other questions?

Commissioner Hiranaga.

COMMISSIONER HIRANAGA: Again, just questions regarding the process. So if the LUC grants the DBA petition, then the Housing Agency creates a subdivision of land, it's reviewed by the Planning Department, Public Works, Department of Education, State Department of Transportation. It goes through all that process?

MR. DAHILIG: In pre-consultation on the Environmental Assessment as well as the comments that the Department did provide, along with what the Housing Agency

11:40:55AM 1 did disclose as the -- still required permitting or
11:40:59AM 2 administrative actions required after the LUC action,
11:41:02AM 3 let's say it was passed, we are of the understanding that
11:41:06AM 4 there are Class IV Zoning ordinance as well as the
11:41:10AM 5 subdivision requirements that would still have to be met
11:41:13AM 6 with our commission. The Class IV Zoning Permit
11:41:16AM 7 requirement is still -- I would suggest to the Commission,
11:41:19AM 8 is, under our laws, a discretionary permit.

11:41:24AM 9 Therefore, a similar discussion, whether
11:41:27AM 10 somebody can or cannot intervene, is still provided as
11:41:31AM 11 part of that permit process before the Kaua'i Planning
11:41:35AM 12 Commission. So there still will be many avenues for
11:41:38AM 13 addressing items relating to things like form and
11:41:40AM 14 character, whether the color of the buildings are
11:41:45AM 15 appropriate, those types of things. That is still part of
11:41:48AM 16 the entitlement process that has been reserved as not part
11:41:52AM 17 of the exemptions as outlined in the Environmental Impact
11:41:57AM 18 Statement.

11:41:59AM 19 COMMISSIONER HIRANAGA: So, basically, there are
11:42:01AM 20 further governmental agency reviews with public meetings
11:42:04AM 21 for public input?

11:42:05AM 22 MR. DAHILIG: Yes, including those that are
11:42:07AM 23 under my jurisdiction.

11:42:13AM 24 COMMISSIONER HIRANAGA: Thank you.

11:42:13AM 25 CHAIRPERSON WONG: Commissioner Scheuer.

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VICE CHAIR SCHEUER: Hi, Mr. Dahilig. Just a couple of questions.

MR. DAHILIG: Sure.

VICE CHAIR SCHEUER: Just to give the Planning Office the opportunity, since you joined in the opposition written by the Housing Department. The Housing Agency has apologized for the use of a certain term that was found to be offensive. Do you also join in in that apology?

MR. DAHILIG: We do join in the apology.

VICE CHAIR SCHEUER: I just wanted to make that comment clear since you joined in formally.

MR. DAHILIG: Yes.

VICE CHAIR SCHEUER: Are there any instances where -- never mind. Okay. Thank you.

CHAIRPERSON WONG: Any other questions? Okay.

OP, are you ready?

MS. TAKEUCHI-APUNA: Yes, I am.

CHAIRPERSON WONG: Please proceed.

MS. TAKEUCHI-APUNA: Thank you, Chair. OP did not object to Miss Souza's position to intervene. OP agrees today that Miss Souza has identified her areas of concern with the district boundary amendment petition. In her most recent filing, she has shown the individualized harm and adverse impacts she may suffer by the district boundary amendment.

11:43:31AM 1 Generally speaking, relative to the petition to
11:43:38AM 2 intervene, OP has the following comments: First, Miss
11:43:43AM 3 Souza is no less qualified as an intervener than Keoni
11:43:45AM 4 Dudley was in Ho'opili or Clayton Hee in Koa Ridge.

11:43:51AM 5 Secondly, Miss Souza's participation in the DBA
11:43:55AM 6 proceedings will not be redundant of or substantially the
11:43:59AM 7 same as OP's participation. Even though Miss Souza is a
11:44:03AM 8 professional and experienced planner and was at one time
11:44:07AM 9 employed by OP, her interests and role in these
11:44:10AM 10 proceedings are clearly distinguishable from that of OP.

11:44:14AM 11 Miss Souza has stated that she's long-time
11:44:17AM 12 resident of the community where the petition area is
11:44:20AM 13 located and will personally be affected by the impacts of
11:44:21AM 14 the project. And she has extensive experience in local
11:44:26AM 15 community issues. In contrast, OP is a State agency
11:44:30AM 16 tasked with analysis, formulations, and review of State
11:44:34AM 17 policies and strategies to provide central direction and
11:44:37AM 18 cohesion in the allocation of resources and effectuation
11:44:40AM 19 of State activities.

11:44:43AM 20 The standard for naming intervenors is expressly
11:44:47AM 21 stated in HRS Section 205-4(e)(4), which declares simply
11:44:54AM 22 that leave to intervene shall be freely granted. The
11:44:59AM 23 Commission may -- not shall -- deny intervention when,
11:45:03AM 24 one, the petition of the applicant for intervention is
11:45:05AM 25 substantially the same as the position of a party already

admitted and, two, admission of the parties will render the proceedings inefficient and unmanageable.

Thirdly, Miss Souza's admission alone will not necessarily render the proceedings inefficient and unmanageable. Because it's an expedited process under HRS 201H, all parties, as well as the Commission, are responsible for working together efficiently and timely. This Commission may employ prehearing conferencing deadlines, limitations on the scope, and time limits on all the parties to provide for better efficiency and manageability of the proceedings. More importantly, even if Miss Souza's participation means additional time needed for the proceedings, the additional time should not bar her participation.

Fourthly, the DBA process in a contested case hearing may result in decisions that could affect people's rights, duties or privileges. The purpose of these hearings is to provide you, as the decision-makers, with the most complete and relevant information to make a proper decision. This Commission should strive for broad public participation and intervention to be freely granted, all in the interest of a full, complete, inclusive open record. Accordingly, OP has no objection to Miss Souza's petition to intervene.

I'd like to also add comments to questions that

11:46:37AM 1 we've heard today. The difference between Miss Souza as a
11:46:40AM 2 public testifier versus an intervenor, she'll have the
11:46:46AM 3 opportunity to cross-examine witnesses. And I think
11:46:49AM 4 that's an important part of her role that she not just say
11:46:54AM 5 what she feels, but actually gets to question the
11:46:56AM 6 different parties and -- as far as that will come before
11:47:01AM 7 you. And there was a question of whether intervenor can
11:47:04AM 8 sue. She said she won't. But, yes, she could do it, as
11:47:09AM 9 could any other person in the public. She could also sue
11:47:13AM 10 the Commission for not allowing her intervention. And
11:47:17AM 11 it's been done before successfully on different grounds.
11:47:21AM 12 I wanted to mention that.

11:47:23AM 13 And lastly, I heard a lot about standards for
11:47:25AM 14 intervention based on education, experience, professional
11:47:29AM 15 qualifications as an expert, whether she's an individual
11:47:32AM 16 or she's part of a community organization, and whether she
11:47:35AM 17 has major concerns, or if she opposes a project. All of
11:47:39AM 18 these are not part of the standard for entry as an
11:47:44AM 19 intervenor. Like I said, it is whether -- the standard is
11:47:49AM 20 that the intervenor shall be freely granted permission
11:47:54AM 21 into a proceeding. So all these qualifications that
11:47:58AM 22 you're looking for, I don't believe pertain at all to her
11:48:02AM 23 as an intervenor. Thank you.

11:48:06AM 24 CHAIRPERSON WONG: Mr. Mee, any questions?

11:48:08AM 25 MR. MEE: I don't have any questions.

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CHAIRPERSON WONG: Mr. Ferguson?

MR. SALAS-FERGUSON: No questions.

CHAIRPERSON WONG: Miss Souza?

MS. SOUZA: No questions.

CHAIRPERSON WONG: Commissioners?

Commissioner Hiranaga.

COMMISSIONER HIRANAGA: So my experience at the County level regarding intervention, there's a debate on the definition of "freely." And why have standards if it's freely granted? Why do you have to address standards if -- it should be just "I want to intervene." "Granted."

MS. TAKEUCHI-APUNA: Well, thank you, Commissioner. I believe that -- I don't think it's necessarily a standard. I think "freely" stands that anyone should be able to intervene. But these are more or less guidelines for the Commission, and you have -- you have the -- under your discretion, you may disallow her intervention based on the fact that she might have -- her position is duplicative of another party and that it will make the process unmanageable. But these are not standards. I think these are just guidelines that are open to the Commission to use if you feel that that's appropriate.

COMMISSIONER HIRANAGA: I guess -- and not to get into a debate -- but, to me, if you say it should be

11:49:36AM 1 freely granted, there should be no standards or
11:49:39AM 2 guidelines. That's the problem we had at the County
11:49:42AM 3 level, the word "freely."

11:49:47AM 4 MS. TAKEUCHI-APUNA: Yeah, I -- I understand
11:49:50AM 5 your point. And they could have written the statute that
11:49:54AM 6 way, too, "freely granted." But maybe they're just
11:49:58AM 7 providing some guidance for the intervenor.

11:50:04AM 8 COMMISSIONER HIRANAGA: Thank you.

11:50:04AM 9 CHAIRPERSON WONG: Commissioner Scheuer.

11:50:07AM 10 VICE CHAIR SCHEUER: Miss Apuna, thank you very
11:50:09AM 11 much. I want to go to one of the points you commented on.
11:50:13AM 12 Some of the lines of questioning had to do with the
11:50:17AM 13 relationship of the -- Miss Souza to her community
11:50:20AM 14 organization. I just want to clarify. At least your
11:50:24AM 15 understanding is whether an organization shouldn't have
11:50:28AM 16 been -- rather than Miss Souza as an individual, but Miss
11:50:32AM 17 Souza representing an organization here today, it makes no
11:50:37AM 18 difference in Hawaii on whether you could intervene in a
11:50:38AM 19 proceeding such as this, whether you are an organized
11:50:38AM 20 501(c)(3) or you are an information organization; is that
11:50:43AM 21 correct?

11:50:44AM 22 MS. TAKEUCHI-APUNA: That's correct.

11:50:46AM 23 VICE CHAIR SCHEUER: Thank you.

11:50:49AM 24 CHAIRPERSON WONG: Commissioner Okuda.

11:50:53AM 25 COMMISSIONER OKUDA: Just a question regarding

11:50:54AM 1 the use of the term "freely." Would you -- would you
11:50:59AM 2 might agree that the use of the term "freely" is really
11:51:02AM 3 not to ignore the standards that set in the statute, but
11:51:05AM 4 it's how the standards are applied? In other words, the
11:51:08AM 5 standards are to be applied to meet this freely granting
11:51:15AM 6 intervention, but it's not necessarily in every case?
11:51:19AM 7 It's how you apply the standards, but we don't ignore the
11:51:23AM 8 standards, correct?

11:51:24AM 9 MS. TAKEUCHI-APUNA: Correct. I agree with
11:51:25AM 10 that.

11:51:26AM 11 COMMISSIONER OKUDA: Thank you.

11:51:27AM 12 CHAIRPERSON WONG: Okay. I'm going to take a
11:51:29AM 13 five-minute recess and then come back and allow for final
11:51:34AM 14 statements. Okay. Recess.

11:51:35AM 15 (Recess taken from 11:51 a.m. to 12:01 p.m.)

12:01:26PM 16 CHAIRPERSON WONG: Back on the record.

12:01:30PM 17 I'm going to let everyone do a very brief final
12:01:35PM 18 statement.

12:01:35PM 19 Miss Souza, would you like to start?

12:01:37PM 20 MS. SOUZA: Yes, thank you.

12:01:39PM 21 I stand by my submittal. Just to summarize, I
12:01:44PM 22 believe I have met the standards for intervention.

12:01:48PM 23 Couple points somebody will bring out. The
12:01:53PM 24 intervention need not oppose the reclassification petition
12:01:57PM 25 in order to be approved. There have been several

12:02:02PM 1 suggested examples that have already been proved by the
12:02:06PM 2 LUC. And I do mention another one in my testimony, in my
12:02:12PM 3 statement, on page 9, in which the Gentry Properties
12:02:16PM 4 project allowed -- you folks allowed Haseko to intervene
12:02:20PM 5 even if they were not approved. The reclassification
12:02:25PM 6 without appropriate conditions of approval would adversely
12:02:30PM 7 affect my interests, and I've identified what those are.
12:02:36PM 8 I believe there are no other means to protect my interests
12:02:39PM 9 other than intervention.

12:02:41PM 10 I have been involved with a couple of the
12:02:45PM 11 opportunities that the County has afforded us, but the 25
12:02:51PM 12 public meetings were not really open to the public. They
12:02:55PM 13 were -- a lot of them were focus groups. And so with us
12:02:59PM 14 only being established in July 2015, we were not notified
12:03:04PM 15 about those -- many of those. I believe my intervening
12:03:14PM 16 will help provide a more complete record through
12:03:17PM 17 cross-examination and providing testimony.

12:03:21PM 18 I have identified or narrowed down my interests
12:03:27PM 19 on page 8. And I would allow -- I mean, would feel that
12:03:39PM 20 being able to cross-examine witnesses and to -- and my
12:03:46PM 21 ability to provide a more detailed testimony than would be
12:03:52PM 22 allowed as a public testifier would benefit the
12:03:56PM 23 Commission's deliberation.

12:03:58PM 24 Thank you.

12:04:00PM 25 CHAIRPERSON WONG: Mr. Mee.

12:04:01PM 1 MR. MEE: Chair, we really don't have anything
12:04:06PM 2 to add to what we said before. I just, in further
12:04:09PM 3 response to Commissioner Scheuer's question about that one
12:04:13PM 4 item on page 8, I guess we would just indicate that that
12:04:18PM 5 item does talk about adjacent properties, so that's how we
12:04:22PM 6 would interpret it, which is the properties surrounding
12:04:25PM 7 the petition area.

12:04:26PM 8 CHAIRPERSON WONG: Thank you.

12:04:27PM 9 Mr. Ferguson.

12:04:30PM 10 MR. SALAS-FERGUSON: The Planning Department's
12:04:31PM 11 position is that Miss Souza and her fellow --

12:04:34PM 12 THE REPORTER: I'm sorry. I'm having a hard
12:04:34PM 13 time hearing you.

12:04:34PM 14 MR. SALAS-FERGUSON: Sorry for that. The
12:04:42PM 15 Planning Department's position, again, is that Miss Souza
12:04:44PM 16 has had the opportunity in the past to have her voice
12:04:49PM 17 heard and that she will have the opportunity to have her
12:04:52PM 18 voice heard in the future. The Planning Department
12:04:54PM 19 believes that Miss Souza has not raised any specific
12:04:59PM 20 environmental concerns that separate her from the general
12:05:03PM 21 public, and that the standard has not been met that she
12:05:06PM 22 has been individually impacted, that would, I guess, set
12:05:10PM 23 her apart from the general public. And for those reasons,
12:05:13PM 24 we ask that the Commission deny the petition to intervene.

12:05:21PM 25 CHAIRPERSON WONG: OP.

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MS. TAKEUCHI-APUNA: We don't have anything to add.

CHAIRPERSON WONG: As I stated before, I would like to entertain a motion to go into executive session to discuss about Commissioner Cabral's question.

COMMISSIONER MAHI: I so move.

COMMISSIONER CABRAL: Second.

CHAIRPERSON WONG: Discussion?

VICE CHAIR SCHEUER: Just for the purpose of the record, can we then be really clear about why we're going into executive session?

COMMISSIONER MAHI: I move that we go into executive session.

VICE CHAIR SCHEUER: For the purposes of?

COMMISSIONER CABRAL: My question was the -- I'm sorry.

COMMISSIONER MAHI: For the purpose of discussions with the acceptance or nonacceptance of accepting Mrs. Souza's willingness -- is that --

CHAIRPERSON WONG: No, no.

COMMISSIONER CABRAL: The legal question.

COMMISSIONER MAHI: Oh, the legal question.

VICE CHAIR SCHEUER: If you'd accept -- hold on. Chair, you have something?

CHAIRPERSON WONG: I think it was to consult

12:06:23PM 1 with the board's attorney on the question pertaining to
12:06:26PM 2 the board's powers, duties, privileges, immunities and
12:06:30PM 3 liabilities regarding this issue. I think that was what
12:06:35PM 4 we were going to executive session about. Is that
12:06:37PM 5 correct?

12:06:37PM 6 COMMISSIONER CABRAL: Yes, that is correct,
12:06:38PM 7 falls within that.

12:06:40PM 8 CHAIRPERSON WONG: Was the motion for that,
12:06:41PM 9 Commissioner Mahi?

12:06:41PM 10 COMMISSIONER MAHI: Yes, it is.

12:06:41PM 11 CHAIRPERSON WONG: And seconded by Commissioner
12:06:41PM 12 Cabral?

12:06:41PM 13 COMMISSIONER MAHI: Yes.

12:06:45PM 14 CHAIRPERSON WONG: Any discussion?

12:06:45PM 15 COMMISSIONER HIRANAGA: Mr. Chair.

12:06:48PM 16 CHAIRPERSON WONG: Yes.

12:06:48PM 17 COMMISSIONER HIRANAGA: Just a procedural
12:06:48PM 18 question: Are we planning to break for lunch?

12:06:53PM 19 CHAIRPERSON WONG: No, I'm going to try to power
12:06:56PM 20 through this. Sorry, guys.

12:06:59PM 21 COMMISSIONER HIRANAGA: Were you going to have
12:06:59PM 22 everyone hang out?

12:07:02PM 23 CHAIRPERSON WONG: Yeah. Sorry. No lunch
12:07:03PM 24 break. Okay.

12:07:04PM 25 So we're going to go into executive session.

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Do I have a voice vote?

COMMISSIONER MAHI: We do have malasadas and brownies.

CHAIRPERSON WONG: Okay. All in favor, say "aye."

(The Commissioners responded affirmatively.)

CHAIRPERSON WONG: We're in executive session.

(Recess taken from 12:07 p.m. to 12:32 p.m.)

CHAIRPERSON WONG: We're back in after executive session.

Do you have anything else to say before we start? Mr. Ferguson? Mr. Dahilig?

MR. DAHILIG: We had a talk with the other parties and would -- I guess we have proposed to all four parties at the table whether stipulating to an agreed admission of Miss Souza on the eight points that were outlined on page 8 of her original -- I guess her submittal that was dated January 19th would be acceptable to all parties in terms of limiting her intervention to those items. The County, on its behalf, would agree to such a stipulation and would ask the Land Use Commission to approve the proposal, pending confirmation from the other three parties.

VICE CHAIR SCHEUER: Just to clarify, by my count, seven items.

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MR. DAHILIG: Yes, seven items, on page 8.

CHAIRPERSON WONG: So I just wanted to reaffirm.
So it's the stipulations that's on page 8?

MR. DAHILIG: The stipulation would be that Miss Souza is limited in terms of her intervention to the seven bullet points as outlined on page 8.

COMMISSIONER CABRAL: I have a question on that. Miss Souza, earlier in her discussion on that, asked that the concerns about the lack of the beach area and the park area on the beach, that there's only one for a long mile. And so one of her -- what she was asking for was that additional land be purchased and land-banked to allow for additional parks. So, in order to meet one of these stipulations, the County would have to wait till you guys purchased land to have land-banked additional park areas; is that what you're saying you agree to?

MR. DAHILIG: No. What we're stipulating to is that the items to be discussed as part of the evidentiary proceeding before the Land Use Commission would be limited to presenting of these items. Not necessarily agreeing on the remedy or mitigation measures as outlined in each of these items, but would be limited to the evidentiary proceedings in terms of what evidence could be presented.

COMMISSIONER CABRAL: Thank you.

CHAIRPERSON WONG: Mr. Estes.

12:35:56PM 1 COMMISSIONER ESTES: I just think this is a good
12:35:58PM 2 compromise and something that we should all accept. So
12:36:02PM 3 somebody make a motion.

12:36:11PM 4 CHAIRPERSON WONG: Can we -- I would like to
12:36:13PM 5 entertain a motion to go into executive session, just to
12:36:18PM 6 figure out the legal ramifications if we take this
12:36:23PM 7 stipulation of all parties.

12:36:24PM 8 MR. DAHILIG: And if I could maybe just for --
12:36:24PM 9 I'm not talking on behalf of all parties. I believe that,
12:36:28PM 10 if this was a matter that the Commission was going to be
12:36:30PM 11 entertaining in executive session, that you may want to
12:36:33PM 12 get confirmation from the three Parties.

12:36:37PM 13 CHAIRPERSON WONG: Okay. Let me ask. Mr. Mee?

12:36:38PM 14 MR. MEE: So for the Housing Agency, we're
12:36:41PM 15 agreeable to the stipulation. I guess what we would end
12:36:44PM 16 up doing, too, would be withdrawing our opposition to her
12:36:48PM 17 intervention, under the understanding that this would be
12:36:51PM 18 the stipulated conditions for intervention.

12:36:55PM 19 CHAIRPERSON WONG: OP?

12:36:57PM 20 MS. TAKEUCHI-APUNA: We'd agree to that.

12:36:57PM 21 CHAIRPERSON WONG: Miss Souza, I'm sorry. I
12:36:59PM 22 should have started with you.

12:36:59PM 23 MS. SOUZA: Yes, I agree with that.

12:37:03PM 24 CHAIRPERSON WONG: Can I have a motion?

12:37:05PM 25 Okay. So just to reaffirm that this is a

12:37:11PM 1 stipulation between all parties -- all four parties in
12:37:15PM 2 front of us right now; is that correct?

12:37:16PM 3 MR. SALAS-FERGUSON: That's correct.

12:37:20PM 4 MS. TAKEUCHI-APUNA: Yes.

12:37:20PM 5 MR. MEE: Correct.

12:37:21PM 6 MS. SOUZA: Yes.

12:37:23PM 7 CHAIRPERSON WONG: So I'd like to entertain a
12:37:25PM 8 motion to consult with the board's attorney on this issue
12:37:26PM 9 pertaining to the board's powers, duties, privileges,
12:37:26PM 10 immunities and liabilities on this issue.

12:37:26PM 11 Can I have a motion to convene on this issue?

12:37:34PM 12 COMMISSIONER MAHI: And I move that, what you
12:37:37PM 13 just said. Move to go into executive session to discuss
12:37:44PM 14 the --

12:37:44PM 15 CHAIRPERSON WONG: What I just said.

12:37:45PM 16 COMMISSIONER CABRAL: Powers, duties and
12:37:45PM 17 privileges.

12:37:45PM 18 CHAIRPERSON WONG: Do I have a second?

12:37:45PM 19 COMMISSIONER CABRAL: I'll go ahead and second
12:37:49PM 20 that for my fellow Commissioner.

12:37:52PM 21 CHAIRPERSON WONG: Seconded.

12:37:52PM 22 Do I have a voice vote on this? All for, say
12:37:56PM 23 "aye."

12:37:56PM 24 (The Commissioners, with the exception of
12:37:56PM 25 Commissioner Estes, responded affirmatively.)

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CHAIRPERSON WONG: Opposed?

COMMISSIONER ESTES: No.

CHAIRPERSON WONG: One "no." Okay. We're in executive session.

(Recess taken from 12:38 p.m. to 12:42 p.m.)

CHAIRPERSON WONG: Okay. We're back in.

Thank you, everyone, for giving us the time.

Do I have a motion? What is your pleasure, Commissioners?

Go ahead, Commissioner Scheuer.

VICE CHAIR SCHEUER: I would move, Chair, that the Land Use Commission accept the stipulated agreement of the four parties to allow the intervention of Jean Nishida Souza, limited to the seven bullet points that she listed on her filing dated January 19, 2017, on page 8 of that filing.

CHAIRPERSON WONG: Do I have a second?

Commissioner Mahi, seconded.

Discussion?

COMMISSIONER HIRANAGA: Question, Chair. For clarity, should those seven issues be stated for the record? Or is it clear enough?

CHAIRPERSON WONG: I think it's clear enough. Everyone agreed upon those seven, so I think it's clear enough.

12:43:32PM 1 Any other discussion?

12:43:35PM 2 VICE CHAIR SCHEUER: If I may.

12:43:37PM 3 CHAIRPERSON WONG: Please.

12:43:38PM 4 VICE CHAIR SCHEUER: Very briefly. Just thank

12:43:39PM 5 the parties for agreeing to stipulate on this motion.

12:43:46PM 6 CHAIRPERSON WONG: Mr. Orodenger, take the vote.

12:43:48PM 7 EXECUTIVE OFFICER ORODENER: Thank you,

12:43:48PM 8 Mr. Chair.

12:43:49PM 9 The motion is to accept the stipulation to allow

12:43:52PM 10 limited intervention by Miss Souza.

12:43:54PM 11 Commissioner Scheuer?

12:43:58PM 12 VICE CHAIR SCHEUER: Aye.

12:43:59PM 13 EXECUTIVE OFFICER ORODENER: Commissioner Mahi?

12:44:00PM 14 COMMISSIONER MAHI: Aye.

12:44:00PM 15 EXECUTIVE OFFICER ORODENER: Commissioner

12:44:00PM 16 Estes?

12:44:02PM 17 COMMISSIONER ESTES: Aye.

12:44:02PM 18 EXECUTIVE OFFICER ORODENER: Commissioner

12:44:02PM 19 Hiranaga?

12:44:05PM 20 COMMISSIONER HIRANAGA: Aye.

12:44:05PM 21 EXECUTIVE OFFICER ORODENER: Commissioner

12:44:07PM 22 Cabral?

12:44:09PM 23 COMMISSIONER CABRAL: No.

12:44:10PM 24 EXECUTIVE OFFICER ORODENER: Commissioner

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COMMISSIONER OKUDA: Yes.

EXECUTIVE OFFICER ORODENKER: Commissioners
Chang and Aczon are absent.

Vice Chair Wong?

CHAIRPERSON WONG: Aye.

EXECUTIVE OFFICER ORODENKER: Thank you,
Mr. Chair. The motion passes, six votes to one.

CHAIRPERSON WONG: Okay. Thank you all.

Is there any other further business to address
today?

COMMISSIONER CABRAL: I'd like to comment on my
opposition.

CHAIRPERSON WONG: Please, go ahead.

COMMISSIONER CABRAL: I'm thrilled that everyone
is going to get along and communicate better. And if that
had taken place, perhaps we wouldn't be here today.
But -- so I'm thrilled for it, and I'm hopeful that
everyone is able to work together in the very immediate
future to expedite this. I think -- I said "no" partly to
point out that I have concerns over what I'm reading in
the law. Even if it's supposed to be freely given, that's
not quite the way I read that in terms of certain items.
And the fact that the general public, in principle, has a
right to object to something where I think and feel that
there's been opportunity given for that expression in the

12:45:22PM 1 past and that there's numerous community groups, be it
12:45:27PM 2 this small one here that's unofficial or other community
12:45:32PM 3 groups that I think should have a greater -- should have
12:45:33PM 4 been here if it was this much of a concern. And I think
12:45:37PM 5 the opportunities have been provided. So it's in
12:45:39PM 6 principle that I objected, not personal. Thank you.

12:45:42PM 7 CHAIRPERSON WONG: Thank you, Commissioner
12:45:43PM 8 Cabral.

12:45:43PM 9 Anything else? If not, we're adjourned.

12:45:47PM 10 (The proceedings concluded at 12:45 p.m.)

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STATE OF HAWAII)
) SS:
CITY AND COUNTY OF HONOLULU)

Cynthia L. Murphy, RPR, CSR No. 167
Certified Shorthand Reporter
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